

Hancock Energy - Purchase Order Terms

1 Other Terms

- 1.1 No other terms and conditions apply in addition to or instead of these Purchase Order Terms, including any general terms and conditions included in a quote or other Vendor provided document.
- 1.2 No signature by any Company Personnel on any Vendor's document will be construed as a waiver or an admission that the Supply complies with the Contract.
- 1.3 If the Price is wholly or partially calculated by reference to rates, and the Purchase Order Form specifies a maximum Price for the Services (**Maximum Price**), the Company has no liability to the Vendor for the amount of the Price in excess of the Maximum Price unless, prior to the Price exceeding the Maximum Price, the Vendor has given notice in writing to the Company that the Price for the Services will exceed the Maximum Price.

2 Supply

- 2.1 The Vendor must perform the Supply in accordance with:
 - (a) the requirements set out or referred to in the Contract;
 - (b) any variation to the Supply;
 - (c) the Company's Representative's reasonable directions;
 - (d) Good Industry Practice; and
 - (e) the Policies.
- 2.2 Other than as expressly specified in the Contract, the Price represents full and complete payment for all matters and things (including all taxes, levies, customs duties and tariffs) necessary to complete the Supply and is not subject to any adjustment, including for rise and fall.
- 2.3 Without limiting any warranty implied by law, the Vendor represents and warrants that:
 - (a) the Supply will be free from Defects and fit for the purposes which the goods and services constituting the Supply are ordinarily used;
 - (b) it and its Personnel are appropriately qualified and will exercise Good Industry Practice; and
 - (c) it will perform the Supply with due care and skill.
- 2.4 The Goods must be of merchantable quality and unless the Company specifies otherwise by written notice, must be new and appropriately packed to avoid damage in transit or storage.
- 2.5 The Vendor represents and warrants that at all relevant times it is the legal and beneficial owner of the Goods, and no other person holds or is entitled to hold any interest in the Goods and there are no encumbrances or liens over the Goods.

3 Inspection and Defects liability

- 3.1 The Company may with reasonable notice in writing direct the Vendor to procure entry to premises where Supply is being performed, for the Company to examine and test the Supply.
- 3.2 Without limiting **clause 3.1**, the Company may examine or test any Supply within a reasonable time after it is delivered or completed. No examination or test carried out by the Company will relieve the Vendor of any obligation under the Contract.
- 3.3 If during the Term or Warranty Period, the Company believes any part or all of the Supply is Defective, the Company may by written notice direct the Vendor:
 - (a) to, at the Vendor's cost and within a reasonable time specified by the Company, investigate and report upon the Defect, such report identifying the nature and likely cause of the Defect and providing a remedial plan for rectification of the Defect;
 - (b) to, within a reasonable time specified by the Company:
 - (i) accept or reject the existence of the Defect;
 - (ii) remedy the Defect at the Vendor's expense, at times and in a manner causing as little inconvenience as possible to the Company;
 - (c) that the Company accepts the Supply despite the Defect, in which case the Company will assess an amount that represents the cost of the Company having the Defect remedied by others and that amount will be a debt due and payable by the Vendor to the Company.

4 Delivery Address, WHS, the Environment and Heritage

- 4.1 The Vendor will not have exclusive possession of the Delivery Address. Access to the Delivery Address shall only confer a right to such use and control as is necessary in the Company's opinion to enable the Vendor to carry out the Supply.
- 4.2 The Company is not required to provide access to the Delivery Address until the Company is satisfied (in its absolute discretion) that the Vendor has:
 - (a) effected the insurance policies required by **clause 7**; and
 - (b) satisfied the Company's other reasonable requirements.
- 4.3 Unless the Purchase Order Form or a written notice from the Company specifies otherwise, the Vendor is solely responsible for providing all resources, temporary works, plant, equipment and other items necessary for the Supply.
- 4.4 If the Company gives a written notice to the Vendor directing it to remove from the Delivery Address a member of the Vendor's Personnel, the Vendor

must promptly comply with the notice and provide a replacement acceptable to the Company. The Company is not liable to the Vendor for any Loss or Claim arising from the removal of the Vendor's Personnel.

- 4.5 The Vendor is responsible for the health and safety of all its Personnel and any person attending any workplace under the Vendor's control, including at the Delivery Address.
- 4.6 The Vendor is responsible for all employee relations matters arising in connection with its Personnel and must comply with, and must ensure its Personnel comply with, all laws relating to employee relations.

5 IP Rights

- 5.1 Each party remains the owner of its Background IP. Nothing in the Contract prevents, limits or restricts each party's subsequent use or exploitation of its own Background IP.
- 5.2 In carrying out the Supply the Vendor:
 - (a) warrants and represents that:
 - (i) the Vendor will not infringe; and
 - (ii) the Supply, and the use of the Supply will not infringe, the IP Rights of any person;
 - (b) hereby agrees that all Contract IP will become the Company's property as and when created, and the Vendor hereby assigns to the Company all rights, title and interest in and to the Contract IP;
 - (c) grants to the Company a perpetual, irrevocable, royalty-free, world-wide licence to use the Vendor's Background IP to the extent required to use, reproduce, deal with, maintain, remedy Defects in, modify and develop the Supply, including by engaging third parties; and
 - (d) must take all steps reasonably necessary to give effect to the requirements of this **clause 5.2**.
- 5.3 The Vendor must not do anything which could reasonably compromise the Company's Information Security and must promptly notify the Company upon becoming aware of any compromise to the Company's Information Security.

6 Compliance and reporting

- 6.1 The Vendor must provide reasonable assistance to the Company to enable it to comply with any law applying to the Company, the Contract, or the Supply.
- 6.2 From time to time, the Company may request the Vendor to provide a written report detailing such information about the Supply as the Company reasonably requires, and the Vendor must provide the report within 10 Business Days of the request.

7 Insurance

- 7.1 The Vendor must at its own cost, procure and maintain insurance policies in the forms and amounts stated in this **clause 7.1**, from an Approved Financial Institution:
 - (a) public and product liability insurance of \$20,000,000 for any one claim and unlimited in the aggregate;
 - (b) (if the Supply involves professional or consultancy services) professional indemnity insurance for \$2,000,000 for any one claim and in the aggregate;
 - (c) workers' compensation insurance as required by law;
 - (d) compulsory motor vehicle third party insurance as required by law;
 - (e) (if the Supply involves the use of a motor vehicle) comprehensive motor vehicle and third party liability insurance in the amount of \$10,000,000; and
 - (f) (if the Supply involves transit of goods by sea) marine cargo insurance for the amount not less than the replacement value of those goods, ensuring those goods are insured against all risks up until the date the Goods are delivered and accepted by the Company.
- 7.2 The Vendor must:
 - (a) provide certificates of currency for the insurance policies within 5 Business Days of the Company's request; and
 - (b) maintain the insurance policies for the Term, except professional indemnity insurance, which must be maintained for seven years after the end of the Term.

8 Suspension

The Company may suspend all or part of the performance of the Supply at any time for any period by reasonable notice in writing to the Vendor. The Vendor must comply with such notice and must recommence performance of the Supply when directed to by the Company.

9 Termination

- 9.1 The Company may terminate the Contract at any time by giving at least 5 Business Days' notice to the Vendor. If the Company terminates the Contract under this clause, then, subject to **clause 11.8**, the Vendor will be entitled to payment for:
 - (a) Supply carried out in accordance with the Contract prior to the date of termination;

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- (b) the cost of materials reasonably ordered for the Supply for which the Vendor is legally bound to pay, provided that title in those materials vests in the Company upon payment; and the Vendor must take all reasonable steps possible to mitigate the costs referred to in **clauses 9.1(a) and 9.1(b)**.
- 10 Variations**
- 10.1 The Company may during the Term, vary the Supply and no such variation invalidates the Contract. Additionally, the Company has the right to have a third party carry out any decreased or omitted part of the Supply. The Vendor must not commence (or cease to perform) a variation until it receives a written notice to do so from the Company. The Vendor must comply with the notice.
- 10.2 The Company may during the Term, give the Vendor written notice of a proposed variation to the Supply. The Vendor must within 5 Business Days of receiving such notice, give a written notice to the Company:
- (a) offering to perform the proposed variation and detailing its effects on the Delivery Date and the Price; or
- (b) stating it will not perform the proposed variation and providing reasons.
- 10.3 Within 10 Business Days of receiving the notice under **clause 10.2(a)**, the Company will give a written notice to the Vendor stating that the Company:
- (a) accepts the Vendor's offer, in which case the Vendor must execute the Supply in accordance with the notice and the Company will accordingly revise the Delivery Date and the Price;
- (b) requires amendment to the Vendor's offer, in which case the Vendor must provide a revised offer within 5 Business Days and this **clause 10.3** will reapply; or
- (c) does not accept the Vendor's offer, in which case the Company may direct the Vendor to increase the Supply, to be assessed by the Company in accordance with **clause 10.4**, or have the additional Supply carried out by a third party.
- 10.4 The Company will adjust the Price for all variations having regard to pricing in the Purchase Order Form to the extent it prescribes rates and prices, or if there are no applicable rates or prices in the Purchase Order Form, or to the extent the Purchase Order Form does not specify applicable rates or prices, reasonable rates or prices.
- 10.5 The Vendor has no right to make a Claim against the Company arising out of any direction the Company gives to the Vendor, unless the Company's Representative, approves the direction as a variation in accordance with the Contract.
- 11 Payment**
- 11.1 In consideration of the Vendor performing the Supply and claiming payment in accordance with the Contract, the Company will pay the Vendor the Price as adjusted in accordance with the Contract.
- 11.2 Subject to **clause 11.3**, the Vendor must give the Company an Invoice:
- (a) promptly after the Supply has been delivered or completed and accepted by the Company; or
- (b) where Services continue for more than one month, on the last Friday of each month, (as applicable).
- 11.3 Not less than 3 days prior to issuing an Invoice, the Vendor must give the Company a written payment claim for the Supply the subject of the Invoice that:
- (a) includes sufficient information about the Contract (including the contract number) to enable the Company to verify the amount claimed;
- (b) detail the Supply performed, including:
- (c) the date Goods were delivered, or the period of Services performed (or both), along with relevant quantities;
- (d) the amount of the Price being claimed and how that amount relates to the Supply performed;
- (e) any GST component paid by the Vendor for which the Company may claim an input credit; and
- (f) any other information the Company reasonably requires.
- 11.4 The Company may respond to the Vendor's payment claim by issuing the Vendor a written notice (**Claim Approval**) that sets out:
- (a) the amount (if any) which the Company assesses to be payable, and which the Company proposes to pay to the Vendor; and
- (b) reasons (if any) why this amount is less than the amount the Vendor has claimed in its payment claim.
- 11.5 If the Company issues a Claim Approval in response to a written payment claim from the Vendor under **clause 11.3**, the related Invoice issued by the Vendor to the Company must be for the amount specified in the Claim Approval and the Company must pay that amount within 20 Business Days of the date the Company received the Invoice.
- 11.6 If the Company does not issue a Claim Approval in response to a written payment claim from the Vendor under **clause 11.3**:
- (a) Subject to **clause 11.6(b)**, the Company will pay the amount it reasonably determines is due to be paid within 20 Business Days of the date the Company receives the Invoice in relation to that payment claim.
- (b) If the Company proposes to pay an amount that is more or less than the amount claimed, the Company will within 15 Business Days of the date it receives the Invoice, issue a payment schedule setting out the amount the Company determines is payable and the reasons for the difference. The Vendor must, within two Business Days of receiving the payment schedule, provide an adjustment notice or revised Invoice reflecting the adjusted amount and the Company must pay any revised Invoice amount within 20 Business Days of the date the Company receives the revised Invoice.
- 11.7 Payments are not approval or evidence of the value of the Supply or an admission that the Supply complies with the Contract.
- 11.8 To the extent not prohibited by law, the Company may withhold payment in relation to any part of an Invoice where the Supply referred to in that Invoice has not in the Company's reasonable opinion, been performed in accordance with the Contract. the Company may deduct from money due to the Vendor any money due, or likely to become due, from the Vendor to the Company under the Contract, or otherwise than in connection with the Contract.
- 12 Taxes and duties**
- 12.1 The Vendor must have an ABN.
- 12.2 Any amount referred to in the Contract that is relevant to determining a payment to be made, excludes GST. The Company is not required to pay any GST component under the Contract until it receives an Invoice from the Vendor in respect of the taxable supply.
- 12.3 If GST is imposed on a supply made under the Contract, the consideration provided for that supply is increased by the rate at which GST is imposed. The additional consideration is subject to the supplier providing the recipient with an Invoice, payable at the same time and in the same manner as the consideration to which it relates.
- 12.4 If a party refunds to another party any amount on which GST was paid, that party must also refund the GST amount paid in respect of that amount.
- 13 Time**
- 13.1 The Vendor must proceed with the Supply with due diligence, expedition and without delay, and must ensure it completes the Supply by the Delivery Date. Upon becoming aware of anything which is likely to delay the Supply, the Vendor must notify the Company's Representative as soon as possible.
- 13.2 If the delay the subject of the notice given under **clause 13.1** was caused by the Company or its Personnel, the Company will extend the Delivery Date by a reasonable period.
- 13.3 Despite the Vendor not claiming or not being entitled to an extension to the Delivery Date, the Company may in its absolute discretion, grant the Vendor an extension to the Delivery Date.
- 14 Risk and title**
- 14.1 Risk in Goods passes to the Company when they are delivered and accepted by the Company. Title in Goods passes to the Company on the earlier of risk passing under this **clause 14.1** and payment of the Price (or the relevant portion thereof).
- 15 Modern Slavery and anti-corruption**
- 15.1 The Vendor represents and warrants that to its knowledge, at the date of the Contract, no Modern Slavery exists within (and that it will take all reasonable steps to prevent any Modern Slavery arising within) its organisation and supply chain. The Vendor must notify the Company promptly upon becoming aware of any Modern Slavery in its organisation or supply chain.
- 15.2 The Vendor must not (and must ensure its Personnel do not) give or offer to give to any person any bribe, gift, gratuity, or other thing of value which could reasonably be construed as a corrupt practice in connection with the Contract.
- 16 Confidentiality and publicity**
- 16.1 Each party:
- (a) must keep confidential, and not use or disclose, any Confidential Information of the other party, except as permitted by the Contract;
- (b) must promptly notify the other party upon becoming aware of any loss or unauthorised use, access or disclosure of the other party's Confidential Information;
- (c) may only use the other party's Confidential Information to perform its obligations and exercise its rights under the Contract; and
- (d) may disclose Confidential Information to its personnel who have a specific need to access that information but only to the extent required to perform its obligations and exercise its rights under the Contract.
- 16.2 The obligations in **clause 16.1** do not apply to:

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- (a) a disclosure to professional advisers under a duty of confidence or to a government agency relating to an approval required under the Contract;
- (b) a disclosure made with the other party's prior written consent;
- (c) a disclosure required by law, stock exchange rules or a court order; and
- (d) information that is, at the relevant time, in the public domain other than by a breach of confidence.
- 16.3 The Vendor must not make any public announcement relating to the Contract without the Company's prior written approval.
- 16.4 All information (regardless of its form) the Company makes available to the Vendor:
- (a) is and always remains the Company's property; and
- (b) must be returned or destroyed within 10 Business Days of the earlier of a request by the Company or the end of the Term.
- 17 Dispute resolution**
- 17.1 Any difference or dispute arising in relation to the Contract (**Dispute**) must be determined in accordance with this **clause 17** provided that nothing in **clause 17** will prevent a party commencing proceedings for urgent declaratory or injunctive relief.
- 17.2 If a party alleges a Dispute has arisen it must give notice of that fact to the other party (**Dispute Notice**). Within 10 Business Days of the Dispute Notice, the Company's Representative and a senior representative of the Vendor must meet and, confidentially and in good faith, attempt to resolve the Dispute. If the Dispute is not resolved within 10 Business Days of the last date for the meeting of representatives under this clause, the matter will be and is hereby referred to arbitration.
- 17.3 The seat of the arbitration will be Perth, Western Australia and the arbitration will take place in Perth before a single arbitrator. The arbitrator will be nominated by ACICA, upon the application of either party. The arbitration will be conducted in accordance with:
- (a) the ACICA Arbitration Rules (as amended from time to time); or
- (b) if one or more parties are nationals of and habitually resident in, incorporated in, or where the central management and control is exercised in, different countries as between the parties, then the UNCITRAL Arbitration Rules will apply, and the appointing authority will be ACICA.
- 17.4 To the extent permitted by law, the parties agree that:
- (a) the powers conferred and restrictions imposed on a court by Part 1F of the *Civil Liability Act 2002 (WA)* are not conferred or imposed on the arbitrators appointed under **clause 17**; and
- (b) any such arbitrators shall have no power to make an order or award in respect of a Dispute by applying or considering the provisions of Part 1F of the *Civil Liability Act 2002 (WA)*.
- 18 Assignment and subcontracting**
- 18.1 The Company may, at any time, assign or otherwise deal with its interests under the Contract:
- (a) to any related entity (as defined under the *Corporations Act 2001 (Cth)*) at any time by notice to the Vendor; and
- (b) to any third party, with the Vendor's prior written consent (such consent not to be unreasonably withheld, delayed or conditioned).
- 18.2 The Vendor must not assign or deal with its interests under the Contract without the Company's prior written consent (such consent not to be unreasonably withheld, but which may be subject to conditions).
- 18.3 Subject to **clause 18.4**, the Vendor may subcontract any part of the Supply but not the whole of the Supply.
- 18.4 The Company may by notice direct that a particular part of the Supply is not to be subcontracted without the Company's prior written consent (such consent not to be unreasonably withheld, but which may be subject to conditions).
- 19 Indemnities and limitations**
- 19.1 Subject to **clause 19.2**, the Vendor must in connection with the Contract or the Supply, indemnify the Company and its Personnel (together, **those Indemnified**) from and against any Loss and Claims, however caused, brought against, suffered or incurred by those Indemnified arising out of or in connection with, in each instance:
- (a) injury to, or death or disease of, any person;
- (b) damage to, or loss or destruction of, any property;
- (c) liability to or Claim by a third party; and
- (d) a breach by the Vendor of **clause 5.2** (IP Rights) or **clause 16.1** (Confidentiality).
- 19.2 The Vendor's liability to indemnify those Indemnified under **clause 19.1** will be proportionately reduced to the extent the Loss or Claim was caused by the Company's acts or omissions.
- 19.3 Subject to **clause 19.4**, each party will have no liability to the other party arising under or in connection with the Contract (howsoever arising, including negligence) for Consequential Loss.
- 19.4 The exclusion of liability described in **clause 19.3** does not extend to liability for Consequential Loss in respect of:
- (a) liability that is (or would be but for **clause 19.3**) covered by an insurance policy required by **clause 7.1**; or
- (b) Wilful Misconduct.
- 19.5 Subject to **clause 19.6**, to the maximum extent permitted by law, each party's maximum aggregate liability to the other party under or in connection with the Contract and the Supply, whether in contract, in tort (including negligence), in equity, under statute or otherwise, is limited to 100% of the Price.
- 19.6 **Clause 19.5** does not apply to or limit any liability in respect of:
- (a) injury to, or illness or death of, any person;
- (b) damage to, or loss or destruction of, any property;
- (c) any Defect in the Supply;
- (d) a breach of any law by the Vendor;
- (e) the subject of an indemnity in the Contract;
- (f) for liability to the extent the Vendor is or may be indemnified for the liability under an insurance policy required by **clause 7.1**, or would have been indemnified but for a failure by the Vendor to comply with the Contract or its obligations under that insurance policy; or
- (g) Wilful Misconduct.
- 20 General**
- 20.1 The Contract is governed by the laws in force in Western Australia. Subject to **clause 17**, each party irrevocably submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Western Australia, and any court that may hear appeals from any of those courts, and waives any right to object to any proceedings being brought in those courts.
- 20.2 No waiver by the Company of a breach of the Contract by the Vendor constitutes a waiver for any subsequent or continuing breach by the Vendor.
- 20.3 If any term or condition of the Contract is held to be invalid or otherwise unenforceable, that provision may be severed from the Contract and the remainder of the Contract will continue to be effective and valid notwithstanding such severance.
- 20.4 Except as expressly specified otherwise in the Contract, each party must pay its own legal and other costs and expenses of negotiating, preparing, executing and performing its obligations under the Contract.
- 20.5 The Contract may only be varied by written agreement by the parties.
- 20.6 The Vendor has not relied on any representation, promise or other inducement or statement made or given or alleged to be made or given by the Company to the Vendor before the Commencement Date.
- 20.7 A party's right to terminate the Contract in accordance with the Contract is in addition to its rights to terminate the Contract under any law.
- 20.8 The Contract supersedes all other communications and negotiations (whether oral or written) between the parties in relation to the Supply and constitutes the entire agreement between the parties in respect of the Supply.
- 20.9 The operation of Part 1F of the *Civil Liability Act 2002 (WA)* in relation to any Claim or Loss arising out of the Contract is excluded.
- 21 Definitions**
- 21.1 The following definitions apply to the Purchase Order Terms:
- ACICA** means the Australian Centre for International Commercial Arbitration Limited (ACN 006 404 664).
- Approved Financial Institution** means a major Australian bank or financial or insurance institution with a Standard & Poor's (Australia) Pty Ltd long-term credit rating of at least A (or equivalent rating with another recognised international rating agency that is approved, or exempt, by the Australian Prudential Regulation Authority).
- Background IP** means IP Rights (not including any Contract IP) owned by a party prior to the commencement of the Contract.
- Business Day** means a day other than a Saturday, Sunday or public holiday in Perth, Western Australia.
- Claim** means any claim, demand, action or proceeding of any nature whatsoever, and including a claim for an adjustment to the Delivery Date or the Price.
- Commencement Date** means the date on which the Contract is formed as described in the Purchase Order Form .
- Company's Representative** means the Company contact for the Contract as specified in the Purchase Order Form or as nominated by notice from the Company from time to time.
- Confidential Information** means the fact the parties have entered into the Contract, the terms of the Contract, the details of the Supply, and all information regardless of its form:
- (a) which is disclosed directly or indirectly by a party to the other party;
- (b) which is treated or designated as confidential by the disclosing party or the receiving party knows, or ought to know is confidential; and

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(c) includes information of a commercial, operational, marketing, business, technical or financial nature relating to the affairs of the disclosing party.

Consequential Loss means any loss, damage, cost or expense not arising naturally according to the usual course of things, loss of business, loss of goodwill or damage to reputation, loss of revenue, loss of profit or the opportunity to earn profit.

Contract means the contract between the Company and the Vendor as described in the Purchase Order Form.

Contract IP means the IP Rights in subject matter developed by the Vendor in the performance of the Supply or coming into existence as a result of the Supply, or otherwise under the Contract but excluding Background IP.

Defect means:

- (a) a defect, fault, omission, non-compliance, or deficiency in the Supply;
- (b) any part of the Supply which does not accord with the Contract; and
- (c) any physical damage directly caused by a Defect.

Delivery Date means the date for the completion of the Supply specified in the Purchase Order Form, as adjusted in accordance with the Contract.

Delivery Address means the place the Company makes available to the Vendor for the delivery of the Goods or performance of the Supply, including the place described in the Purchase Order Form.

Good Industry Practice means the exercise of that degree of skill, diligence, prudence, and foresight that would reasonably be expected from an experienced, skilled and reputable vendor carrying out activities (and in conditions) comparable to those applying to the Supply.

Goods means the goods described or referred to in the Purchase Order Form.

GST Law has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999*.

Invoice means a valid invoice under the GST Law.

Information Security means the preservation of the confidentiality, integrity, and availability of the Company's information assets.

IP Rights means all intellectual and industrial property rights, including trademarks, copyright (including future copyright), inventions, patents, designs, circuits and other eligible layouts, database rights, and other intellectual property rights as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation dated 14 July 1967 (as amended from time to time), including any application or right to apply for registration of any of these rights.

Loss means any loss, cost, expense, damage, fine or penalty (excluding a fine or penalty under a WHS law), or liability of any kind.

Modern Slavery has the meaning given in the *Modern Slavery Act 2018* (Cth).

Personnel means in respect of a person, that person's directors, officers, employees, consultants, agents, contractors and subcontractors.

Policies means the policies, standards, specifications, plans and procedures set out or referred to in the Contract, available on the Company's website, or which the Company makes available to the Vendor, and as amended from time to time.

Price means the price for the Services referred to or specified in, or calculated in the manner referred to or specified in, the Purchase Order Form, as adjusted in accordance with the Contract.

Purchase Order Form means the purchase order form issued by the Company to the Vendor that refers to these Purchase Order Terms as comprising part of the contract formed pursuant to that purchase order form.

Purchase Order Terms means these terms and conditions.

Services means the services described or referred to in the Contract.

Supply means supply of the Goods or performance of the Services, or both, as applicable.

Term means the period described elsewhere in the Contract as the term of the Contract or, if no such period is specified, means the period commencing on the Commencement Date and ending on the later of:

- (a) the date that is 12 months later; or
- (b) the date the Vendor completes the Supply,

Vendor means the party to the Contract that is not the Company.

Warranty Period means a period of 12 months starting from the date on which the Company accepted the Supply.

WHS means work health and safety.

Wilful Misconduct means any:

- (a) fraud, fraudulent concealment, or dishonesty;
- (b) act or omission (including failure to perform a duty) which was intended to cause, or was in reckless disregard to or wanton indifference to, the possible harmful consequences of that act or omission;
- (c) breach of **clause 16.1** (Confidentiality); and
- (d) illegal or malicious act or omission.

22 Interpretation

22.1 In the event of an inconsistency or discrepancy between documents constituting the Contract, the Company will direct the Vendor as to the interpretation to be followed to resolve the inconsistency or discrepancy.

22.2 In the Contract:

- (a) the singular includes the plural, and the plural includes the singular;
- (b) other parts of speech and grammatical forms of a word or phrase defined in the Contract have a corresponding meaning;
- (c) unless otherwise stated, a reference to:
 - (i) time is to local time in Western Australia;
 - (ii) "\$" or "dollars" refers to Australian currency;
 - (iii) a clause or a party is a reference to a clause of, and a party to, the Contract;
 - (iv) legislation includes all delegated legislation under it and amendments, consolidations, replacements, or re-enactments of the legislation;
 - (v) a document includes all amendments or supplements to, or replacements or novations of, that document; and
 - (vi) a party includes that party's successors and assignees;
- (d) where a party includes more than one person, the Contract binds all such persons jointly and each of them severally and each is jointly and severally entitled to the benefits and rights conferred by the Contract;
- (e) specifying anything after the words "includes", "including" or "for example" or any similar expression does not limit what else is included unless there is express wording to the contrary;
- (f) a provision of the Contract must not be construed adversely to a party solely because that party prepared that provision;
- (g) where the day on which anything is to be done is not a Business Day, that thing must be done on or by the next Business Day; and
- (h) a term that is defined in the GST Law has the same meaning in the Contract.

23 Notices

23.1 Unless otherwise expressly specified in the Contract, all notices, demands, consents, approvals or communications and other documents in connection with the Contract must be:

- (a) in writing and duly authorised by the sender; and
- (b) sent by email to the email address of the recipient party specified in the Contract or advised by the recipient party in writing from time to time.

23.2 A notice is sent by email in accordance with clause 23.1 is regarded as received at the time shown in the delivery confirmation report generated by the sender's email system, except that a notice delivered or received other than on a business day or after 5:00 pm (recipient's time) is regarded as received at 9:00 am on the following Business Day, and a notice delivered or received before 9:00 am (recipient's time) on a Business Day is regarded as received at 9:00 am on that Business day.

23.3 Despite any other provision of the Contract, and to the extent not prohibited by law, a notice is not valid for any purpose under the Contract unless it complies with this clause 23.

24 Survival

24.1 **Clauses 7, 16, 17, 19, 20.1, 20.2, 20.7, 20.8, 20.6, 23** and this **clause 24.1** and any other obligations which are expressed to (or by their nature) survive termination of the Contract, will survive termination of the Contract and will continue in full force and effect.