

BEACH ENERGY LIMITED
PURCHASE ORDER TERMS AND CONDITIONS (23 February 2016)

IT IS AGREED between the Company and the Vendor that, unless otherwise agreed between them in writing, the following terms and conditions shall apply to all Purchase Orders issued by the Company.

1. AGREEMENT TO SUPPLY GOODS AND/OR SERVICES AND/OR RENTAL ITEMS

- 1.1. When the Company requires the supply of Goods and/or Services and/or Rental Items from the Vendor, the Company will issue a Purchase Order for the Goods and/or Services and/or Rental Items which will reference and be subject to these terms and conditions.
- 1.2. The acceptance by the Vendor of a Purchase Order constitutes an agreement to supply the Goods and/or Services, or lease the Rental Items, on these terms and conditions ("**Contract**"). The Vendor's acceptance of a Purchase Order may be evidenced by the supply of any Goods, Services or Rental Items (as applicable). The Contract consists of the Purchase Order, these terms and conditions and its annexures and schedules, and for the avoidance of doubt, does not include any terms or conditions of the Vendor, unless agreed in writing by the Company. The Contract binds the Vendor both personally and as trustee of any trusts for which it is trustee.
- 1.3. The Vendor agrees to supply the Goods and/or Services and/or Rental Items to the Company in consideration for the Price.
- 1.4. If a Purchase Order contains provisions (the "**Special Conditions**") which are inconsistent with any term or condition herein, the Special Conditions shall prevail to the extent of the inconsistency.
- 1.5. Where a Purchase Order refers to a term included in Incoterms 2010, the rules and definitions governing that term in Incoterms 2010 will apply, except to the extent that they conflict with any other provision of the Contract.

2. DELIVERY OF GOODS AND RENTAL ITEMS

- 2.1. Unless indicated to the contrary on the Purchase Order, the Goods and/or Rental Items must be delivered to the Shipping Address on the Delivery Date or, if no date is specified, as soon as is reasonably possible.
- 2.2. Where a Delivery Date is specified, time shall be of the essence of the Contract. In the event of the Vendor failing to deliver by the Delivery Date, the Company may cancel the Purchase Order or any part thereof without prejudice to any other rights, remedies or powers available to it.
- 2.3. Goods and Rental Items must be packed and marked in accordance with the requirements of clause 8 of these terms and conditions.
- 2.4. On Delivery, Goods and Rental Items must be accompanied with a packing slip identifying the Purchase Order number, destination, recipient and total number of packages, as well as the information required to be disclosed in the Vendor's invoice in relation to the delivered Goods and Rental Items, as set out in clause 7.1, and such other information as may be required by law and/or requested by the Company including any document complying with (up to 31 December 2016) the National Occupational Health and Safety Commission's publication "Guidance Note for Completion of a Material Safety Data Sheet" and (from 1 January 2017) any document complying with Safe Work Australia's publication "Code of Practice for the Preparation of Safety Data Sheets for Hazardous Chemicals" or other approved document dealing with material safety data.
- 2.5. No delivery receipt issued or payment made by or on behalf of the Company shall (or be deemed to) vary the terms of the Purchase Order or prejudice the Company from later exercising any right, power or remedy under the Contract or otherwise at law available to it.

3. RISK, TITLE AND PROPERTY

- 3.1. Subject to clause 5, title to and property in the Goods immediately passes to the Company upon payment of the Price (whether in part or in full) or Delivery (whichever is the earliest to occur).
- 3.2. Subject to clause 5, risk in the Goods and/or Rental Items remains with the Vendor until Delivery.
- 3.3. Where Goods and/or Rental Items are lost or damaged prior to Delivery, the Vendor will replace them at no cost to the Company.

4. RENTAL CONDITIONS

- 4.1. Where the Purchase Order is for the supply of Rental Items, whether or not in conjunction with the supply of Goods and/or Services, this clause 4 will apply in addition to all other applicable clauses in these terms and conditions.
- 4.2. The Vendor retains full title to the Rental Items.

- 4.3. If, with the Vendor's consent, the Company wishes to continue to retain possession of the Rental Items after the Lease Expiry Date, the Company will issue a new Purchase Order in respect of the Rental Items, on the same terms as the original Purchase Order.
- 4.4. Subject to the Company paying the Price for the Rental Items, the Vendor must permit the Company to possess and enjoy the Rental Items during the term of the lease without any interruption or disturbance from the Vendor.
- 4.5. On the Lease Expiry Date or upon the termination of the Purchase Order, the Rental Items will, subject to fair wear and tear, considering the conditions in which the Rental Items were supplied, either be (depending on the terms of the Purchase Order):
- (a) returned to the Vendor by or on behalf of the Company (at the Company's cost); or
- (b) collected by the Vendor (at the Vendor's cost).

5. INSPECTION, TESTING AND DEFECTS

- 5.1. All Goods and/or Rental Items shall be accepted by the Company subject to inspection and/or testing by the Company either within a reasonable time after Delivery or before Delivery (at the Company's discretion) and the Company being satisfied with the Goods and/or Rental Items. Signed Delivery documents shall not mean acceptance by the Company of the Goods and/or Rental Items delivered. Any monies paid by the Company to the Vendor prior to inspection of the Goods and/or Rental Items shall be deemed to have been paid conditional upon, and subject to, the Goods and/or Rental Items being free of any material defects, to the satisfaction of the Company, following inspection by it.
- 5.2. The Company will promptly after the inspection and/or testing referred to in clause 5.1, notify the Vendor of any failure of the Goods and/or Rental Items to comply with the Specifications or the Contract, or of any defects in or damage to the Goods and/or Rental Items found by the Company. The Company will hold any such Goods and/or Rental Items pending the Vendor's instructions and at the Vendor's risk for a reasonable period not exceeding 30 days. If the Vendor's instructions are not received by the Company within such period, the Company may:
- (a) return the Goods and/or Rental Items to the Vendor's premises at the Vendor's expense and risk and any expense incurred by the Company by such return will be payable forthwith by the Vendor, shall constitute a debt due and payable to the Company recoverable by the Company in a court of competent jurisdiction, and may be set off by the Company (pursuant to clause 7.5 or otherwise) against any moneys otherwise due by the Company to the Vendor or recoverable by the Vendor from the Company;
- (b) after giving written notice to the Vendor, sell the Goods and/or Rental Items on behalf of the Vendor and forward the proceeds of the sale, after making due deductions for the Company's costs in effecting the sale, to the Vendor; or
- (c) at the Company's election, undertake a combination of (a) and (b) in the proportion determined by the Company.
- 5.3. Notwithstanding any other provision of these terms and conditions, in the case of Goods to which clause 5.2 applies:
- (a) ownership of and title to the Goods will not pass to the Company;
- (b) risk in those Goods shall remain with the Vendor;
- (c) the Company shall be under no liability to pay for the Goods or their costs of Delivery; and
- (d) the Company reserves the right to make a Claim against the Vendor in respect of any such Goods.

- 5.4. Without limitation to clause 5.2, the Company may reject any Goods and/or Rental Items at any time within 30 days of the Company finding that they do not meet any material stipulation or requirement of these terms and conditions as to quality or fitness in which event the Company shall be entitled to a credit or refund (as appropriate) of the Price (or part thereof, if only paid in part).
- 5.5. Title and risk in any Goods rejected under clause 5.4 shall, as from the date of such rejection, revert to the Vendor and may be returned at the Vendor's expense.
- 5.6. Without limitation to clause 5.4, acceptance by the Company of defective Goods and/or Rental Items shall not preclude it from rejecting subsequently other defective Goods and/or Rental Items delivered under the Purchase Order because of the same or other defects.
- 5.7. No payment of the Price or any part thereof shall constitute a waiver of any rights or claims, which the Company may have arising out of or connected with any inspection.
- 6. PRICE**
- 6.1. The Company agrees to pay the Price for the Goods, Rental Items and/or Services specified in the Purchase Order, subject to these terms and conditions.

- 6.2. Unless otherwise provided, the Price is not subject to rise and fall and is inclusive of all Taxes (which shall be disclosed in the Purchase Order) excluding, for the avoidance of doubt, GST and withholding tax (where applicable).
- 6.3. The Price is payable in Australian Dollars unless otherwise specified in the Purchase Order.
- 6.4. Payment of the Price by the Company is subject to receipt of the Goods and/or Rental Items in good order and is on the basis set out in clause 5.1.
- 6.5. The Price is inclusive of Delivery, packaging and transport costs unless otherwise stated in the Purchase Order.

7. PAYMENT, ACCOUNT AND DEDUCTIONS

- 7.1. The Vendor shall submit one (1) copy of each tax invoice or credit note in respect of Delivered Goods, Rental Items and/or Services which shows the quantity of Goods, Rental Items and/or Services supplied, the Price applying to those, the Purchase Order number and (if applicable) the Company material number. The tax invoice must show units of measure and Price consistent with the Purchase Order. Where applicable, invoices must be accompanied by copies of timesheets for Services provided in the period to which the invoice relates, and appropriate supporting documentation for any other fees, charges or expenses.
- 7.2. All invoices must be forwarded to: accounts@beachenergy.com.au.
- 7.3. Subject to clause 5 and the remaining provisions of this clause the Company shall pay the amount properly invoiced by the Vendor (except to the extent that the invoice is in dispute) within thirty (30) days of the expiration of the month in which the invoice is submitted, unless other payment terms have been agreed between the Company and the Vendor.
- 7.4. The Company will be entitled to withhold payment of any sum which is disputed in good faith, and the Vendor must continue to supply the Goods and/or Rental Items and/or perform the Services under the relevant Purchase Order and any other Purchase Orders, until the dispute is resolved. On satisfactory resolution of the dispute (which must be resolved in accordance with clause 17.6), the Company will pay the amount (if any) determined to be payable by it within 14 days of resolution of the dispute.
- 7.5. In addition to any other rights that it may have under these terms and conditions or otherwise, if the Company suffers any loss, damage, claim or expense which in the reasonable opinion of the Company does or may result in the Vendor being required to indemnify the Company by reason of law, equity, contract or otherwise including:
- (a) all costs, damages and expenses which the Company may have paid for or incurred in connection with the supply of Goods, Rental Items and/or Services for which the Vendor is liable and which remain unpaid by the Vendor; and
- (b) all debts owed by the Vendor to the Company and which remain unpaid on any account whatsoever,

then the Company shall be entitled (without prejudice to any other right or remedy it may have howsoever) to deduct from and set off (by way of contractual defence) against any monies due or that become due to the Vendor or claim which the Vendor may have against the Company howsoever arising, an amount which the Company estimates to be the quantum of its loss, damage, claim or expense (as if such claim were a liquidated claim in the event that it is not).

- 7.6. The Company shall be entitled to treat any Claim (of whatsoever nature) it has or may have against the Vendor as liquidated to the extent of the amount involved for which purpose a certificate (which may be substituted from time to time) signed by a representative of the Company, in good faith and setting forth the Company's bona fide estimate of its claim, loss or damage shall be deemed a debt due until determined by a court otherwise.
- 7.7. The Company shall be entitled to return to the Vendor unpaid any invoice that fails to contain the information described in clause 7.1, and the Vendor must submit a replacement invoice which complies with clause 7.1.

8. PACKAGING AND MARKING INSTRUCTIONS

- 8.1. Adequate and safe packaging of the Goods and Rental Items is the responsibility of the Vendor.
- 8.2. Goods and Rental Items shall be appropriately marked and identified by the Vendor as the property of the Company, and be packed in accordance with the requirements (if any) set out in the Purchase Order. Goods and Rental Items shall be packed in a form consistent with good trade practices and all applicable laws and safety requirements (including, where transport is by land within Australia, all applicable requirements of the Australian Dangerous Goods Code).

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- 8.3 If the Vendor arranges for the carriage of, or carries, the Goods or Rental Items by road, the Vendor must:
- (a) comply with the Beach Energy Specification for Packaging, Marking and Shipping, which is available at the Company's website [here](#);
 - (b) ensure that it complies at all times with all state and federal laws, regulations and applicable codes in regard to road transportation and use, including without limitation, ensuring that loads do not exceed vehicle dimension limits and vehicle mass limits and ensuring that loads are appropriately secured;
 - (c) ensure that, where applicable, the Goods and Rental Items are clearly marked with their dimensions, mass and handling instructions;
 - (d) comply with any policies, systems or procedures specified by the Company in regard to loading, unloading or transportation of the Goods and Rental Items; and
 - (e) to the extent permitted by law, indemnify and keep indemnified the Company, its agents, employees, contractors and Related Bodies Corporate in respect of any breach by the Vendor or its employees, agents or contractors of its obligations under this clause 8.3.
- 8.4 Without limiting the generality of the obligations set out in clause 8.3, if the Vendor is carrying the Goods or Rental Items or providing Services in connection with the Cooper Basin, the Vendor must also ensure that all Vendor Personnel observe and comply with the following road use rules:
- (a) Vendor Personnel must hold and carry a relevant, current driver's license and must have received 4WD training by a recognised competence based training provider at a maximum 5 year interval;
 - (b) the open road speed limit is 80 Km/hr the Cooper Basin, however this may be reduced for roadwork or other activities and will be indicated by signs, and particular road conditions may dictate a lower speed and drivers must drive at a speed suitable to the prevailing conditions;
 - (c) dust is a major hazard associated with driving in the Cooper Basin area, therefore drivers must never:
 - (i) drive when forward visibility is obscured, and if forward visibility is restricted, drivers should pull well off the road and stop until the dust clears; or
 - (ii) pass another vehicle unless the visibility ahead is clear;
 - (d) as necessary in the Cooper Basin, Santos Limited may, from time to time and at its absolute discretion, close roads to all users in the event of adverse weather conditions or for any other reason which in its opinion compromises safety for road users or results in disproportionate damage to roads;
 - (e) information in relation to Santos road conditions in the Cooper Basin may be obtained by calling the Moomba Communications Centre on 08 8675 6666 or 08 86754246;
 - (f) any abnormal activity associated with roads, including road works, is highlighted by the display of the appropriate signage, and all Vendor Personnel must strictly comply with displayed road signs; and
 - (g) no Vendor Personnel must dispose of or allow any litter to be deposited into the environment.
- 8.5 Failure to comply with this clause 8 may, at the election of the Company, result in the Goods and/or Rental Items being rejected and returned at the Vendor's expense.

9. VENDOR'S WARRANTIES

- 9.1 The Vendor represents and warrants to the Company that:
- (a) it has the right to sell the Goods and/or lease the Rental Items to the Company on these terms and conditions and, subject to clause 5, upon payment of the Price (whether in part or in full) or Delivery (whichever is the earlier to occur) the Company will have good title to the Goods, free and clear of all interests and encumbrances including Security Interests;
 - (b) the Goods and/or Rental Items delivered to the Company will correspond in all respects with the Specifications and the representations made by the Vendor and any sample provided by or on behalf of the Vendor;
 - (c) the Vendor holds all relevant import licences, consents or authorities necessary for the performance of the Contract;
 - (d) the Company will have the full benefit of any manufacturer's warranties that may be applicable to the Goods or any part of the Goods;
 - (e) the Goods will be of merchantable quality and free from defects in design, manufacture and assembly;
 - (f) the Goods, Rental Items and Services will be fit for any particular purpose which the Company has made known (whether expressly or by implication) to the Vendor and will be fit also for the purpose for which Goods, Rental Items and/or Services of a similar nature are commonly supplied;
 - (g) the Goods, Rental Items and/or Services will comply with all laws (including statutes, the common law and equity) in force in the jurisdiction in which they are supplied and with all relevant standards issued by Standards Australia;
 - (h) the Services performed by the Vendor will be performed in accordance with the Specifications and the terms and conditions described in the Purchase Order and in accordance with the standards of a reasonable and prudent provider of those Services;

- (i) the Services performed by the Vendor will be performed using due skill, care and diligence, in a safe and competent manner and using qualified Vendor Personnel and equipment and materials of merchantable quality and fit for their use or intended use;
- (j) Vendor Personnel who are involved in the performance of the Services and/or the supply of the Goods and/or Rental Items are competent and have the appropriate qualifications, job skills and training and hold and will maintain all required licences, permits and authorities; and
- (k) the Services will be performed in a timely manner and in accordance with the timeframes specified in the Special Conditions (if any), in which case time shall be of the essence.

9.2 Subject to clause 9.4, the Vendor will be required to repair or replace any Goods or Rental Items, or re-perform any Services, which do not conform to any warranty, upon receipt of notice from the Company.

9.3 Where the Vendor repairs or replaces any Goods or Rental Items or re-performs any Services pursuant to any warranty, the Vendor shall bear all the costs occasioned thereby including the removal and transportation costs of the Goods and/or Rental Items from and return to the Company's premises, labour costs and the costs of replacing or providing new parts for the Goods and/or Rental Items.

9.4 If any defect attributable to the design (other than a design provided by the Company), workmanship or operating characteristics of the Goods arises at any time up to the later of 30 months from the date the Goods are delivered or supplied, the Vendor must at its own expense and as soon as practicable after receiving notice from the Company, make such alterations, repairs and replacements to the Goods, as necessary to correct the defective design, workmanship or operating characteristics.

9.5 If the Vendor fails to comply with the requirements of clauses 9.2, 9.3 and/or 9.4, the Company may have the deficiency rectified by third parties and recover the reasonable costs of doing so from the Vendor.

9.6 Where the Vendor obtains any warranties or guarantees not specified in these terms and conditions, the Vendor must ensure that the Company has the benefit of such warranties or guarantees.

10. INDEMNITY

10.1 The Vendor shall be liable for and must indemnify the Indemnified Parties against any and all Claims arising, whether at common law or under statute, to the extent caused or contributed to, whether wholly or in part and whether directly or indirectly, by:

- (a) the Vendor's performance of the Contract or any breach by the Vendor of any of its obligations under the Contract;
- (b) the performance, purported performance or non-performance of the Goods and/or Rental Items;
- (c) any fault due to bad workmanship or faulty materials in any Goods and/or Rental Items;
- (d) reason of any act, neglect or default by the Vendor or the Vendor Personnel in or in connection with or in relation to the supply of the Goods, Rental Items and/or the Services; or
- (e) the presence of any Vendor Personnel on or about the Company's premises or any premises on which any Vendor Personnel are situated as a result of or in connection with this Purchase Order, in respect of:
 - (i) injury to or death of any person; or
 - (ii) loss or damage of any property.

10.2 In the event that any of the Indemnified Parties suffers or incurs any loss, costs or expenses which the Vendor has indemnified the Indemnified Parties against pursuant to clause 10.1, the Vendor must diligently and in good faith take all action to make and pursue a claim for indemnity under the insurances that the Vendor is required to obtain and maintain pursuant to clause 11 or 12.

10.3 In the event that the Vendor Personnel require emergency evacuation from remote areas whilst undertaking the Services, the Vendor agrees that it will be liable for all costs and expenses related to such evacuation, and will indemnify the Company to the extent that such costs and expenses are incurred by the Company. Evacuation costs and expenses incurred by the Company and notified to the Vendor will be paid within 14 days of request for payment.

11. INSURANCE IN RELATION TO GOODS AND/OR RENTAL ITEMS

The Vendor shall at its own cost and expense maintain in full force and effect with reputable and substantial insurers (which insurers must have a Standard and Poor's rating of 'A' or higher), insurance against all normally insurable risks of physical loss or damage to the Goods and/or Rental Items or any part thereof, such insurance to cover the full insurable value of the Goods and/or Rental Items and to apply until the Goods and/or Rental Items are Delivered. If requested by the Company, this policy must extend to note the Company's interests as a principal.

12. INSURANCE IN RELATION TO THE PROVISION OF SERVICES

The Vendor shall at its own cost and expense maintain in full force and effect with reputable and substantial insurers (which insurers must have a Standard and Poor's rating of 'A' or higher), following the insurances:

- (a) workers' compensation including common law liability for an unlimited amount and/or otherwise comply with all the laws and/or regulations of any State and/or Territory with respect to legislation governing benefits for compensable disabilities payable to Vendor Personnel engaged in the performance of the Services;
- (b) public and products liability insurance covering liability resulting from death or bodily injury and loss or damage to property: minimum sum insured \$20,000,000 per occurrence (and in the aggregate for products);
- (c) insurance on all Vendor's property utilised in the performance of the Services;
- (d) automobile bodily injury insurance (being compulsory third party insurance as required by laws and/or regulations);
- (e) comprehensive motor vehicle/third party property damage insurance covering all motor vehicles owned, leased or hired by the Vendor and used in the performance of the Services with a minimum sum insured of \$20,000,000 per occurrence; and
- (f) where the Services include professional services (in the Company's opinion), the Vendor must arrange and maintain professional indemnity insurance insuring all professional liabilities arising from the provision of the Services, for a minimum sum insured of \$5,000,000 per occurrence and \$5,000,000 in the annual aggregate.

13. GENERAL PROVISIONS RELATING TO INSURANCE

13.1 General Conditions

- (a) Insurances shall be purchased by the Vendor before the commencement of the risks to which the insurance relates and shall be kept in force as required by the Company.
- (b) The Vendor shall ensure that each of its subcontractors purchases and maintains the insurance required by clauses 11 and 12.
- (c) If the Vendor fails to:
 - (i) purchase or maintain any of the insurances which the Vendor is required to purchase and maintain; or
 - (ii) punctually pay the premiums in respect of the policies of insurance, the Company may, but shall not be obliged to, purchase and maintain any such insurance and pay such premiums as may be necessary for that purpose and may recover as a debt due from the Vendor the amount so paid. Alternatively, the Company may refuse payment upon any invoice until the Vendor fulfils its obligations under this clause.
- (d) Notwithstanding that the Company may purchase and maintain such insurance if the Vendor fails to do so, the Vendor shall be deemed to have indemnified the Indemnified Parties against all Claims which may arise as a result of the Vendor failing to so insure.
- (e) The Vendor must not do, permit or suffer to be done or omit to do, any act, matter or thing whereby the policies required by clauses 11 and 12 may be vitiated, rendered void or voidable, or whereby the premium of such insurance may be liable to be increased.

13.2 Records and Certificates

- (a) The Vendor shall prior to the commencement of the supply of Goods and/or Rental Items and/or the performance of Services and when required by the Company, provide certificates of currency evidencing the extent of insurances required by clauses 11 and 12.
- (b) The Vendor shall when required by the Company make available for inspection by the Company the policies of insurance purchased and maintained by the Vendor for the purpose of complying with the Vendor's obligations under the Purchase Order and the receipts for payment of the current premiums.
- (c) The provision by the Vendor to the Company of a copy of any insurance policy purportedly purchased in accordance with the Purchase Order does not constitute acceptance by the Company that such insurance has been purchased by the Purchase Order or in accordance with the Purchase Order.

13.3 Claims

- (a) The Vendor shall be responsible for any deductibles applicable under the insurance policies purchased and maintained by the Vendor pursuant to clauses 11 and 12.
- (b) If an event occurs which may give rise to a claim involving the Company and/or its employees, agents or consultants under a policy of insurance purchased and maintained by the Company or the Vendor as required under these terms and conditions, the Vendor shall notify the Company and shall ensure that the Company is kept fully informed of subsequent action and developments regarding the claim.
- (c) The purchasing and maintaining of insurance as required under these terms and conditions shall not in any way limit the responsibilities and obligations of the Vendor under any provisions of these terms and conditions, including the indemnities under clause 10.

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14. INTELLECTUAL PROPERTY RIGHTS AND ROYALTIES

14.1 Unless otherwise specified in the Purchase Order, all Intellectual Property Rights produced or created in the course of supplying the Goods and/or providing the Services under this Contract vest in (and are hereby assigned to) the Company.

14.2 The Vendor warrants that the supply of the Goods, Rental Items and/or Services under this Contract, and any use of them by the Company or any other person for any purpose, will not infringe any Intellectual Property Rights. The Vendor undertakes at its expense to defend, protect and hold harmless the Company and the users of the Company's products and services from and against any Claim for infringement of any Intellectual Property Rights arising by reason of the supply and/or use of the Goods, Rental Items and/or Services.

14.3 The Goods are for the use of or re-sale by the Company and its associated entities, and may be incorporated in any products made or services provided by the Company. In no event shall any claim for royalties or other additional compensation be made by the Vendor by reason of such use, re-sale or manufacture. The Vendor must bear any such royalties or compensation and indemnifies the Company in respect of any liability for them that the Company incurs.

15. CANCELLATION

15.1 In the event of the Vendor becoming bankrupt, insolvent, going into receivership, external administration or liquidation, or passing a resolution for winding up, or assigning its estate or any substantial part thereof for the benefit of its creditors, the Company may immediately, without notice, cancel the Purchase Order.

15.2 The Company may at its option and in its absolute discretion, cancel any undelivered Goods, Rental Items and/or Services not yet provided by notice to the Vendor in writing.

15.3 In the event of a cancelled Purchase Order which covers standard stock Goods, the Company's only obligation to the Vendor shall be to pay for Goods delivered prior to the cancellation.

15.4 If the Purchase Order covers Goods manufactured or fabricated or to be manufactured or fabricated to the Company's specifications or to specifications prepared by the Vendor on the Company's instructions, then upon receipt of a cancellation direction from the Company, the Vendor shall forthwith stop all performance under the Purchase Order except as otherwise directed by the Company provided that if the Vendor is not in default, the Company shall, on cancellation under clause 15.2, pay the Vendor:

- (a) all costs incurred by the Vendor in connection with the Purchase Order up to the date of cancellation; and
- (b) such other costs including cancellation charges under subcontracts reasonably incurred by the Vendor provided however that the total cancellation payments shall not exceed the total Price stipulated in the Purchase Order. Upon such payment the ownership of all Goods and incomplete work shall pass to the Company.

15.5 In addition to any other rights under a Contract, either party may terminate a Contract if the other party materially breaches its obligation and fails to remedy that breach within 14 days of request.

16. HEALTH, SAFETY AND ENVIRONMENT

16.1 The Vendor Personnel must in all respects be or be deemed to be under the control and direction of the Vendor, and the Vendor will be responsible for complying (and ensuring that all Vendor Personnel comply) at all times with the provisions of all applicable health, safety, welfare and environmental legislation, including without limitation, the *Work Health and Safety Act 2012* (SA).

16.2 All Goods, Rental Items and plant and equipment utilised by the Vendor in providing the Services, must meet the requirements of all relevant safety legislation, Australian Standards and approved codes of practice.

16.3 The Vendor must report to the Company immediately and a written preliminary incident report must be provided within 24 hours of:

- (a) all accidents or occurrences resulting in injuries and potentially hazardous events that might lead to injury to (ie near misses) to the Vendor Personnel or third parties; and
- (b) all damage to property of the Vendor, the Vendor Personnel or third parties,

arising out of or during the course of the performance of this Contract by the Vendor or the Vendor Personnel. The Vendor will provide the Company with a finalised and approved incident report stating causal factors and preventative and corrective actions, appropriate to the actual and potential severity of the incident within 7 days from the time of the incident.

16.4 The Vendor must report to the Company all accidents or occurrences resulting in damage to the environment arising out of or during the course of the performance of this Contract by the Vendor or the Vendor Personnel, immediately upon becoming aware that the said accident or occurrence has caused damage to the environment or in any event within 2 hours of becoming aware that the said accident or occurrence has caused damage to the environment and a written preliminary incident report must be provided within 24 hours. The Vendor will provide the Company with a finalised and approved incident report stating causal factors and preventative and corrective actions, appropriate to the actual and potential severity of the incident within 7 days from the time of the incident.

16.5 In the event that a serious incident occurs that requires notification to a regulatory body, the Vendor must cease all activities and the incident site must be preserved until approval is given to re-commence by the designated Company representative.

16.6 If requested by the Company, the Vendor must supply the following documentation to the Company's Health Safety and Environment representative:

- (a) monthly safety statistics within 7 days of the end of each calendar month;
- (b) quarterly Vendor group safety statistics within 30 days of the end of each quarter; and
- (c) personnel training and competency matrix at commencement of this Contract, updated at intervals during the Term that may be reasonably required by the Company.

16.7 Without limiting clause 15, if the Vendor does not comply with the requirements of this clause 16 or any other instructions or directions given by a representative of the Company, the Company may, with immediate effect and despite any other provision of this Contract, suspend the performance of the Contract until such time as the Company provides written notice to the Vendor that it is satisfied that compliance with those is established. The Vendor acknowledges that safety is of paramount importance to the Company and that this right is reasonably necessary to ensure the safety of its operations and Vendor Personnel.

17. GENERAL

17.1 Entire Contract

The Contract constitutes the entire contract of supply and purchase of the Goods and/or Services and/or the hire of Rental Items and supersedes all previous arrangements, correspondence, tenders, representations, proposals, understandings and communications whether written or oral except to the extent otherwise provided in any Purchase Order.

17.2 Governing Law

The contract for the supply and purchase of the Goods and/or Services and/or the hire of Rental Items shall be deemed to have been made in South Australia and shall be subject to the laws of South Australia. The parties shall be subject to the exclusive jurisdiction of South Australia and any courts that may hear appeals from those courts in relation to any proceedings concerning the contract.

17.3 Severability

Any provision in these terms and conditions which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible so as to be valid and enforceable, and is otherwise capable of being severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of these terms and conditions or the validity or unenforceability of that provision in any other jurisdiction.

17.4 Taxes

- (a) If GST is imposed on any supply made to the Company under a Contract, the Company must pay an amount equal to that GST in addition to any other amount payable for the supply.
- (b) The obligation of the Company under clause 17.4(a) only applies if the Vendor has provided the Company with a tax invoice for the supply that sets out the relevant amount in respect of which GST is payable and the amount of that GST.
- (c) If for any reason (including an adjustment event occurring) the amount paid by the Company under clause 17.4(a) differs from the amount of GST payable at law by the Vendor on the supply, the amount paid by the Company must be adjusted accordingly.
- (d) [If, after the commencement of the Term, there is any abolition or reduction of any existing Taxes, duties or statutory charges (including by not limited to sales tax, fuel excise, stamp duty, financial institutions duty and debits tax) that applied at the time of commencement ("Tax Reduction"), the amounts otherwise payable by the Company under a Contract must be reduced so that the full benefit of any reduction in the Vendor's costs that relate to performing a Contract (including overheads and indirect costs) resulting directly or indirectly from the tax reduction is passed on to the Company.

(e) The Company is entitled, at any time within 24 months of any Tax Reduction taking effect, to have an audit conducted in relation to any reduction in the Vendor's costs and any reduction in the amounts otherwise payable by the Company under a Contract, to verify that the full benefit of any reduction in the Vendor's costs has been passed on to the Company as required by clause 17.4(d). If it does:

- (i) the audit is to be conducted by an auditor or other expert ("auditor") agreed to by both parties, or in the absence of agreement either party may request that the auditor be appointed by the President or principal officer of the South Australian Division of the Institute of Chartered Accountants in Australia (or appropriate successor body);
- (ii) the auditor must be given access to all information the auditor considers relevant to the audit, but must not give to the Company any confidential information belonging to the Vendor;
- (iii) the auditor will act as expert and not as an arbitrator;
- (iv) the auditor's decision will be final and binding in the absence of manifest error;
- (v) if the auditor determines that the full benefit of any reduction in the Vendor's costs has not been passed on as required by clause 17.4(d), the auditor will determine what reductions are necessary to the amounts otherwise payable by the Company and what adjustments are necessary in relation to past payments; and
- (vi) if the auditor determines that the full benefit of any reduction in the Vendor's costs has not been passed on as required by clause 17.4(d), the auditor's costs must be met by the Vendor. Otherwise the auditor's costs must be met by the Company.

(f) If the Company is liable for GST:

- (i) in respect of, or calculated by reference to, any money payable to it under a Contract, or
- (ii) because anything done under a Contract is regarded as the making of a taxable supply by the Company:

the Vendor must pay to the Company an amount equal to that GST in addition to any other amount payable by the Vendor under a Contract.

(g) In this clause 17.4, the amount of GST on any supply is calculated before the allowance of any input tax or other credits.

17.5 *Personal Property Securities Act 2009* (Cth) ("**PPSA**")

- (a) Any mobile plant and equipment, materials and general property owned by the Company and entrusted to the Vendor in connection with the Vendor's provision of Services is not intended to be bailed by the Company to the Vendor. However, if the PPSA treats any such arrangement as a bailment or PPS lease (as defined in the PPSA) the term of the arrangement will end on the earlier of the date the Services have been performed or the day immediately before the PPSA would otherwise apply to the arrangement as a PPS lease.
- (b) The Vendor acknowledges and agrees that it will not register any Security Interest in relation to the Contract against the Company on any register maintained under the PPSA.

17.6 Dispute Resolution

- (a) Any party claiming that a dispute has arisen under a Contract, including with respect to the validity, interpretation, performance, breach or termination of a Contract or in connection with the Goods supplied or the Services performed ("**Dispute**") may give notice to the other party identifying and providing details of the Dispute ("**Dispute Notice**").
- (b) Notwithstanding the existence of a Dispute, each party must continue to perform its obligations under the relevant Contract. The existence of a Dispute will not prejudice the Company's right to cancel a Contract in accordance with clause 15.
- (c) Within ten days of service of a Dispute Notice, a representative of the Vendor and a representative of the Company must meet and, in good faith, attempt to resolve the Dispute.
- (d) If the Dispute is not resolved within ten days of the meeting held pursuant to clause 17.6(c) or in any event, within 20 days of service of the Dispute Notice, senior management representatives of each party with authority to settle the Dispute must meet within a further ten days and, in good faith, attempt to resolve the Dispute.
- (e) If the Dispute is not resolved within ten days after the meeting held pursuant to clause 17.6(d) or in any event, within 30 days of service of the Dispute Notice, either party may commence legal proceedings or, if agreed in writing by the parties, commence alternative dispute resolution proceedings.
- (f) The provisions of this clause 17.6 survive expiration or termination of the relevant Contract.

17.7 Facilitation Payments and Anti-Corruption

- (a) Each party warrants that to the best of its knowledge, information or belief, neither it nor any director, officer, employee, adviser, agent nor any other person acting for or on behalf of the party:
 - (i) has made or offered; or

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- (ii) will be made or offered; or
- (iii) has caused or will cause any third party to make or offer,

with respect to the matters which are the subject of a Contract, any payment, gift, promise or other advantage, whether directly or indirectly, including (without limitation) through affiliates or representatives (including representatives of the intended recipient), to or for the use of any person holding a legislative, administrative or judicial office (including any person exercising a public function for a public agency, a public enterprise or a public international organisation), where such payment, gift, promise or advantage would violate:

- (iv) the applicable laws of the country in which the activities under this Contract are taking place;
 - (v) the laws of the country of incorporation of such party; or
 - (vi) the principles described in the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
- (b) Each party must indemnify and keep indemnified the other party from and against any and all claims, loss, costs or expenses arising from or related to any breach by such first party of the warranty contained in clause 17.7(a) above. Such indemnity obligation will survive termination of the relevant Contract.

17.8 Notices

Any notice given under a Contract must be given in writing and may be given to a person:

- (a) personally;
- (b) by leaving it at the person's address last notified;
- (c) by sending it by pre-paid mail to the person's address last notified (a notice sent by post will be taken to be given 6 business days after posting);
- (d) by sending it by facsimile to the person's facsimile number last notified and then confirming it by pre-paid mail to the person's address last notified (a notice sent by facsimile is taken to be given on the business day after it is sent); or
- (e) by sending it by email to the person's email address last notified (a notice sent by email is taken to be given when it becomes capable of being retrieved by the addressee at the relevant email address).

17.9 Variations to these terms and conditions

The Company may vary these terms and conditions in respect of future Purchase Orders only, by giving notice or by publishing the revised terms and conditions on its website at least 7 days prior to the date of a Purchase Order. The Company may (but is not obliged to) notify the Vendor that it has done so.

18. DEFINITIONS

18.1 In these terms and conditions unless the context otherwise requires:

"Claim" means any claim, action, proceeding, demand, cost, damage, loss, expense, liability or other outgoing howsoever incurred or suffered by, or brought or made or recovered howsoever arising (whether or not presently ascertained, immediate, future or contingent);

"Company" means Beach Energy Limited – ABN 20 007 617 969;

"Contract" is defined in clause 1.2;

"Delivery" means the delivery of the Goods and/or Rental Items to the Shipping Address, or, if the Company specifies in the Purchase Order that it will arrange for the Goods and/or Rental Items to be collected from the Vendor, delivery will occur upon commencement of loading of the Goods and/or Rental Items onto the transport arranged by the Company;

"Delivery Date" means the delivery date specified in the Purchase Order;

"Goods" means the goods specified in a Purchase Order;

"GST" means the goods and services tax described in the *A New Tax System ("Goods and Services Tax" Act 1999* (Cth) and related Acts, or any similar tax;

"Incoterms 2010" means the publication called "Incoterms" published by the International Chamber of Commerce, 2010 Edition;

"Indemnified Parties" means the Company, the parties to the joint venture(s) in respect of which the Goods, Rental Items and/or Services are provided, its and their officers, directors and employees;

"Intellectual Property Rights" means letters patent, a pending patent, trade marks, copyright, design, EL rights, confidential information or similar protection whether registered or unregistered and whether granted by the Commonwealth of Australia or any foreign state or the common law;

"Lease Expiry Date" means the date on which the lease of the Rental Items expires as specified in the Purchase Order;

"Price" for the Goods, Services and/or Rental Items means the amount specified in the Purchase Order;

"Purchase Order" means the document issued by the Company to the Vendor to order the Goods, Rental Items and/or Services and includes any specifications, drawings or other documents that may be contained therein or annexed thereto;

"Related Bodies Corporate" has the meaning given to that term in the *Corporations Act 2001* (Cth);

"Rental Items" means any item specified in the Purchase Order to be rented to the Company;

"Security Interest" means:

- (a) a mortgage, pledge, lien, charge, assignment by way of security, hypothecation, secured interest, title retention arrangement, preferential right, trust arrangement or other arrangement (including any set-off or "flawed-asset" arrangement) having the same or equivalent commercial effect as a grant of security; or
- (b) an agreement to create or give an arrangement referred to in paragraph (a) above;

"Services" means the services specified in the Purchase Order;

"Shipping Address" means the place for Delivery set out in the Purchase Order;

"Special Conditions" is defined in clause 1.4;

"Specification" means the specification of the Goods, Rental Items and/or Services (if any) as set out in the Purchase Order;

"State" means the State or Territory in the Commonwealth of Australia in which Delivery is to be made;

"tax invoice" means a valid tax invoice that meets the requirements of the legislation and any regulations governing the GST and any relevant requirements of the Australian Taxation Office (or other relevant administering body or person);

"Taxes" means all taxes, fees, levies, duties and charges imposed or assessed howsoever in respect of the Goods, Rental Items, and/or Services (including the supply or sale of the Goods, Rental Items and Services) by all local, state or national government authorities including sales tax (or equivalent), including withholding tax, but excludes taxes imposed on the income of the Vendor;

"Term" means the term specified in the Purchase Order for the supply of Goods and/or Rental Items and/or provision of Services;

"Vendor" means the Vendor identified in a Purchase Order; and

"Vendor Personnel" means the Vendor, its sub-contractors, and the directors, officers, employees and agents of each of them.

18.2 Interpretation

In these terms and conditions unless the context otherwise requires:

- (a) the singular shall include the plural and vice versa;
- (b) words importing persons shall include corporations and words importing one gender includes the other genders;
- (c) the headings shall not affect the interpretation or construction of these terms and conditions;
- (d) reference to any statute shall mean that statute as amended, modified or replaced from time to time and includes orders, ordinances, regulations and rules and by-laws made in terms of or pursuant to the relevant legislation; and
- (e) reference to a party or parties includes a reference to its successors and permitted assigns in accordance with these terms and conditions; and
- (f) "including" means "including (without limitation)".

18.3 Small Business Contracts

If the Contract is a Small Business Contract (as defined in in Schedule 2, Section 23 of the *Competition and Consumer Act 2010*) the Company will:

- (a) in the circumstances and to the extent practicable, provide a reasonable opportunity for the Vendor to remedy a default under clause 2.2;
- (b) act reasonably in exercising its rights under clause 8.5;

- (c) give not less than 7 days' notice before exercising any right to cancel undelivered Goods, Rental Items or Services under clause 15.3;
- (d) reduce proportionately any obligation of the Vendor to indemnify the Company to the extent that the Company's breach or negligence contributed to the loss or damage.