

PURCHASE ORDER CONDITIONS FOR KENYA (effective 1 October 2006)

PART A: STANDARD CONDITIONS

1 APPLICATION OF THIS PART

The conditions of this Part A apply to all Contracts for the supply of Goods, Services or Rental Items, in addition to any other terms and conditions of the Contract.

2 DEFINITIONS

"**Affiliate**" means, in relation to any party, a business entity:

- in which a party owns directly or indirectly 50% or more of the equity;
- which owns directly or indirectly 50% or more of the equity of the party;
- of which 50% or more of the equity is owned by a common parent company; or
- which a party has the responsibility to operate and control, or to provide management and operational services.

"**Background Intellectual Property**" means any pre-existing Intellectual Property that is owned by a party to the Contract which is in existence before the commencement of the Contract and which that party is free to disclose to the other party without being in breach of any obligations to a third party.

"**Claim**" means any cost, demand, legal proceedings, claims, actions, fines, penalties, obligation or liabilities of any nature, including legal costs on a full indemnity basis, arising under any statute or in equity or at common law or otherwise at law of whatsoever nature.

"**Company**" means the entity issuing the Purchase Order.

"**Contract**" means the contract comprising the Purchase Order and these conditions.

"**Contractor**" means the person named as the supplier of the Goods, Services or Rental Items in the Contract and includes as appropriate the Contractor's Affiliates, heirs, executors, administrators, successors, and permitted assigns.

"**Country-specific Conditions**" means those further terms and conditions, attached to or forming part of the Contract, as are applicable to the jurisdiction in which the Contract is to be performed.

"**Defect**" means any part or aspect of the Goods, Services or Rental Items which is not in compliance with the requirements of the Contract.

"**Defects Liability Period**" means the period determined in accordance with clause 43.

"**Goods**" means each and every article or thing described in the Contract as to be purchased by the Company, or any part thereof.

"**Intellectual Property**" means any invention, patent or application for a patent, design (registered or unregistered), trademark (registered or unregistered), name, copyright, circuit layout, trade secret, know-how, proprietary information or other right in respect of any information, process, work, material or method.

"**Legal Requirements**" means present and future obligations arising under (a) applicable laws, statutes, regulations, by-laws, orders, ordinances, proclamations and decrees; (b) the terms and conditions of any applicable Government approvals; and (c) any binding requirement, direction or order of a Governmental agency.

"**New Intellectual Property**" is defined in clause 12(c).

"**Other Contractors**" means contractors and suppliers of the Company, other than the Contractor, and also subcontractors of such Other Contractors who are providing work or services in the vicinity of the Services or in relation to any project or activity related to the Services.

"**Purchase Order**" means the document headed as such and describing the Goods, Services or Rental Items to be supplied, to which these Conditions are attached.

"**Rental Items**" means each and every article or thing described in the Contract as to be rented by the Company, or any part thereof.

"**Services**" means the services described in the Contract and includes the performance of all incidental or other services, and the provision of all materials and equipment, necessary to allow or assist the performance of the Services.

3 INDEPENDENT CONTRACTOR

The Contractor is an independent contractor and must exercise independent control, management and supervision in the performance of the Contract. The Contractor is not the Company's agent in any way. The Contractor's personnel will not under any circumstances be considered employees of the Company for any purpose.

4 ASSIGNMENT

- The Contractor may not assign the Contract or any part of it without the Company's prior written consent.
- The Company may assign the Contract or any part of it and must, within a reasonable time thereafter, give notice of such assignment to the Contractor.

5 SUBCONTRACTING

The Contractor must not, without the Company's prior approval, subcontract any part of the Contract. The Company's approval will not be unreasonably withheld.

6 RATES AND PRICES

In consideration for the Contractor's performance of its obligations under the Contract, the Company will pay the Contractor the rates or prices specified in the Contract. The rates or prices specified in the Contract will be the sole consideration

payable to the Contractor for the performance of the Contract.

7 INVOICING AND PAYMENT

- The Contractor must forward an invoice in a form satisfactory to the Company to "Accounts Payable" at the Company's address for payment of invoices on the Contract.
- The Company may require that the Contractor furnish satisfactory documentary evidence of the validity of an invoice and any amounts claimed in an invoice.
- Unless otherwise stated, the Contractor shall be entitled to render an invoice upon completion of the work or, where performance of the Contract may exceed 30 days in duration, at the end of each calendar month in which the Contract is performed.
- The Company shall pay the Contractor by no later than the 21st day of the month immediately following the month in which the Contractor's invoice is received.

8 ASSOCIATED COSTS

Except as otherwise provided in the Contract, the Contractor will be responsible for all costs, expenses and liabilities incurred by the Contractor in connection with the supply of the Goods, Services or Rental Items.

9 CHANGES

The Contractor must promptly comply with any notice from the Company at any time to add to or delete from anything to be provided under the Contract.

10 TAXES

- Contractor will comply with all Legal Requirements relating to taxation.
- If Company is required by Legal Requirements to make withholdings or deductions from payments otherwise due to Contractor, then Company may do so, and the amount so withheld will be deemed to have been paid to Contractor.

11 EXCLUSION OF CONSEQUENTIAL LOSS

Except for liquidated damages or other amounts that become payable under the express terms of the Contract, no Party will be liable to any other Party for any indirect or consequential loss or damage, including loss of profit, loss of use, loss of revenue or loss of opportunity.

12 INTELLECTUAL PROPERTY

- All rights, interest in and title to Background Intellectual Property vest in the owner of the Background Intellectual Property.
- To the extent that it is applicable, each of the parties grants to the other a royalty-free, non-exclusive, non-transferable right to use Background Intellectual Property for the Goods, Services, or Rental Items.
- All Intellectual Property and related proprietary information created under or arising out of the Contract (New Intellectual Property) will vest in the Company as soon as the preparation, production or creation thereof commences.
- To the extent that clause 12(c)(c) does not vest ownership of any New Intellectual Property in the Company, the Contractor assigns all right, title and interest in such New Intellectual Property to the Company.
- The Company grants to the Contractor a royalty free, non-exclusive, non-transferable licence to use the New Intellectual Property for the sole purpose of performing its obligations under this Contract. The licence will endure until the termination or expiration of this Contract.
- The Contractor warrants to the Company that:
 - Contractor is entitled to use the Background Intellectual Property and that Contractor has the ability to allow the Company to use it;
 - the design, engineering, construction and other activities associated with the Goods, Services or Rental Items will not infringe the Intellectual Property rights of any person and will not result in any royalties, fees or other amounts becoming payable for or relating to the use of Intellectual Property; and
 - Contractor will release and indemnify the Company in respect of any claim based on any breach or alleged breach of any Intellectual Property in connection with the Goods, Services or Rental Items.

13 RIGHT TO USE SOFTWARE

If applicable, Contractor must provide to the Company full details of any third party software required for the Goods, Services and Rental Items, including product name, version and supplier or reseller contact information to enable the Company to ensure that it has the right to use the software.

14 CONFIDENTIALITY AND INFORMATION SECURITY

- The Contractor must keep secure and must not without the Company's prior written consent divulge or communicate to any person any information in whatever form:
 - as to the contents, operation or performance of the Contract, any information which may come to its knowledge in the course of performing the Contract as to the operations, business dealings or financial affairs of the Company; and
 - any technical information, know-how, data, inventions, trade secrets, formulae, graphs, drawings, designs, and other related information relating to the Company.
- The obligations imposed by this clause survive the expiration or termination of the Contract.

15 LOCAL INDUSTRY PARTICIPATION POLICY

The Contractor must inform itself of the Company's Local Industry Participation Policy and accompanying guidelines as published from time to time and must reflect the policy and such guidelines in its subcontracting and purchasing strategies.

16 LEGAL REQUIREMENTS

In performing any work under the Contract, the Contractor will observe and comply with all Legal Requirements.

17 CORPORATE CODE OF CONDUCT

The Contractor will at all times comply with the Company's Corporate Code of Conduct referred to on Company's website www.woodside.com.au.

18 BUSINESS ETHICS

- (a) The Contractor must not, and must ensure that its subcontractors and personnel do not, in connection with the Contract, either directly or indirectly offer or give or agree to give to any person in the service of the Company any gift or consideration of any kind as an inducement or reward for any act or omission of that person or another in relation to the obtaining or execution of this or any other contract with the Company.
- (b) The Contractor warrants that it has not made and will not make, with respect to or in connection with the matters provided for in the Contract, any payments, loans, gifts, or promises or offers of payments, loans or gifts, directly or indirectly to or for the use or benefit of any official or employee of any relevant government or to or for the use of any political party, official or candidate or to any other person if the Contractor knows or should have known or has reason to suspect that any part of such payment, loan, or gift or such promise or offer, would violate any applicable governmental laws, rules or regulations, including but not limited to the laws, rules or regulations of the Commonwealth of Australia or the United States of America.
- (c) The Contractor will ensure that the requirements of this clause 18 form part of or are otherwise imposed on any party from which products or services are procured, including the obligation to impose such terms on any subcontractor.
- (d) The Contractor shall provide, upon request by the Company, written certification that the Contractor has complied with the provisions of this clause 18.

19 EXPORT CONTROLS

- (a) The Contractor agrees to conduct its operations hereunder in compliance with all applicable governmental laws, rules and regulations, including, but not limited to, export and other foreign trade controls under the laws of the United States of America restricting sales and transfers to other countries and parties of commodities, software or technical data.
- (b) The Contractor shall upon request provide written certification that the Contractor has complied with all such laws.

20 TERMINATION

- (a) The Company may terminate the Contract by giving 7 days' written notice to Contractor without incurring any liability to the Contractor for any compensation or payment of moneys except what is properly due for that part of the Contract properly performed to the date of service of the notice.
- (b) If the Contractor defaults in or breaches any of its obligations pursuant to the Contract, the Company may by notice and without prejudice to any of its other rights, do either or both of:
 - (i) reject any Goods;
 - (ii) terminate all or any part of the Contract,

and the Company will not be liable to pay the Contractor any damages, compensation or reimbursement for any work or service performed or expense incurred by the Contractor after the date of termination or any cost, charge or expense or loss of profit or other economic loss of any kind arising from or consequent upon such termination.

21 GOVERNING LAW AND JURISDICTION

The Contract and all questions arising in connection with it are governed by and will be construed in accordance with the laws in force in the jurisdiction specified in Part F or if no law is specified, the laws in force in the State of Western Australia. The Parties agree that any conflict of laws rule that may otherwise refer the interpretation of this Contract to the laws of another jurisdiction, will not apply to this Contract.

22 REPRESENTATIVES

Company and Contractor will each appoint a representative for the purpose of liaising with the other party, and will notify the other party of its appointed representative. Contractor's representative will have the authority to legally bind Contractor in matters arising under the Contract.

23 ENTIRE AGREEMENT AND VARIATION

The Contract constitutes the entire agreement between the parties and supersedes all previous negotiations and communications. The Contract may only be varied by written agreement between Company and Contractor.

PART B: GOODS CONDITIONS

24 APPLICATION OF THIS PART

To the extent that the Contract is for the supply of Goods, whether in conjunction with the supply of Services or Rental Items or otherwise, the conditions of this Part B apply in addition to any other terms and conditions of the Contract.

25 BASIC ARRANGEMENT

The Contractor shall supply the Goods, and the Company shall pay the Contractor for the Goods supplied, in accordance with and to the standard required by the Contract.

26 THE GOODS

- (a) The Contractor is responsible for the delivery and all costs associated with the delivery of the Goods to the Company's premises or such other location that is specified in the Contract.
- (b) Any installation of the Goods by the Contractor will be subject to the provisions of Part C.
- (c) The Goods must be new, of the best quality and workmanship, free from faulty design and defects, suitable for the purpose intended and conform to the Contract requirements and any applicable International or Australian standards.
- (d) The Contractor must furnish all engineering and other data in accordance with and within the time stated in the Contract.

27 TIME

- (a) The time for delivery of the Goods, as specified in the Contract, is of the essence.
- (b) If it ever appears that the time for delivery of the Goods will not be met, the Contractor must immediately notify the Company of any anticipated delay, with complete information regarding the cause and the earliest possible delivery date. In such event, the Company may (without prejudice to any other rights) terminate all or any part of the Contract.

28 RISK, TITLE AND PROPERTY

- (a) Title to and property in the Goods immediately passes to the Company upon payment or delivery, whichever occurs first, and the Goods must be appropriately marked and identified as the property of the Company.
- (b) Risk in the Goods remains with the Contractor until delivery to the Company in accordance with the Contract.

29 INSPECTION AND TESTING

A representative of the Company is entitled to expedite, inspect and witness tests on the Goods at the Contractor's and any subcontractor's premises. The Contractor must allow Company access at any time to the Contractor's and any subcontractor's premises for this purpose. The Contractor must make this a condition of any subcontract.

30 WARRANTIES

- (a) If any Defect in the Goods attributable to design, workmanship or operating characteristics arises within:
 - (i) 12 months from the date when the Goods are first put into service; or
 - (ii) 24 months from the date of delivery,

(whichever is sooner) the Contractor must, at its own expense, do all things necessary to remedy the Defect and must reimburse the Company for any costs incurred in connection with the Defect, including the cost of the Company remedying the Defect if the Contractor does not do so within a reasonable period following notice of the Defect from the Company.

- (b) If the Company determines that a Defect cannot adequately be remedied, then the Company may, at its option, elect either to accept the non conforming Goods with an adjustment in the purchase price or to direct that the defective Goods be removed at the Contractor's expense.
- (c) In the event of any remedial work, a new warranty will apply to such work for a period of 12 months from its completion or until expiry of the normal warranty period, whichever is later.

31 CONSIGNMENT

- (a) Where Goods are to be supplied on a consignment basis, as indicated by the Purchase Order, they shall be delivered in accordance with the agreed delivery terms, on or before the due date stipulated in this Contract. Goods shall be available to the Company on a consignment basis for a period of 180 days (or as directed by the Company) from the date of delivery with option for extension by mutual agreement.
- (b) Consignment stock held by the Company shall be on a first right of refusal basis. In the event that Goods are required by the Contractor, after the consignment expiration dates as noted in clause (a) above, the Company shall either purchase or as soon as practicable, return the goods to the Contractor's nearest stocking point.

32 INCOTERMS

Where the Contract includes a term included in Incoterms 2000, the rules and definitions governing that term in Incoterms 2000 will apply, except to the extent that they conflict with any provision of the Contract.

PART C: SERVICES CONDITIONS

33 APPLICATION OF THIS PART

To the extent that the Contract is for the supply of Services, whether in conjunction with the supply of Goods or Rental Items or otherwise, the conditions of this Part C apply in addition to any other terms and conditions of the Contract.

34 BASIC ARRANGEMENT

The Contractor shall perform the Services, and the Company shall pay the Contractor

for Services performed, in accordance with and to the standard required by the Contract.

35 THE SERVICES

The Contractor is responsible for the provision and maintenance of all materials and resources necessary to perform the Services.

The Services must be of first class quality and the Contractor must perform the Services:

- (a) with due care and skill and in accordance with any applicable standards and in accordance with good safety practices;
- (b) with the diligence and skill and to the standard and in the manner reasonably expected of a professional person or company providing services of the kind described in the Contract; and
- (c) where applicable in accordance with good oilfield and engineering practices.

36 TERM

- (a) The Contractor will commence the Services on the date or within the period specified in the Contract.
- (b) The Contractor will continue to perform the Services for the period specified in or determined in accordance with the Contract, unless the Services are terminated earlier in accordance with the Contract.

37 CONTRACTOR'S PERSONNEL

- (a) Contractor will engage and provide the services of all personnel required to perform the Services.
- (b) Contractor will ensure that all of Contractor's personnel hold current, the necessary licenses, permits, endorsements and other certificates required by law to carry out the Services and are competent in every way to perform the Services.

38 CONTRACTOR'S EQUIPMENT

- (a) Contractor will supply all tools and equipment necessary to complete the Services.
- (b) Contractor will ensure that all of Contractor's equipment is in good working order and suitable for use in connection with the Services.

39 EMPLOYEE AND INDUSTRIAL RELATIONS

The Contractor is responsible for its employees and industrial relations with its employees and any subcontractors' employees and must conduct its employee and industrial relations using the highest standard of skill, care and diligence. The Contractor must not hinder or adversely affect the employee and industrial relations of the Company or any other employer on the Company's premises.

40 ACCESS

- (a) The Company grants the Contractor access to the Company's premises subject to compliance by the Contractor, its subcontractors and their respective personnel with the Company's regulations, procedures and directions governing security, safety, the environment and cyclones. The Contractor must remove any of its personnel from the Company's premises immediately upon request by the Company.
- (b) The Contractor does not have exclusive possession of all or any part of the Company's premises but only such use and control as the Company considers is necessary to enable the Contractor to execute the Services.

41 INSPECTION AND TESTING

The Company and its agents have the right to carry out reasonable inspection and testing to ensure that the Services are in compliance with the Contract. The Contractor will render such reasonable assistance (including access to the Contractor's premises) as may be required to facilitate such inspections and testing.

42 RECORDS AND INFORMATION

- (a) Contractor will provide periodic progress reports on the performance and progress of Services under the Contract and matters arising in the course of such Services. The reports will be prepared and given with such frequency and in such format as Company may reasonably require from time to time.
- (b) Contractor will keep full and accurate records relating to the performance and progress of Services under the Contract and matters arising in the course of such Services. Company will be entitled to inspect and copy such records.

43 DEFECTS LIABILITY PERIOD

- (a) The Defects Liability Period will be for a period of 12 months commencing upon the completion of the Services.
- (b) During the Defects Liability Period, the Contractor shall remedy Defects within 14 days of receiving notice of each Defect from the Company or such other period as the Company may require, having regard to the nature and effect of the Defect.
- (c) The Contractor will be responsible for all costs associated with remedying Defects.
- (d) All remedial work will be subject to the provisions of the Contract. All remedial work will have its own separate Defects Liability Period of 12 months commencing from completion of the remedial work.

44 RESPONSIBILITIES AND INDEMNITIES

44.1 Contractor Indemnities

- (a) The Contractor releases each member of Company Group from and indemnifies

each member of Company Group against any Claim arising out of or in connection with the performance of Services, which claim relates to:

- (i) personal injury (including death or disease) to any member of the Contractor Group irrespective of cause including negligence, breach of duty (whether statutory or otherwise), Gross Negligence or Wilful Misconduct of Company Group;
 - (ii) personal injury (including death or disease) to, or loss or damage to the property of any Third Party to the extent arising out of or in connection with the Gross Negligence, Wilful Misconduct or negligence, of any member of the Contractor Group; and
 - (iii) loss of, or damage to, Contractor Group equipment or any other property owned or supplied by any member of the Contractor Group irrespective of cause including negligence, breach of duty (whether statutory or otherwise), Gross Negligence or Wilful Misconduct of Company Group.
- (b) Contractor shall in any claims under which it indemnifies or holds Company harmless hereunder ensure that Company is informed if the Company's operations, working or safety standards or practices are called into question by any party or if Contractor wishes to use information relating thereto in those claims. In the event that Company wishes to make representations following being so informed Contractor shall allow it full opportunity to do so to the extent permissible within those claims.

44.2 Company Indemnity

- (a) Company releases each member of the Contractor Group from and indemnifies each member of the Contractor Group against any Claim which arises out of or in connection with the performance of the Services which Claim relates to:
 - (i) personal injury (including death or disease) to any member of Company Group irrespective of cause including negligence, breach of duty (whether statutory or otherwise), Gross Negligence or Wilful Misconduct of Contractor Group;
 - (ii) personal injury (including death or disease) to, or loss or damage to the property of any Third Party to the extent arising out of or in connection with the Gross Negligence, Wilful Misconduct or negligence of Company Group; and
 - (iii) loss of, or damage to, any Company equipment, or any property of any member of Company Group irrespective of cause including negligence, breach of duty (whether statutory or otherwise), Gross Negligence or Wilful Misconduct of any member of Contractor Group.
- (b) As between the Company and the Contractor, liability for claims in respect of pollution arising out of the performance of the Services is allocated as follows:

	Nature of claim	Responsibility for claim
(i)	Pollution that emanates from the Contractor Group's equipment or site facilities.	The Contractor will indemnify the Company Group against the claim.
(ii)	Pollution that emanates from the Company's property.	Company will be responsible for the claim and releases Contractor Group accordingly.

44.3 Definitions

In this clause 44 and clause 66:

- (a) **"Company Group"** means Company, the Joint Venturers, its and their Affiliates the Other Contractor Group and their respective officers, employees and agents whether alone or jointly.
- (b) **"Contractor Group"** means Contractor, its subcontractor, the Affiliates of each, and their respective agents, representatives, officers and employees.
- (c) **"Gross Negligence"** means any act or failure to act (whether sole, joint or concurrent) by any person or entity which was intended to cause, or which was in reckless disregard of or wanton indifference to, harmful consequences such person or entity knew, or should have known, such act or failure would have on the safety or property of another person or entity.
- (d) **"Joint Venturers"** means the joint venturers of the Company from time to time having an interest in the permit, lease, licence, productions sharing contract or other area in relation to which the Services are being performed and the successors in interest of such joint venturers or the assignees of any interest of such joint venturers.
- (e) **"Other Contractor Group"** means each Other Contractor and its respective subcontractors, the Affiliates of each, and their respective agents, representatives, officers and employees.
- (f) **"Third Party"** means a person other than Company Group and Contractor Group.
- (g) **"Wilful Misconduct"** in relation to an act or omission, means an act done by managerial or supervisory personnel or omitted to be done intentionally, voluntarily and either:
 - (i) with knowledge that the act or omission will lead to the consequence of a kind or nature of that which was caused by that act or omission, (but shall not include error of judgement or mistake made without malice by any person in the exercise in good faith of any function, authority or discretion exercisable by him or by the party employing him); or
 - (ii) with reckless indifference as to the consequences of that act or omission.

45 WARRANTIES

- (a) The Contractor warrants that the Services will be:
 - (i) fit for their intended purpose;
 - (ii) carried out in accordance with good industry practices;
 - (iii) free of Defects; and
 - (iv) carried out in strict compliance with the requirements of the Contract.
- (b) The delivery of a warranty from any Third Party vendor shall be in addition to the warranties given by the Contractor under the Contract, and shall not relieve the Contractor from responsibility for its warranties under the Contract.
- (c) The Contractor will obtain and assign any warranties received from Third Party vendors to the Company and will assist the Company in securing performance of Third party warranties.
- (d) Where the Contractor obtains a warranty not specified in the Contract or where a warranty obtained by the Contractor extends beyond the Defects Liability Period, the Contractor must ensure that the Company has the benefit of that warranty.
- (e) If, during the term of the Contract or during the Defects Liability Period, the Company is of the view that the Services do not comply with the requirements of the Contract then the Company may require the Contractor to re-perform the Services at the Contractor's cost within such time as the Company reasonably may request.

46 POLLUTION

The Contractor must perform the Contract in a manner that will prevent pollution.

47 SITE CONDITIONS AND CONTRACTOR'S INVESTIGATIONS

- (a) The Contractor will be deemed to have examined and taken into account all local and other conditions affecting the performance of the Services and all information which is relevant to the risks, contingencies and other circumstances which could affect its performance of the Services, whether provided by the Company or otherwise obtainable by the making of reasonable enquiries.
- (b) The Company gives no warranty of accuracy, sufficiency or completeness in relation to information provided to the Contractor and disclaims all responsibility for such information. The Company will not be liable to the Contractor, in contract or tort or under any other law, for any inaccuracy in or inadequacy of information provided to the Contractor in relation to the Services.

48 HEALTH SAFETY AND ENVIRONMENT

The Contractor is responsible for the management of health, safety and environmental issues related to and during the performance of the Contract. The Contractor must fully comply with all of the Company's health, safety and environmental requirements, including, but not limited to the Company's Fitness for Work Policy.

49 HAZARDOUS MATERIALS

The Contractor must not bring hazardous material on to the Company's premises unless:

- (a) its use, presence or production is essential and there is no alternative product or process available which is less hazardous but otherwise equivalent;
- (b) all statutory and Company requirements are met for safe handling, health protection, packaging, labelling, transport, storage, emergency procedures, waste disposal and environmental protection; and
- (c) its introduction and use has been approved by the Company.

PART D: RENTAL CONDITIONS

50 APPLICATION OF THIS PART

To the extent that the Contract is for the supply of Rental Items, whether in conjunction with the supply of Goods or Services or otherwise, the conditions of this Part D apply in addition to any other terms and conditions of the Contract.

51 BASIC ARRANGEMENT

The Contractor shall lease the Rental Items to the Company, and the Company shall pay rent to the Contractor for the Rental Items, in accordance with the terms of the Contract.

52 THE RENTAL ITEMS

- (a) The Contractor is responsible for the delivery and all costs associated with the delivery of the Rental Items to the Company's premises.
- (b) The Contractor is responsible for the installation of the Rental Items.
- (c) The Rental Items must be of the best quality and workmanship, free from faulty design and defects, suitable for the purpose intended and conform to the Contract requirements and any applicable international or Australian standards.
- (d) The Contractor must furnish all operating manuals and instructions for the Rental Items in accordance with and within the time stated in the Contract.

53 RETENTION OF OWNERSHIP

The Contractor retains full title to the Rental Items, notwithstanding that the Rental Items may be:

- (a) leased to and in the possession of the Company; or

- (b) attached to any land or buildings.

54 DEFECTS

- (a) During the term of the rental, the Company will notify the Contractor of any Defect in the Rental Items as soon as practicable after becoming aware of such Defect.
- (b) The Contractor must, at its own expense, do all things necessary to remedy the Defect and must reimburse the Company for any costs incurred in connection with the Defect, including the cost of the Company remedying the Defect if the Contractor does not do so within a reasonable period following notice of the Defect from the Company.
- (c) If a Defect cannot be remedied, the Contractor must make replacement Rental Items available for lease to the Company in accordance with the terms of the Contract.

55 RENT

- (a) The Company will pay rent for the Rental Items to the Contractor monthly in arrears in accordance with the Contract.
- (b) The rent is a fixed sum and is not subject to any rise and fall.

56 DURATION OF RENTAL

The rental will continue for the period specified in the Contract. If the Company continues to retain possession of the Rental Items, with the Contractor's consent, beyond the period specified in the Contract, the Company shall be deemed to lease the Rental Items on a week to week basis on the same terms as the Contract, including any changes necessary to make the terms appropriate for a monthly tenancy.

57 NO ENCUMBRANCES

The Company must procure that:

- (a) no Rental Items are sold or otherwise disposed of;
- (b) possession of any Rental Items is not shared with or provided to, and no sub-rental, licence or sub-licence affecting any Rental Items is granted to, any person other than an Affiliate of the Company; and
- (c) no encumbrance is created over any Rental Items,

without the consent of the Contractor.

58 QUIET ENJOYMENT

If the Company pays the rent for the Rental Items and duly and punctually complies with all provisions of the Contract, the Company may peaceably possess and enjoy the Rental Items during the term of the rental without any interruption or disturbance from the Contractor or any person lawfully claiming through the Contractor.

59 MAINTENANCE AND REPAIR

Unless otherwise specified in the Contract:

- (a) The Contractor will be responsible for carrying out all routine and non-routine maintenance of the Rental Items that may be required during the term of the lease.
- (b) The Contractor will maintain the Rental Items in good and operable condition.

60 DAMAGE

The Company will endeavour to protect the Rental Items against loss or damage. However, the Company will not be responsible for accidental loss of or damage to the Rental Items, and the Contractor will indemnify the Company and the Company Group against any Claims for such loss or damage.

61 INSURANCE

Unless otherwise specified in the Contract, the Contractor is responsible for insuring the Rental Items for their full replacement value against accidental loss or damage.

62 TERMINATION

- (a) At the end of the term of the rental or upon the termination of the Contract for any reason:
- (b) the Rental Items will be returned to the Contractor subject to fair wear and tear given the conditions under which the Rental Items were employed;
- (c) all costs associated with the return and delivery of the Rental Items from the Company to the Contractor will be borne by the Contractor; and
- (d) the Contractor may recover from the Company all rent due and owing under the Contract at the date of termination.

PART E: DRILLING & COMPLETIONS ADDITIONAL CONDITIONS

63 APPLICATION OF THIS PART

To the extent that the Contract is for the supply of Goods or Services in relation to drilling operations, whether in conjunction with the supply of Services, Rental Items or other Goods, the conditions of this Part E apply in addition to any other terms and conditions of the Contract, except where expressly stated to the contrary.

64 WELL COMMENCEMENT DATE

The anticipated spud date for the well specified in the Purchase Order is subject to change and the Contractor must liaise with the Company representative with respect

thereto. Goods and Services must be provided as and when required by the Company.

65 DOWN HOLE EQUIPMENT

All down hole equipment provided by the Contractor shall be manufactured, tested and inspected to the relevant ISO standard or such other standards determined by the Company.

66 INDEMNITIES

- (a) This clause 66 is to be read in conjunction with clause 44.
- (b) As between the Company and the Contractor, liability for claims in respect of property arising out of the performance of the Services is allocated as follows:

(iv)	Notwithstanding clause 44.2(a)(iii), in respect of a claim for loss of or damage to a hole or casing in a hole.	Where the loss or damage results from any default or negligence by Contractor, Contractor will be required to re-perform the Services at the same, or another nearby location determined by Company, down to the depth at which the loss or damage occurred, at the Contractor's own cost. In all other cases, Company will be responsible for the Claim and releases Contractor Group from any liability for the Claim.
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	Nature of claim	Responsibility for claim
(i)	Notwithstanding clause 44.2(a)(iii), in respect of a claim for loss of or damage to Contractor Group's down-hole equipment when the down-hole equipment is in-hole below the rotary table.	<p>Company will reimburse the Contractor for the cost of repairing or replacing such Contractor's down-hole equipment, except to the extent that:</p> <ul style="list-style-type: none"> • the loss or damage is caused or contributed to by normal wear and tear, (including outside diameter wear), fatigue failure, normal corrosion as a direct result of carrying out the Services, defects in or malfunction of the equipment, or any breach of the Contract on the part of the Contractor that contributes to loss of or damage to Contractor's equipment; • the equipment does not comply with required specification; • Contractor's own procedures and standards have not been met; • loss or damage was caused by Contractor's in-hole equipment failing to operate within its operating specifications; or • defects in the equipment, or the default or negligence of the Contractor; or • Contractor is entitled to recoup the cost of such loss or damage from some other source including insurance. Contractor must use its best endeavours to recoup such cost from any other sources before seeking reimbursement from Company. <p>In the case of loss, the amount to be reimbursed will be limited to the replacement cost of the equipment, less depreciation of 2% per month to a maximum of 50% from the date the lost equipment was purchased by the Contractor. In the case of damage, the amount to be reimbursed will not exceed the cost of repairs or the depreciated value whichever is less. In each case however Company's liability shall only cover the excess over US\$10,000 of the amount of loss or damage.</p> <p>Contractor must have a stock of replacement items available on hand to replace any down-hole equipment lost or damaged.</p>
(ii)	Notwithstanding clause 44.2(a)(iii) in respect of a claim for loss of or damage to equipment or materials provided by Company to Contractor for the purposes of or in connection with the Services.	Contractor will reimburse Company for the cost of repairing or replacing such Company-supplied equipment or materials, except to the extent that the loss or damage is caused or contributed to by latent defects in the items, or normal wear and tear.
(iii)	Notwithstanding clause 44.2(a)(iii), in respect of a claim for loss of or damage to an underground reservoir or formation resulting from performance of the Services.	Company will be responsible for the Claim, and releases Contractor Group from any liability for the Claim.

PART F: COUNTRY-SPECIFIC CONDITIONS (KENYA)

67 APPLICATION OF THIS PART

The conditions of this Part F apply to all Contracts for the supply of Goods, Services or Rental Items, in addition to any other terms and conditions of the Contract. To the extent of any inconsistency between the conditions of this Part F and other terms and conditions of the Contract, the conditions of this Part F shall prevail.

68 INVOICES

Each Invoice will comply with and will be submitted in accordance with the requirements of the Contract and must be in a form required by or satisfactory to the Company and be in compliance with all applicable laws of Kenya or other relevant jurisdiction.

69 TAXES

69.1 VAT

(a) In this clause:

- (i) "VAT" means a tax payable on the supply of Goods, Services and Rental Items in Kenya (including anything specified by the Minister as to such a supply) and on the importation of goods and services into Kenya under the Value Added Tax Act 1989 (Kenya); and
- (ii) in relation to VAT, words shall have the meanings ascribed to them in the Value Added Tax Act 1989 (Kenya).

(b) The parties agree that the rates and prices herein for any supply are stated net of and are exclusive of any VAT.

(c) If VAT is or will be payable on any supply made under this Contract, the party making the supply may charge to the recipient the amount of that VAT, subject to the party making the supply issuing to the recipient a valid tax invoice or adjustment note in respect of the supply.

(d) If this Contract requires a party to pay for, reimburse or indemnify against any expense or liability ("Reimbursable Expense") incurred by the other party ("payee") to a third party, the amount to be paid, reimbursed or indemnified is the amount of the Reimbursable Expense net of any input tax credit to which the payee is entitled in respect of the Reimbursable Expense.

69.2 Kenyan Withholding Tax

(a) The rates and prices stated herein for any supply are inclusive of Kenyan Withholding Tax.

(b) Where an obligation to withhold money under the Third Schedule to the Kenyan Income Tax Act 1974 is reduced or revoked by the applicable authority during the term of the Contract, the rates and prices payable under the Contract will be reduced to take account of the change in withholding tax.

70 REQUIRED INSURANCES

(a) The Contractor must ensure that each of the insurances required to be taken out pursuant to the contract comply with all applicable laws and regulations of Kenya. Potential additional costs related to fronting insurance arrangements in Kenya are for Company's account.

(b) In respect of the insurances required under the Contract for Goods, Services or Rental Items provided in Kenya, the Contractor will ensure:

- (i) local Kenyan insurers provide all Kenyan workers compensation and motor vehicle insurance; and
- (ii) that in respect of all other insurances, where insurances can be obtained from Kenyan insurers at prices, performance and timelines comparable with those of non-Kenyan insurers, such Kenyan insurers are to be utilised. Where such insurances are not placed with local Kenyan insurers, Contractor may use other insurers or its existing global insurance program.

(c) The Contractor must keep records of the efforts made to place insurances with a Kenyan insurer, and given the requirement of Clause 70(b)(ii) above, the basis upon which non-Kenyan insurers have been selected, and provide copies of those records to the Company.

71 IMPORT AND EXPORT

(a) Contractor shall comply with all applicable import laws and requirements and shall use best endeavours to cooperate with Company and the relevant Government Agencies to ensure imports and exports are exempt from all customs duties and export duties and to ensure that Company and Contractor Group take advantage of the provisions of the Production Sharing Contract (as set out below) relating to import and export.

(b) Company advises that, under the terms of the Production Sharing Contracts:

- (i) The Company and its contractors and subcontractors engaged in carrying out petroleum operations under the Production Sharing Contract shall be permitted to import into Kenya all the materials, equipment and supplies including but not limited to machinery, vehicles, consumable items, movable property and any other articles, to be used solely in carrying out petroleum operations under the Production Sharing Contract.
- (ii) Such materials, equipment and supplies shall be exempt from all customs duties.
- (iii) In relation to materials, equipment and supplies imported or to be imported pursuant to sub-clause (ii), when a responsible representative of the Ministry responsible for energy ("Ministry") has certified that they are to be used solely in carrying out petroleum operations under the Production Sharing Contract, the Company and its contractors and sub-contractors shall be entitled to make such imports without having to obtain:
 - (A) any approval of import licence, provided, however, that an application has been duly made;
 - (B) any inspection outside of Kenya by general superintendence or other inspecting body, acting for the time being, appointed by the Government;
 - (C) the Minister shall issue a certificate upon receipt of advice from the Company of the nature, date and place of the proposed importation.
- (iv) Company and its contractors and sub-contractors may export from Kenya, exempt of all export duties, taxes, fees and charges ("export duties"), all previously imported items which are no longer required for the conduct of petroleum operations under this Contract.
- (v) In this clause 71:
 - (A) "custom duties" shall include all duties, taxes on imports (except those charges paid to the Government for actual services rendered), which are payable as a result of the importation of the item or items under consideration.
 - (B) "export duties" is as defined in clause 71(b)(iv).
- (c) Contractor shall, unless Company directs otherwise but with the assistance of Company:
 - (i) be responsible for and make all necessary arrangements for the import and export of items by Contractor Group; and
 - (ii) prepare all manifests and other documentation necessary for Company's custom's agent to obtain requisite customs clearances and approvals for all Contractor Group Goods and Rental Items to be imported or exported in compliance with all applicable laws and regulations and requirements of applicable government authorities.
- (d) Contractor agrees to effect imports only to the extent the goods, materials, machinery, equipment, spare parts and consumables are required for the Company's petroleum operations and are not available in the country where the Services are to be performed (or which has jurisdiction over the area which is the subject of the Production Sharing Contract) on equivalent conditions of price, performance and timeliness of performance.
- (e) Contractor shall at the Company's election, engage the Company to effect insurance, if any, of all goods to be imported into the jurisdiction in which the Services are performed for purchase or lease by the Company.
- (f) Contractor shall as soon as practicable, but not later than 30 business days prior to the arrival of the goods in Kenya and otherwise as and when requested by Company, provide to Company and to the authorised representative of the Republic of Kenya a written itemised and fully particularised inventory of the goods, materials, machinery, equipment, spare parts, consumables or other supplies in accordance with all applicable Kenyan requirements.
- (g) Company shall release Contractor Group from all actual and documented cost of customs duties on Contractor Group Goods and Rental Items, equipment and supplies directly necessary for the proper conduct of the Services in connection with Company's petroleum operations.
- (h) The Company shall release Contractor Group from all documented cost of export duties incurred by the Contractor Group in relation to the re-export from Kenya, for Company's own use, of Contractor Group Equipment and Materials, equipment and supplies directly necessary for the proper conduct of the Services in connection with Company's petroleum operations materials.
- (i) The Company's obligation to indemnify the Contractor is contingent upon the Contractor complying with, and evidencing to the Company's satisfaction compliance with, the provisions of clause 69 and this clause 71, in particular, clause 71(a).
- (j) Contractor and its Subcontractors shall give Company and the Government of Kenya at least 30 business days written notice of its intention to sell to any Third Party or any Other Contractor any imported goods, materials, machinery, equipment, spare parts and consumables in Kenya. Contractor shall, when making any such sale, do so in accordance with the then current legislation and shall pay all duties and taxes applicable in respect of the transaction.
- (k) Contractor shall comply with any direction of Company necessary or desirable to allow or confirm compliance with the Production Sharing Contract or any applicable laws.
- (l) Company shall pay any stamp duty payable on this Contract.

72 KENYAN PERSONNEL

If Contractor hires local persons to perform Services the Contractor shall register for social security and employment tax purposes and shall provide Company copies of their company registration papers, social security registration papers, certificates of insurance policies and their employment tax registration papers.

73 COMPETITIVE BIDDING AND GOVERNMENT PREFERENCE REQUIREMENTS

- (a) Contractor shall comply with the requirements of any government having jurisdiction over the Services, and of the government having jurisdiction over the Production Sharing Contract, in relation to the contracting or supply of Goods, Services or Rental Items.
- (b) Contractor shall undertake to select its Subcontractors from adequately qualified companies by means of competitively bidding and shall issue calls for bids for supply, construction or works contracts the value of which exceeds the value advised by Company to Contractor in writing or, if no value is advised, two hundred thousand United States dollars (USD250,000).
- (c) Contractor shall if required by Company provide Company with details of leasing contracts the value of which exceeds two hundred thousand United States dollars (USD250,000).
- (d) Contractor and its subcontractors shall give preference to:
 - (i) Kenyan materials and supplies for use in the Services as long as their prices, quantities, quality and timeliness of delivery are comparable with the prices, quality, quantities and timeliness of delivery of non-Kenyan materials and supplies; and
 - (ii) Kenyan contractors for Services connected with the Goods, Services and Rental Items as long as their prices, performance and timeliness are comparable with the prices, performance and timeliness of non-Kenyan service contractors.
- (e) Contractor and its Subcontractors shall provide Goods, Services and Rental Items from bases in Kenya where practicable.
- (f) Where Contractor or its subcontractors propose to enter into a subcontract, Contractor and its subcontractors must:
 - (i) provide Company with a description of the efforts made to find a Kenyan supplier or service contractor;
 - (ii) where possible, employ Kenyan citizens in the operations or Services provided and shall train those citizens in a programme established in consultation with the Kenyan Government; and
 - (iii) upon request of Company, allow the Kenyan Government to inspect all contracts and subcontracts, and furnish copies of subcontracts to the Company.

74 BUSINESS ETHICS

Contractor must not, and must ensure that its subcontractors and Contractor's Personnel do not, in connection with the Goods, Services and Rental Items, either directly or indirectly do anything contrary to the Anti-Corruption and Economic Crimes Act 2003 of Kenya or any other relevant legislation.