

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Agreement:

**Accessories** means items to be used in conjunction with or to facilitate the use of the Equipment or the Customer's Equipment and which are provided by OEG or the Customer with the Equipment or the Customer's Equipment (as the case may be);

**Agreement** means the agreement between OEG and the Customer for:

- (a) the supply of Services;
- (b) hire of Equipment; or
- (c) sale of Equipment

or any combination of the above as specified in the Schedule and on the terms of these General Terms and Conditions;

**Business Day** means, a day that is not a Saturday, Sunday, bank holiday or public holiday in the State or Territory of the point of origin set out in the Schedule;

**Customer** means the customer identified on the Schedule;

**Customer's Equipment** means the customer's equipment detailed in the Schedule and includes its Accessories;

**DNV** means Det Norske Veritas;

**Duration of Hire** means the period set out in the Schedule, commencing and expiring on the dates set out in the Schedule;

**Equipment** means OEG's equipment detailed in the Schedule and includes its Accessories;

**Event of Default** means any of the events, omissions or occurrences specified in clause 10.1

**General Terms and Conditions** means this document;

**Load Testing** means testing in accordance with DNV 2.7-1 and any other load testing that may be required following repair to any primary structure members of a container.

**OEG** means OEG Offshore Pty Ltd (ACN 082 596 174) of 7-11 Ives Road, Altona North, in the State of Victoria;

**Operator** means an employee or contractor of OEG who performs Services for the Customer at a Worksite.

**PPSA** means the *Personal Property Securities Act 2009 (Cth)* and any regulations made pursuant to it;

**PPSR** means the Personal Property Securities Register established pursuant to the PPSA;

**Purchase Money Security Interest** has the same meaning as under the PPSA;

**Schedule** means the Schedule at the front of these General Terms and Conditions'

**Services** means the services described in the Schedule that OEG will perform for the Customer. ;

**Security Interest** has the same meaning as in the PPSA.

**Standards** means the Equipment manufacturing design codes and standards including but not limited to:

- DNV 2.7-1 - Offshore Containers
- DNV 2.7.2 - Offshore Service Modules
- DNV 2.7-3 – Portable offshore units
- Standards Australia AS 1666.1 - 2009 – Wire-ropes and Slings - Product specification
- Standards Australia AS 1666.2 - 2009 – Wire-ropes and Slings – Care and use
- Standards Australia AS EN12079 Offshore Containers and Associated lifting sets (parts 1, 2 and 3)
- BS EN13414 Steel Wire Rope
- UK CAA CAP 437 – Offshore Helicopter Landing Area – Guidance of Standards
- IMDG Code – International Maritime Dangerous Good Code
- ADG – Australian Dangerous Good Code
- International Tank Container Organisation – Acceptable Container Condition
- International Convention for Safe Containers 1972
- IMO MSC / CIRC , 860 guidelines for approval of offshore containers handled in open seas

- Australian Maritime Safety Authority – Marine Orders 32

**Worksite** means the location where an Operator will perform Services for the Customer, as identified in the Schedule.

## 1.2 Interpretation

In these General Terms and Conditions, unless the context otherwise requires:

- a) the singular includes the plural and vice versa, and a gender includes other genders;
- b) other grammatical forms of a defined word or expression have corresponding meanings;
- c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this document, and a reference to this document includes any schedules and annexures;
- d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- e) a reference to \$ is a reference to Australian dollars;
- f) a reference to time is to the time in the State or Territory of the point of origin set out in the Schedule;
- g) a reference to party includes the party's executors, administrators, successors, assigns and substitutes;
- h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re enactments or replacements of any of them;
- j) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- k) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) is for the benefit of and binds them jointly and severally;
- l) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it;
- m) the words "include", "includes" and "including" are not words of limitation; and
- n) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

## 1.3 Headings

Headings are for the ease of reference only and do not affect interpretation.

## 2 SUPPLY OF SERVICES

### 2.1 Services

- a) OEG shall use commercially reasonable efforts to perform the Services. OEG shall determine the method, details, and means of performing the Services.
- b) OEG may subcontract some or all of the Services. OEG shall perform the Services in a professional manner in accordance with the applicable Schedule.
- c) OEG shall re-perform any Services that do not conform to that standard if the Customer gives OEG written notice of the non-conformity within 5 business days after OEG performs the Services.
- d) If OEG does not give the Customer such written notice, the Customer will be deemed to have accepted the Services.

- e) The Customer's sole and exclusive remedy with respect to the Services is the remedy set forth in this clause 2.1.

## 2.2 Change Orders

The Customer may request changes to the Services. Any change order shall be in writing and shall only be effective when executed and delivered by both parties. Any requested change to the Services may require additional time and compensation.

## 2.3 Price

The Customer will pay OEG for the Services in accordance with the price and payment terms in the Schedule. It is often difficult to determine at the beginning of an engagement the full nature and extent of the services necessary to perform a task. Therefore, estimates in the Schedule regarding the total cost of Services are not binding. If OEG performs for the Customer any follow-up or additional work not included within the scope of the Services, OEG will charge the Customer for that work at OEG's then current rates.

## 2.4 Expenses

Unless otherwise expressly stated, the Customer will be responsible for all costs OEG incurs in performing the Services, including costs of photocopying, travel, long distance telephone calls, express mail, lodging, and meals. OEG will either advance such costs on the Customer's behalf or ask the Customer to pay them directly or in advance. If OEG pays the fees in advance on the Customer's behalf, OEG will deliver periodically to the Customer an invoice listing all the expenses OEG incurred in providing the Services, along with reasonable backup documentation. The Customer will pay each invoice within 30 days after the Customer receives it.

## 2.5 Customers Obligations

The Customer shall provide reasonable assistance to OEG in connection with the Services, including providing access to the Equipment, records, information, systems, and personnel reasonably required by OEG to perform the Services. The Customer shall be responsible for procuring all software, hardware, and equipment and obtaining any necessary permission from the vendors for OEG to perform its services using that software, hardware, and equipment. The Customer shall designate a single point of contact for the coordination of all activities and issues related to the Services. The Customer shall be responsible for:

- (a) Complying with all applicable laws, ordinances, and regulations related to the Services and the Customer's facilities, including; and
- (b) Providing OEG's personnel a safe work environment free of known safety or health hazards.

More specific the Customer obligations may be described in the applicable Schedule, and the Customer will comply with them.

## 2.6 Operators

If the Schedule identifies an Operator, the Customer shall provide, at its own expense:

- (a) All necessary power sources and other support equipment necessary for the Operator to perform the relevant Services;
- (b) Reasonable sleeping and living accommodations for the Operator at the Worksite;
- (c) An operating environment for the Equipment that complies with the applicable Equipment manufacturer's recommendations and any applicable laws or regulations; and

- (d) A safe work environment free of known safety or health hazards.

The Customer acknowledges that the Customer is solely responsible for determining what Services the Operator will provide.

### 2.7 Substitution of Operators

- (a) OEG may, at its discretion, substitute an Operator with another Operator after giving the Customer written notice of its intention to do so and the Customer shall cooperate with and assist OEG in making that substitution.
- (b) The Customer shall ensure that the Operator will remain at the Worksite for a period of time not longer than is considered to be appropriate in accordance with best practices in the industry, applicable health and safety laws, and any limits set by the administrator of the Worksite. If the foregoing standards require the Customer to replace the Operator, the Customer shall pay all replacement costs and an administration charge of an additional 15% of those costs (the "Substitution Costs"). The Substitution Costs shall include, without limitation, airfare, meal expenses, travel costs to and from the OEG's offices, and all other reasonable expenses. OEG will use commercially reasonable efforts to ensure that each Operator is available to be replaced (or substituted) in accordance with the Customer's normal working patterns and personnel rotations

### 2.8 Payment of Operators

OEG will be responsible for paying the salary of the Operator. The Customer will be responsible for paying the amounts designated in the Schedule and any other amounts set out in this Agreement.

### 2.9 Equipment Repair

If the Schedule provides that the Operator will service and repair the Equipment at the Worksite, the Operator will use commercially reasonable efforts to do so. However, both parties acknowledge that due to the complex technical nature of the Equipment and the fact that the Operator may not have the competency to carry out all potential Equipment repairs, it may not be practicable for the Operator to service or repair the Equipment at the Worksite.

- (a) **Shipment of Equipment to the Customer** OEG will notify the Customer's designated representative of any servicing or repair of the Equipment that requires the return of any vessel to port and/or the return of any Equipment to the Customer's premises or the OEG's premises. The Customer will pay all costs associated with such transit, and the Customer will reimburse OEG for any expenses that OEG incurs in association with that transit.
- (b) **Engineer Visits Customer Worksite** If the parties agree that OEG should send an engineer to the Worksite to attempt to service or repair the Equipment, the Customer will pay all costs associated with the engineer's travel, and the Customer will reimburse OEG for any expenses that OEG incurs in association with the engineer's travel expenses.
- (c) **Delays** If any Equipment transit, repair, or maintenance time causes the Customer to experience any delays, those delays will be considered consequential damages, which are expressly excluded under these Terms. For the avoidance of doubt, the Customer will not be entitled to reduce or set off any amounts it owes to OEG based on such delays.

### 2.10 Direction and Control

All work undertaken by the Operator at the Worksite shall be under the direction of the Customer, but the actual operation of the Equipment and the manner of performance of work in connection therewith shall be under the direction and control of OEG. OEG is an independent contractor and is not acting as an

agent of the Customer. The Operator will cooperate with the Customer's personnel and will endeavour to operate the Equipment in accordance with their reasonable requirements. The Customer's employees shall not be under the direction or control of OEG or its Operators.

### 2.11 Non-OEG Equipment

If the Customer directly or indirectly instructs Operator to operate any vessel or equipment other than the Equipment, the Operator will be under the supervision of the Customer with respect to that work, and the Customer shall be responsible for and shall indemnify OEG from and against all claims, losses, damages, costs (including legal costs), expenses, and liabilities, which arise out of or relate to the Operator's operation of any such vessel or equipment, including but not limited to any claims alleging (i) personal injury or death to the Customer's employees, agents, or contractors, or any third party, or (ii) loss of or damage to the property of the Customer, its employees, agents, or contractors, or any third party, irrespective of the cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of OEG, the Operator, or any third party.

### 2.12 Proprietary Rights

- (a) OEG retains all rights in the intellectual property, copyrights, trade secrets, software, tools, inventions, patent rights and methods it uses to perform, or develops during the performance of the Services ("**Intellectual Property**"), and the Customer shall have no rights in them.
- (b) The Customer must shall not permit or cause any Intellectual Property or other proprietary interest in respect of the Services to be used otherwise than in connection with its rights and obligations under these General Terms and Conditions.
- (c) The Customer acknowledges that all rights to Intellectual Property are and shall remain the sole and exclusive property of OEG and any future improvements, expertise, methodology or software that OEG develops or that may arise in the course of delivering the Services will be and remain the sole and exclusive property of the OEG.
- (d) The Customer must not:
  - (i) make any modifications to any reports, illustrations or other information provided by OEG in relation to the Services;
  - (ii) alter, remove, cover or tamper with any Trade Marks, numbers, or other means of identification used on or in relation to any reports, illustrations or other information provided by OEG and relating to the Services.
- (e) The obligations under this clause 2.12 shall survive the expiration of the provision of Services by OEG to the Customer under these General Terms and Conditions.

### 2.13 Non-Solicitation of Employees

- (a) For the commencing when OEG provides the Services and ending twelve (12) months after OEG ceases providing the Services the Customer must not, either directly or indirectly, solicit for employment any employee of OEG who was involved in the performance of the Services, including but not limited to any Operator, unless the Customer obtains OEG's prior written consent.
- (b) The parties acknowledge the actual damages attributable to a breach of this clause 2.13 is difficult to quantify and the parties therefore agree that, in addition to any equitable remedies available to OEG, if the Customer breaches this Section 15, the Customer shall promptly pay OEG liquidated damages in clause 2.13 amount equal to eighteen (18) months worth of the annual salary or compensation of such employee or contractor (including prorated bonuses and incentive compensation) prior to the breach is a

reasonable measure of the damages reasonably anticipated by the parties and payable by the Customer to OEG.

### 2.14 Transport

- (a) Unless otherwise agreed, OEG shall carry out the Services at the point of origin set out in the Schedule.
- (b) The Customer must, at the Customer's cost, deliver the Customer's Equipment to the point of origin set out in the Schedule.
- (c) On the written request of the Customer, OEG may arrange delivery of the Customer's Equipment to or from the point of origin set out in the Schedule. The Customer agrees OEG is entitled to charge the Customer the cost of such transportation.

## 3 HIRE OF EQUIPMENT

### 3.1 Hire

- (a) OEG agrees to lease the Equipment to the Customer for the Duration of Hire and the Customer agrees to take the Equipment on hire for that period on the terms of these General Terms and Conditions.
- (b) Unless a different start date is specified in the Schedule, the rental period for the Equipment ("**Rental Period**") starts on the earlier of:
  - (i) When OEG ships the Equipment to a location designated by the Customer; and
  - (ii) When the Customer or its designee picks up the Equipment at OEG's premises, and ends when the Customer delivers the Equipment to OEG at OEG's premises (unless a different return location and demob cost is specified in the Schedule). OEG will calculate the rent the Customer owes based on the applicable daily rate. OEG will invoice the Customer at the end of the calendar month Rental Period.
- (c) OEG and the Customer agree that these General Terms and Conditions apply to any subsequent hire of Equipment (including any hire after the end of the Rental Period) upon OEG accepting from the Customer:
  - (i) a signed Schedule setting out the additional Equipment to be hired and all other relevant information; or
  - (ii) a request by email or telephone.

### 3.2 Transport

- (a) The Customer must collect the Equipment from the point of origin set out in the Schedule at the commencement of the Duration of Hire.
- (b) OEG will use all reasonable endeavours to have the Equipment ready for collection by the Customer at the point of origin set out in the Schedule at the commencement of the Duration of Hire but OEG shall not be liable whatsoever in the event of any delay.
- (c) On the written request of the Customer, OEG may arrange delivery of the Equipment to or from the point of origin set out in the Schedule. The Customer agrees OEG is entitled to charge the Customer the cost of such transportation.

### 3.3 Inspection by Customer



If the Customer picks up the Equipment, the Customer will inspect the Equipment and will give OEG written notice of any problems or deficiencies before taking the Equipment from OEG's premises. If OEG ships the Equipment to the Customer, the Customer will inspect the Equipment promptly after it receives it and will give OEG written notice of any problems or deficiencies within 24 hours after the Customer receives the Equipment. Subject only to any particular problems or deficiencies specified in any written notice the Customer delivers to OEG in accordance with this clause 3.3, the Customer will be deemed to have accepted the Equipment and to have verified that it was in good condition and proper working order.

### 3.4 Maintenance

During the Rental Period, the Customer will provide and pay for all consumable parts, batteries, supplies, lubricants, service, routine maintenance, re-certification and testing required by the manufacturer or regulations such third party surveying to keep the Equipment in good condition and proper working order, normal wear and tear excepted. OEG will have no obligation to provide routine maintenance for the Equipment during the Rental Period. If the Equipment fails to perform properly and needs to be replaced, and if that failure was not caused by any act or omission on the part of the Customer, then OEG will use reasonable efforts to repair or find available replacement Equipment in its inventory. If OEG notifies the Customer that it has found that replacement Equipment, the Customer will return the original Equipment to OEG, OEG may, at OEG's absolute discretion, give the Customer a credit for the Customer's reasonable shipping costs, and OEG will ship the replacement Equipment to the Customer at the Customer's expense unless otherwise agreed by OEG. Notwithstanding the foregoing, if OEG determines in its sole discretion that providing replacement Equipment is not commercially reasonable, OEG may terminate this Agreement without any further obligation to the Customer by giving the Customer written notice of termination.

### 3.5 Inspection and Testing by OEG

- (a) OEG will be entitled to inspect or test, and to observe the use of, the Equipment wherever it is located at any time during the Rental Period, but OEG will not have any obligation to do so. OEG will give the Customer 48 hours prior notice of its intention to inspect the Equipment or observe its use, and the Customer will provide OEG access to do so. Additionally, if a governmental official is authorized under applicable law to inspect the Equipment while the Equipment is in the Customer's possession, and the governmental official notifies the Customer that it wishes to do so, the Customer will notify OEG of that request, and, unless OEG directs the Customer otherwise, will provide the governmental official access to do so.
- (b) The Customer agrees to allow OEG to carry out inspections or testing of the Equipment as reasonably required by OEG at the Customer's onshore locations or such other place reasonably nominated by OEG including the point of origin set out in the Schedule . For the purposes of such inspections and testing, the Customer must make available:
  - (i) Suitable supports to place the Equipment upon to allow an underside inspection to be carried out;
  - (ii) Engineering design calculations confirming the supports are sufficient to support the tare weights of the Equipment;
  - (iii) A person to assist the inspector;
  - (iv) A forklift truck or suitable crane to lift the Equipment;
  - (v) As many of the individual items of the Equipment due for inspection as practically possible, on the day of planned site visit for inspection.

The Customer agrees to indemnify OEG for all reasonable charges and costs incurred by OEG as a result of cancellation of any inspections or testing for which the date of inspection or testing had been agreed in writing.

- (c) Where the Equipment is tanks and the testing carried out in accordance in clause 3.5(b) is for the purpose of periodic recertification to a Standard, OEG may require the Customer to pay OEG the cost of:
  - (i) Washing the tank so the tank can be filled with water;
  - (ii) Storage and disposal costs of waste removed from the tank during the washing process; and
  - (iii) Labour costs of getting the tank up to pressure, in readiness for the recertification testing. OEG will pay the cost of engaging an independent third party or certification entity to test, inspect and or recertify the tanks.
- (d) If the Customer fails to comply with clause 3.5(b) the customer agrees OEG may require that the Equipment is relocated, at the Customer's costs and risk, to a location reasonably nominated by OEG to enable such inspections to be carried out.
- (e) The Customer acknowledges that some types of testing OEG will require that the Equipment is relocated, at the Customer's costs and risk, to a location reasonably nominated by OEG to enable such testing to be carried out.
- (f) The Customer agrees to provide all reasonable assistance to OEG in carrying out any inspection or testing of the Equipment.

### 3.6 Access

- (a) The Customer agrees to provide or cause to be provided access by OEG to premises where the Equipment may be stored, in use or in transit from time to time.
- (b) The Customer gives OEG an irrevocable licence to enter premises occupied by the Customer at any time and take any steps OEG considers reasonable, necessary or appropriate to obtain possession of the Equipment.
- (c) In the event that any item of Equipment is owned by a third party and leased by such third party to OEG the right of the Customer to acquire possession of such Equipment shall be subject and subordinate to all the terms of any agreement between such third party and OEG.

### 3.7 Customers Duty to Report

- (a) The Customer must immediately notify OEG in writing if any of the Equipment:
  - (i) Becomes lost, damaged, stolen, unsafe, or disabled;
  - (ii) Is used in connection with any violation of applicable law; or
  - (iii) Is involved in any accident causing any injury or damage.
- (b) Within 48 hours after the occurrence of any of the foregoing, the Customer must complete some form of formal written report and deliver a complete copy of the report to OEG. Additionally, the Customer will promptly provide to OEG all other documents and records OEG requests regarding such occurrence and will provide to OEG all other assistance OEG requests.

### 3.8 Damaged Destroyed and Lost Equipment

- (a) If any Equipment is damaged, whether totally or partially, the Customer agrees to immediately return the damaged Equipment to OEG at the Customer's cost and if OEG in its sole



discretion determines the damage to be beyond fair wear and tear, subject to clause 3.8(b), pay OEG all reasonable costs of repair or replacement for any such damaged Equipment.

- (b) The Customer agrees that if:
- (i) any of item of the Equipment is destroyed (“Destroyed Equipment”), the Customer must pay OEG on demand an amount equal to the replacement value of such Destroyed Equipment plus the Daily Hire Fees up to and including date of receipt of replacement value is paid to OEG;
  - (ii) any of item of Equipment is lost (“Lost Equipment”), the Customer must pay OEG on demand an amount equal to the replacement value of each item of Lost Equipment plus an amount equal to the Daily Hire Fees up to and including date of receipt of the replacement value is paid to OEG;
  - (iii) any item of Equipment returned to OEG which OEG determines in its sole discretion is contaminated, rendered unusable or damaged beyond reasonable repair, such item of Equipment will be treated as a Destroyed Container and the Customer must pay compensation for each such Destroyed Container in accordance with clause 3.8(b)(i) and OEG is under no obligation to repair or try to repair such Destroyed Equipment.
- (c) The Customer must take all necessary reasonable precautions to prevent damaged Equipment being used or put into service and OEG will under no circumstances accept any liability for damaged Containers used in any manner or for any purpose whatsoever. The Customer indemnifies and shall keep indemnified OEG from any loss which may arise in consequence of a breach of this clause.

### 3.9 Condition of Equipment

- (a) The Customer must not in any way modify or alter the Equipment either temporarily or permanently without the prior written consent of OEG. Where OEG agrees to any such modification or addition, OEG retains the right to require the Customer to return the Equipment to OEG in a similar condition as at the commencement of the Duration of Hire (fair wear and tear excepted).
- (b) The Customer must ensure that Equipment is not damaged or defaced and that no identifying marks of any kind present on the Equipment at commencement of the Duration of Hire are removed.

### 3.10 Use of Equipment

- (a) The Customer must only operate and maintain the Equipment in accordance with recognised methods and Standards for Equipment of its type and only by competent and (where appropriate) properly qualified, trained and licensed personnel and by appropriate methods and Standards of operation. Without limiting the generality of this clause 3.10(a), the Customer must comply in all respects with the instructions and recommendations of the manufacturer or other supplier relating to the Equipment and to its use, in particular where any failure in compliance would limit the obligations of that person to OEG or the Customer under any statute, agreement or otherwise.
- (b) The Customer shall obtain all permits required by any local or other authority and thereafter use the Equipment in accordance with the conditions of such permits.
- (c) The Customer must only use the Equipment for its designed purpose and in accordance with relevant codes of practice and legislation, including but not limited to:
  - (i) “Standards” as defined;
  - (ii) Australian Explosives Code;
  - (iii) Environmental Protection & Biodiversity Conservation Act (Federal);

- (iv) Relevant State or Territory legislation dealing with environmental protection;
- (v) Relevant State or Territory legislation dealing with occupational health and safety; and
- (vi) Relevant industry guidelines, including:
  - (A) Operating oil & gas company procedures and guidelines; and
  - (B) Written instructions that may be issued from time to time by OEG.
  - (C) Chemical Manufacturers Chemical Compatibility Charts

### 3.11 Return of Equipment at Expiration of Duration of Hire

The Customer must return the Equipment, at the Customer's cost, to the point of origin set out in the Schedule at the expiration of the Duration of Hire:

- (a) In a thoroughly clean condition (internally and externally); and
- (b) Free of all foreign matter, painted markings, residue or any form of taint or contamination, failing which the Customer must pay to OEG, on demand, the cost of third party survey, cleaning, waste disposals for anything greater more than 50 litres of waste, and any necessary treatment required to restore the Equipment to an acceptable standard of cleanliness and condition as reasonably determined by OEG. OEG may, at its absolute discretion, continue to charge the Customer the daily hire rate specified in the Schedule for the period required to remove any such waste and to clean the Equipment to a standard reasonably acceptable to OEG.

### 3.12 Customer Acknowledgements and Warranties

The Customer:

- (a) Acknowledges receipt of the Equipment in good order and condition and free from any damage or deficiency except as agreed between OEG and the Customer in writing; and
- (b) Agrees that it will not allow any item of Equipment:
  - (i) to be used or loaded beyond any plated statement of capacity or capacity advised by OEG in writing and any such overloading shall be deemed a material breach of this Agreement;
  - (ii) to be used to store or transport unprotected corrosive items which could cause the oxidization, corrosion, pitting, staining or undue abrasion to the Equipment and shall exercise all necessary reasonable care in the use thereof and in particular shall ensure that all cargo is properly and sufficiently secured in the containers; and
  - (iii) to be used outside of the design use without prior written approval from OEG.
- (c) Acknowledges risk in the Equipment passes to the Customer from the commencement of the Duration of Hire until the Equipment is returned to OEG.

### 3.13 Ownership of Equipment

- (a) OEG retains full title to the Equipment despite:
  - (i) the delivery of the Equipment to or collection of the Equipment by the Customer;
  - (ii) the possession and use of the Equipment by the Customer; and
  - (iii) any temporary attachment of the Equipment to any land or buildings to facilitate use of the Equipment, subject only to the rights of the Customer as a mere bailee of the Equipment with a right only to use them in accordance with, and under, this Agreement.

- (b) The Customer does not have any right, option or obligation to purchase the Equipment and acknowledges that no representation to that effect, express or implied, written or oral, has been made by or on behalf of OEG to the Customer or any nominee of the Customer at any time.
- (c) The Customer must protect OEG's interest in the Equipment, including making clear to others that OEG is the owner of the Equipment. The Customer must not place, or allow to be placed, on the Equipment any plates or marks that are inconsistent with OEG's ownership. If requested by OEG, the Customer must put plates on the Equipment that state that OEG owns the Equipment.

#### 4 SALE OF EQUIPMENT

##### 4.1 Sale of Purchase

OEG agrees to sell and the Customer agrees to buy the Equipment for the purchase price set out in the Schedule.

##### 4.2 Limited Warranty

- (a) During the period of 90 days from the date of dispatch from the point of origin set out in the Schedule, OEG will replace or repair any defective Equipment without charge so long as the damage or defect does not arise from:
  - (i) Improper adjustment, calibration or operation by the Customer;
  - (ii) The use of accessories including consumables, hardware, or software which were not manufactured by or approved in writing by OEG;
  - (iii) Any contamination or leakages caused or induced by the Customer;
  - (iv) Any modifications of the Equipment which was not authorised in writing by OEG;
  - (v) Any misuse of the Equipment by the Customer or anyone for whom the Customer has legal responsibility (including a minor);
  - (vi) Any use or operation of the Equipment outside of the physical, electrical or environmental specifications of the Equipment;
  - (vii) Inadequate or incorrect site preparation; and
  - (viii) Inadequate or improper maintenance of the product.
- (b) All transportation charges incurred in returning defective products, or any of its component parts, for repair, together with the cost of returning them to the Customer must be paid by the Customer.
- (c) The warranty in this clause does not extend to cover any damage to any other property owned or in control of the Customer, nor to corrosion due to any cause nor to any damage to painted or anodized surfaces.

##### 4.3 Transport

- (a) The Customer must collect the Equipment from the point of origin set out in the Schedule.
- (b) OEG will use all reasonable endeavours to have the Equipment ready for collection by the Customer at the point of origin set out in the Schedule at the time agreed but OEG shall not be liable whatsoever in the event of any delay.
- (c) On the written request of the Customer, OEG may arrange delivery of the Equipment to a place nominated by the Customer. The Customer agrees OEG is entitled to charge the Customer the cost of such transportation.

## 4.4 Retention of Title

- (a) The Customer agrees that until the Customer has paid the purchase price set out in the Schedule in full to OEG, the Customer agrees that property and title in the Equipment shall not pass to the Customer and OEG retains the legal and equitable title in the Equipment.
- (b) Until payment in full has been made to OEG, the Customer will hold the Equipment in a fiduciary capacity for OEG and agrees to store the Equipment in such a manner that the Equipment be identified as the property of OEG, and shall not mix the Equipment with other similar goods.
- (c) The Customer agrees that whilst property and title in Equipment remains with OEG, OEG has the right, with or without prior notice to the Customer, to enter upon any premises occupied by the Customer (or any receiver, receiver and manager, administrator, liquidator or trustee in bankruptcy of the Customer) to inspect the Equipment and to repossess the Equipment when payment of the purchase price is overdue.
- (d) The Customer will be responsible for OEG's costs and expenses in exercising its rights under this Agreement or otherwise under the PPSA. Where OEG exercises any power to enter the premises, that entry will not give rise to any action of trespass or similar action on the part of the Customer against OEG, its employees, servants or agents.
- (e) The Customer agrees that where the Equipment has been retaken into the possession of OEG, OEG has the absolute right to resell or deal with the Equipment.
- (f) For the avoidance of doubt, OEG's interest in the Equipment constitutes a Purchase Money Security Interest.

## 5 PPSA

### 5.1 PPSA Definitions

- (a) In this clause 5 and this Agreement, the terms **accession, collateral, financing statement, financing change statement, PPS Lease** and **proceeds** have the same meanings as in the PPSA.

### 5.2 Application of clause to security interests

In relation to each security interest under the PPSA created by this Agreement, including if the hire under clause 3 is considered a PPS Lease:

- (a) This clause 5 applies to that security interest;
- (b) The security interest extends to any accessions to the relevant collateral and the proceeds, if any, of that collateral (including any account); and
- (c) This Agreement is a security agreement under the PPSA in relation to that security interest.

### 5.3 Acknowledgements

The Customer acknowledges and agrees that in relation to each security interest created by this Agreement:

- (a) The security interest attaches to the relevant collateral from the date of this Agreement and there is no agreement to defer attachment to a later time than as specified above;
- (b) OEG may register any financing statement, financing change statement or other documents and do all other things which are necessary or desirable to perfect and maintain OEG's security interest under this Agreement, to preserve its interest in the relevant collateral and to realise OEG's security interest with the agreed priority;
- (c) The Customer must pay all fees and expenses (including legal fees) incurred by OEG in doing any of the things referred to in clause 5.3(b) on demand;
- (d) The Customer must do all things necessary:

- (i) To enable OEG to exercise its rights in connection with the Equipment;
- (ii) Ensure that a security interest created under this Agreement in favour of OEG is enforceable, perfected and otherwise effective;
- (iii) To ensure that no security interest is created or permitted (including any purchase money security interest) which would or might take a higher priority to OEG's over the Equipment pursuant to this provision;
- (iv) To ensure that the Equipment does not become processed or comingled including anything OEG may reasonably ask the Customer do in connection with the PPSA including:
  - (A) Obtaining consents;
  - (B) Ensuring that any security interest created attaches to the Equipment and that security interest is enforceable, perfected and maintained and otherwise effective;
  - (C) Enabling OEG to prepare and register such financing statement or financing change statement pursuant to the PPSA; and
  - (D) Enabling OEG to exercise any of OEG's powers in connection with any security interest created under or provided by this Agreement; and
- (e) Nothing in this clause 5 or this Agreement obliges OEG to register, perfect or maintain any security interest created by this Agreement and any failure or delay by OEG to do so does not in any way affect or limit the obligations of any other party under this Agreement.

#### 5.4 PPSA Obligations and Third Party Information

- (a) The Customer must execute any documents and provide all relevant information and full cooperation to OEG to ensure OEG has a perfected security interest in the relevant collateral under the PPSA.
- (b) The Customer must not sell, transfer, lease, encumber, part with possession of or otherwise deal with any of its rights and interest in the relevant collateral or any part of it without the prior written consent of OEG.
- (c) The Customer must notify OEG in writing within 3 Business Days after any change in the Customer's name, trading name or contact details (including its address).
- (d) The Customer appoints OEG (and if OEG is a corporation, each officer of OEG for the time being) as its agent and authorised representative for the purpose of requesting information from other secured parties under section 275 of the PPSA.

#### 5.5 Waivers and PPSA Provisions Not Applicable

- (a) Without limiting any other provision of this Agreement, the Customer waives its rights to receive any notice under the PPSA (including a copy of any verification statement) unless the notice is required by the PPSA and that requirement cannot be excluded.
- (b) Where OEG has rights in addition to those in Chapter 4 of the PPSA, those rights continue to apply.
- (c) Sections 95, 121(4), 125, 130, 132(3)(d), 132(4) and 135 of the PPSA are excluded to the fullest extent permitted by section 115 of the PPSA.

## 6 PAYMENT

### 6.1 Payment Terms

The Customer must pay the amounts set out in the Schedule for:

- (a) Provision of Services;
- (b) Hire of Equipment;
- (c) Purchase of Equipment; or
- (d) Any other monies payable by the Customer under this Agreement within 30 days of receipt of an invoice from OEG.

## 6.2 Interest on Late Payment

Where any money payable by the Customer is not paid on or before the due date, the Customer must pay OEG interest on the balance outstanding at fifteen per cent (15%), calculated daily from the due date until the date the outstanding amount plus interest is paid in full. Interest charged shall be capitalised at the end of each month.

## 7 CUSTOMER INDEMNITIES

### 7.1 Equipment Used at Customer's Risk

The Customer agrees to use, operate and possess the Equipment at the Customer's risk. The Customer agrees that OEG will have no responsibility or liability for any loss or damage to any property of the Customer. To the full extent permitted by law the Customer releases and discharges OEG and its agents and employees from:

- (a) All claims and demands on OEG; and
- (b) Any loss or damage whatsoever and whenever caused to the Customer or its agents or employees whether by way of death of, or injury to, any person of any nature or kind, accident or damage to property, delay, financial loss or otherwise, arising directly or indirectly from or incidental to:
- (c) The provision of the Services; or
- (d) A breakdown of, or defect in, the Equipment or any accident to or involving the Equipment or their use, operation, repair, maintenance or storage, collection or delivery of Equipment by OEG or the Customer (whether occasioned by the negligence of OEG or otherwise) or which may otherwise be suffered or sustained in, upon or near the Equipment.

### 7.2 Indemnity against other costs and liabilities

The Customer assumes liability for, and indemnifies and will keep indemnified, protected, saved and harmless OEG and its agents and employees from and against any and all injuries, actions, proceedings, claims, demands, liabilities, losses, damages, costs, penalties and all expenses legal or otherwise (including court costs and legal fees reasonably incurred) and of whatsoever kind and nature (including claims based upon strict liability in tort):

- (a) Arising out of or alleged to arise out of the delivery, selection, purchase, acceptance or rejection, ownership, possession, use, repair, maintenance, storage, or operation of the Equipment, and by whomsoever used or operated, including, but not limited to, any act neglect on the part of the Customer, the Customer's officer's employees, agents or contractors (except where used by OEG or any person on behalf of OEG); or
- (b) Incurred by OEG in respect of any loss of the Equipment by seizure, distress, execution or other legal process, confiscation or forfeiture of the Equipment.



## 7.3 Inspection of Equipment

The Customer acknowledges and agrees the indemnities provided in clauses 7.1 and 7.2 continues despite:

- (a) Any inspection of the Equipment by OEG; or
- (b) Any certification that the Equipment complies with DNV 2.7-1 in accordance with clause 3.5.

## 7.4 Survival of indemnities

The indemnities and assumptions of liability contained in this clause 7 will continue in full force and effect despite the termination of this Agreement whether by expiration of time or otherwise as to any act or omission relating to the Equipment, Customer's Equipment or Services occurring during the continuance of this Agreement which at any time is claimed to have created a cause of action against OEG or assumption of liability by the Customer.

## 8 INSURANCE

### 8.1 Extent of Insurance

The Customer must effect and maintain at all times:

- (a) Throughout the Duration of Hire and any extension of the Duration of Hire and until the customer has returned the Equipment to OEG; and or
- (b) For the period OEG provides the Services the following insurances:
- (c) *General insurance*: insurance of the Equipment and or Customer's Equipment for their full insurable value against:
  - (i) Damage or destruction caused by accident; and
  - (ii) Any insurable risk commonly insured against in regard to equipment of a similar nature to the Equipment including, but not limited to, by accidental damage, fire, storm, tempest, explosion, aircraft or other aerial devices (including any articles dropped there from), strikes, riot, civil commotion, malicious damage, flood, impact damage, earthquake, water damage, burglary or theft;
- (d) *Indemnified risks*: insurance with respect to the Customer's liability to OEG pursuant to the indemnities provided in clause 7;
- (e) *Third party risks*: insurance against all third party risks including liability for damage or injury of any kind to any property or person and also against other risks to the full extent required by law by a policy inuring for the benefit of OEG and the Customer;
- (f) *Public risk*: public risk insurance relating to the Equipment for an indemnity (including damage to property of or injury to any person) of not less than twenty million dollars (\$20,000,000).

### 8.2 Conditions of Insurance

- (a) The insurances required by clause 8.1 must be taken out in the names of OEG and the Customer for their respective rights and interests. The Customer must be shown as the named insured and OEG as the joint named insured. Each policy must expressly provide that all of its provisions, except the limits of liability, operate in the same manner as if they were a separate policy covering each insured.
- (b) The insurances must be taken out with an insurer approved by OEG in writing. OEG's approval of an insurer will not be unreasonably withheld.

- (c) Each policy must contain an agreement by the insurer to give OEG written notice of its intention to cancel the policy. Each policy must also contain a clause providing that, notwithstanding:
  - (i) The lapse of the policy (except by reason of expiration in accordance with its terms);
  - (ii) Any right of cancellation by the insurer; or
  - (iii) Any cancellation by the Customer (whether voluntary or involuntary),That policy will continue in force for the benefit of OEG for at least thirty (30) days after written notice of cancellation has been given to OEG.
- (d) The Customer must not, without the prior written consent of OEG, permit any reduction in limits or coverage in any insurance policy affecting or relating to the Equipment or this Agreement.
- (e) Each policy must contain an agreement by the insurer to insure OEG's interest up to the limits of the policy regardless of any act or neglect of the Customer or any breach or violation by the Customer of any warranties, declarations or conditions contained in the policy.

### 8.3 Casualty

- (a) If:
  - (i) *Total loss*: the Equipment are totally lost, stolen, compulsorily acquired, destroyed, seized, confiscated (each a "Casualty Occurrence") or if the Equipment are damaged to an extent which in the relevant insurer's opinion renders repair impractical or uneconomic (a "Write-off"), then the Customer must pay to OEG the replacement value of the Equipment; or
  - (ii) *Partial loss*: any part or parts of the Equipment suffer a Casualty Occurrence or a Write-off, then the Customer must pay to OEG the replacement value to that part or those parts. OEG will determine the replacement value in regard to that part or those parts by reference to the proportion of the value, utility or other relevant measure of the Equipment which has suffered the Casualty Occurrence or Write-off and will inform the Customer in writing of the basis of its calculation.
- (b) Any amounts payable by the Customer to OEG under clause 8.3(a) must be paid within 30 days of receipt of an invoice from OEG.

### 8.4 Recovery of Insurance Money

While any moneys remain owing to OEG under this Agreement, OEG will be entitled to receive all moneys payable to the Customer or to OEG and the Customer by the insurer under any relevant insurance policy or by any other person in respect of damage to, or loss of, the Equipment. The Customer appoints OEG and each and every duly authorised officer of OEG the Customer's attorney to recover or reasonably compromise in the Customer's and OEG's respective names any claim for loss or damage under any such policy or otherwise and to give effectual release and receipts for any claim.

### 8.5 Appropriation of Insurance Moneys

OEG is irrevocably authorised to appropriate any insurance or other moneys received by it in respect of a Casualty Occurrence to, or a Write-off of, the Equipment towards any moneys then due and owing by the Customer to OEG under this Agreement.

### 8.6 Protection of Insurance

- (a) The Customer must not at any time do or suffer anything to be done to the Equipment or use, modify or otherwise affect the Equipment whereby the insurance on the Equipment against damage from any insurable risk may be rendered void or voidable. In any case where OEG approves in writing of any proposal of the Customer to increase the risk of damage to the Equipment, the Customer must pay any and all additional premiums and any other amounts of whatever nature necessary or desirable to extend the insurance cover on the Equipment required on account of the additional risk.
- (b) If the customer fails to maintain any policy of insurance required by these General Terms and Conditions, or such policy or policies of insurance lapse or are subsequently refused or declined then OEG may take out a separate policy of insurance to cover the Customer's insurance requirements at the Customer's cost. The Customer acknowledges and such costs are payable to OEG on demand.

### 9 REPRESENTATION AND WARRANTIES

The Customer represents and warrants to OEG that:

- (a) *Incorporation:* (if the Customer is a corporation) it is registered as a company under the Corporations Act 2001, and has the power to carry on its business and to own its property in the manner and in the locations in which such business is presently being carried on or property owned;
- (b) *Corporate power:* (if the Customer is a corporation) it has full power and authority under its constituent documents to enter into this Agreement and to do all things required by this

Agreement and all necessary meetings have been held and all resolutions have been passed as are required by its constituent documents and any other action necessary to authorise the execution and performance of this Agreement has been taken and this Agreement will constitute the legal, valid, binding and enforceable obligations of the Customer in accordance with its terms;

- (c) *No breach:* except as disclosed in writing to OEG and dispensed with in writing by OEG, neither the execution nor the performance of this Agreement will:
  - (i) violate in any respect any statute, decree, rule or regulation or any determination, order or award of any court or any governmental, judicial or public body or authority applicable to the Customer;
  - (ii) cause any limitation (whether imposed by statute, decree, rule or regulation) on any of the powers of the Customer or on the Customer's right or ability to exercise such powers to be exceeded; or
  - (iii) conflict with or result in any breach of, or require any consent or approval under, any mortgage, agreement or other undertaking or instrument to which the Customer is a party or which is binding upon the Customer or any of the Customer's assets;
  - (iv) cause any limit on the powers of the Customer in respect of borrowing, guaranteeing, raising financial accommodation or otherwise as the case may be to be exceeded;
- (d) *No existing default:* except as disclosed in writing to OEG and dispensed with in writing by OEG, the Customer is not in default or difficulty under any deed, agreement or other document or obligation to which it is a party or by which it is bound, or in respect of any financial commitment or obligation (including obligations under guarantees or other contingent liabilities), which default or difficulty is reasonably likely to adversely affect the ability of the Customer to comply with its obligations under this Agreement;

- (e) Compliance with legislation: (if the Customer is a corporation) it is in full and ongoing compliance with its constituent documents and all companies and securities legislation and regulations and (whether or not the Customer is a corporation) the Customer is in full and ongoing compliance with all other legislation and regulations to which the Customer may at any time and from time to time be subject;

### 10 DEFAULT AND TERMINATION

#### 10.1 Events of Default

Each of the following events is an Event of Default, namely:

- (a) If the Customer fails to pay any amounts payable under this Agreement on the due date for payment and such failure continues for more than one (1) Business Day;
- (b) If the Customer fails to perform or observe any of the covenants or provisions of this Agreement on the part of the Customer to be performed or observed (other than a failure of the type contemplated by clause 10.1(a)) and (if capable of remedy) such default continues for more than ten (10) Business Days (or such longer period as OEG in its absolute discretion permits) after notice from OEG requiring the Customer to remedy the same;
- (c) If OEG ascertains that the Customer has made any false, inaccurate or misleading statement having a material effect in relation to the making of this Agreement;
- (d) If an application for the winding up or bankruptcy of the Customer or any Related Body Corporate (as that term is defined in the *Corporations Act 2001*) is presented and the Customer or the Related Body Corporate (as the case may be) cannot within ten (10) Business Days reasonably satisfy OEG that the application is frivolous or vexatious or an order is made, or any resolution is passed, for the winding up of the Customer or any Related Body Corporate provided always that it will not be an Event of Default where the winding up of the Customer or the Related Body Corporate (as the case may be) is for the purpose of reconstruction or amalgamation and has OEG's prior written consent (which consent will not be unreasonably withheld);
- (e) If a receiver or receiver and manager or provisional liquidator of the undertaking or any part of the undertaking of the Customer or any Related Body Corporate is appointed;
- (f) If any execution or other process of any court or authority is issued against or levied upon the Equipment (other than as a result of any act or omission on the part of OEG);
- (g) If without OEG's prior written consent the Customer or any Related Body Corporate suspends payment generally or ceases to carry on its business or is insolvent;
- (h) If without OEG's prior written consent the Customer or any Related Body Corporate enters into any arrangement, reconstruction or composition with its creditors or any of them;
- (i) If the Customer or any Related Body Corporate appoints an administrator to the Customer or the Related Body Corporate, or begins any process in order to do so or if an inspector is appointed to investigate its affairs; or
- (j) If the Equipment are abandoned or condemned or are seized or appropriated by any lawful authority and not released within twenty-one (21) days or are attached, sequestered, impounded or restrained upon and not released within twenty-one (21) days unless such an event constitutes a Casualty Occurrence.

#### 10.2 Consequences of a Default

If an Event of Default occurs OEG at its option may:

- (a) *Enforce performance*: by proceeding by appropriate court action, either at law or in equity, enforce performance by the Customer of the applicable terms and provisions of this Agreement or recover damages for the breach concerned; or
- (b) *Termination*: terminate this Agreement and the Customer's right to possession of the Equipment by notice in writing to the Customer. Upon service of such notice all rights of the Customer to or in the use of the Equipment will terminate and OEG may, directly or by its agent, take possession of the Equipment. Any damages reasonably occasioned by OEG taking possession are expressly waived by the Customer. OEG will, upon taking possession of the Equipment hold, possess and enjoy the Equipment free from any right of the Customer or its successors or assigns to use the Equipment for any purpose.

### 11 NOTICES

#### 11.1 Services of Notices

A notice of other communication required or permitted under this agreement to be served on a person must be in writing and may be served:

- (a) Personally on the person;
- (b) By leaving it at the person's current address for service;
- (c) By posting it by prepaid post addressed to that person at the person's current address for service; or
- (d) By facsimile to the person's current number for service.

#### 11.2 Particulars for Service

- (a) The particulars for service of the Customer are those contained in the Schedule.
- (b) The particulars of service of a notice to OEG are:

Att: Patrick Hanna  
Address: 16 Da Vinci Way Forrestdale WA 6112  
Facsimile: (08) 9437 4037

- (c) Any party may change the address or facsimile number for service by giving notice to the other party.
- (d) If the person to be served is a company, the notice or other communication may be served on it at the company's registered office.

#### 11.3 Effective on Receipt

A notice or other communication is deemed served:

- (a) if served personally or left at the person's address, upon service;
- (b) if posted to and from addresses within the same country, four (4) Business Days after posting and in any other case, seven (7) Business Days after posting;
- (c) if served by facsimile, subject to clause 11.3(d), at the time indicated on the transmission report produced by the sender's facsimile machine indicating that the facsimile was sent in its entirety to the addressee's facsimile; and
- (d) if received after 4.00 pm in the place of recipient or on a day which is not a Business Day, at 9.00 am on the next Business Day.

### 12 MISCELLANEOUS

### 12.1 Goods and Service Tax

- (a) In this clause GST refers to goods and services tax under *A New Tax System (Goods and Services) Act 1999 (Cth)* (GST Act) and the terms used have the meanings as defined in the GST Act.
- (b) All amounts payable by the Customer to OEG, being the consideration for the supply expressed in this Agreement, are exclusive of GST.
- (c) In respect of any liability of OEG for GST under this Agreement or any consideration for any other taxable supply, the Customer must pay to OEG at the same time as any payment is made involving OEG in GST liability, the additional amount of GST, together with the payment to which it relates.
- (d) The making of each payment by the Tenant under clause 11.1(c) is subject to OEG delivering to the Customer, as required under the GST Act, tax invoices in a form which complies with the GST Act and the regulations to enable the Customer to claim input tax credits in respect of the taxable supply.

### 12.2 Applicable Law and Jurisdiction

- (a) This Agreement will be governed by and construed and interpreted in accordance with the laws of the State of Western Australia.
- (b) The parties irrevocably submit to the exclusive jurisdiction of the courts of the State of Western Australia.

### 12.3 Dispute Resolution

- (a) If a dispute arises between the parties in relation to this Agreement, the dispute must be dealt with in accordance with this clause.
- (b) Any party claiming that a dispute exists must notify the other party to the dispute (Second Party) in writing of the nature of the dispute.
- (c) If the dispute is not resolved by agreement within five (5) Business Days of the Second Party receiving the notice referred to in clause 11.3(b), either party may refer the matter to mediation conducted by a mediator agreed between the parties within a further five (5) Business Days or failing agreement within that period, by a mediator appointed by an application for nomination of a mediator made by either party. The costs of the mediator shall be borne equally between the disputing parties. The chosen mediator shall determine the procedures for the mediation. The chosen mediator will not have the power or authority to make any other determination in relation to the dispute.
- (d) If the parties have not mediated a resolution of the dispute within ten (10) Business Days of the selection of a mediator, neither party shall be obliged to continue any attempt at mediation under this clause, and either party may then commence such legal proceedings as it thinks fit in relation to the dispute.

### 12.4 No Assignment

The Customer may not assign, whether in whole or part, its rights or any interest under this Agreement without the prior written consent of OEG.

### 12.5 No Waiver



In no event shall any delay, neglect or forbearance on the part of OEG in enforcing any provision of this Agreement be, or be deemed to be, a waiver thereof or a waiver of any other provision or shall in any way prejudice any rights of OEG under this Agreement.

**12.6 Severance**

If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

**12.7 Entire Agreement**

This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

**12.8 Counterparts**

This Agreement may be executed in any number of counterparts (including by way of facsimile) each of which shall be deemed for all purposes to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.

**12.9 Variation**

No modification or alteration of the terms of this Agreement shall be binding unless made in writing dated subsequent to the date of this Agreement and duly executed by the parties.

EXECUTED AS A DEED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

**Signed for an on behalf of OEG by:**

\_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

**Signed for an on behalf of the Customer by:**

\_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_