

SALES TERMS

These Sales Terms apply to the supply of all Goods by Diverse Imports Pty Ltd ACN 168 543 922 (**Diverse Equipment Group or DEG**) to the Customer.

1. Purchase Orders

1.1 Ordering procedure

- (a) Where the Customer wishes to acquire Goods or Services, the Customer will send a Purchase Order to DEG.
- (b) Each such Purchase Order, if accepted in writing by DEG, forms an agreement between DEG and the Customer, comprised of the Purchase Order (subject to any amendment of the Purchase Order by DEG in its acceptance), these Sales Terms and any Credit Terms (if applicable).
- (c) No Purchase Order is binding on DEG until the earlier of its acceptance in writing by DEG or DEG providing the goods or services specified in the Purchase Order.
- (d) The parties may enter into more than one Purchase Order and the details in each Purchase Order only apply to the Goods or Services to be provided under that Purchase Order.

1.2 Priority

To the extent of any inconsistency between these Sales Terms, any Credit Terms and the terms of any Purchase Order, the following order of preference will apply (in descending order):

- (a) Credit Terms;
- (b) Sales Terms; and
- (c) Purchase Order (subject to any amendment of the Purchase Order by DEG in its acceptance of the Purchase Order).

1.3 Terms of Purchase Orders

Each Purchase Order must contain:

- (a) the quantity and description of the Goods or Services to be purchased;
- (b) the price of the Goods or Services unless otherwise specified by DEG;
- (c) details of any Progress Payments (if applicable);
- (d) particulars of the proposed delivery of the Goods or Services, including the Delivery Date and Supply Address; and
- (e) The Customer acknowledges that the Customer's signature on a quote issued by DEG is deemed to be a Purchase Order for the purposes of this document.

1.4 Variation of Purchase Orders

A Purchase Order may not be varied except with the written consent of DEG.

2. Price

2.1 Price excludes GST and other costs

The Price, unless otherwise agreed in writing does not include:

- (a) delivery of the Goods or Services to the Supply Address;
- (b) the cost of packaging;
- (c) loading and insurance charges;
- (d) sales tax (where applicable);
- (e) GST; and
- (f) any stamp duty or onroad-costs.

2.2 GST

- (a) Terms defined in the GST Act have the same meaning in this clause 2.2 unless defined otherwise in clause 15.1.
- (b) Unless expressly included, the consideration for any Supply under or in connection with these Sales Terms does not include GST.
- (c) To the extent that any Supply made under or in connection with these Sales Terms is a Taxable Supply, the recipient must pay, in addition to the consideration to be provided under these Sales Terms for that Supply (unless it expressly includes GST), an amount equal to the amount of that consideration (or its GST exclusive market value) multiplied

by the rate at which GST is imposed in respect of the Supply.

- (d) The recovery of any amount in respect of GST by DEG under these Sales Terms is subject to the issuing of a Tax Invoice or Adjustment Note.

3. Goods delivery and passing of risk

- (a) Delivery occurs and risk of Loss to Goods will pass to the Customer (**Delivery**) on the earlier of:
 - (i) collection of the Goods by the Customer;
 - (ii) delivery of the Goods to the Customer; and
 - (iii) delivery of the Goods by DEG to a carrier nominated by the Customer or arranged by DEG for the purpose of delivering Goods to the Customer.
- (b) DEG is not liable for any failure to Deliver Goods, including by any date agreed in writing by DEG as the date for Delivery or for delay in Delivery of Goods occasioned by any cause whatsoever, whether or not beyond the control of DEG.
- (c) DEG will use its reasonable endeavours to Deliver the Goods in accordance with the terms of a Purchase Order but will not be liable for any Loss connected with a failure to Deliver the Goods in accordance with any particular requirements of the Customer.
- (d) Failure to Deliver part or all of the Goods the subject of a Purchase Order at any agreed Delivery time will not entitle the Customer to terminate the Purchase Order or to claim compensation of any nature.
- (e) The Customer is not entitled to reject Goods on the basis of late Delivery.

4. Services terms

- (a) The Customer may request a Service Quote in relation to Services to be provided by DEG.
- (b) The Services performed in connection with a Service Quote are performed subject to the terms of these Sales Terms and to the extent of any inconsistency between any of the terms of the Sales Terms and the terms of any Service Quote (if relevant), these Sales Terms prevail.
- (c) The Price estimate contained in a Service Quote:
 - (i) is an estimate only and may have been prepared by a visual inspection of the Serviced Equipment only; and
 - (ii) is based, as applicable, on award rates, prices of material, general factory costs, general overhead charges, insurance and exchange rates, customs duties and other costs existing as at the date of the Service Quote and any changes to such matters either before acceptance or during the provision of the Services are payable by the Customer in addition to the Price estimate set out in the Service Quote.
- (d) The Customer agrees that where DEG, following the commencement of Services, considers that additional work, parts or other materials are required for the Services which are not provided for in the Service Quote, DEG may, in its absolute discretion, cease providing the Services and request that the Customer accept a revised Service Quote in respect of the Services. The Customer acknowledges and agrees that it must make payment for any Services performed by DEG prior to the issuance of the revised Service Quote.

- (e) The Customer agrees that DEG is not liable or responsible for any Loss suffered by the Customer arising by, through or in connection with:
- (i) DEG's repair of the Serviced Equipment;
 - (ii) any delay in the repair of the Serviced Equipment including due to acts of God, war or strikes or lockout, or any other cause beyond DEG's control or as a result of its inability to procure the parts and other materials necessary for the purposes of the relevant Services; and
 - (iii) the increase in costs of material and/or labour.

5. Security Interests

5.1 Retention of title - Goods supplied

- (a) Notwithstanding that risk in Goods passes pursuant to clause 3, title to and ownership of Goods remains with DEG and does not pass to the Customer until such time the Customer has paid in full for the Goods and the Customer has paid all other amounts owing to DEG.
- (b) The Customer acknowledges that until such time as title to and ownership of Goods passes to the Customer, the Customer is in possession of the Goods for and on behalf of DEG as bailee.
- (c) Subject to clause (e), until payment is made for Goods, the Customer will store those Goods separately and in such a manner that they are clearly identified as the property of DEG.
- (d) The Customer grants to DEG an irrevocable licence to enter any of the Customer's premises, exercisable upon a Termination Event, which licence to enter permits DEG (and its personnel) at its sole option to enter the Customer's premises and repossess and remove all Goods on the premises for which title has not passed to the Customer. The Customer consents to such actions and agrees that DEG will not be liable for any Loss suffered by the Customer as a result of DEG taking such actions.
- (e) Until such time as title to and ownership of the Goods passes to the Customer in accordance with clause 3, the Customer must not, without written consent of DEG:
 - (i) grant or register, permit to be granted or registered or permit the creation of any Security Interest over any of the Goods in favour of another person which rank in priority to DEG's Security Interest in the Goods; or
 - (ii) sell or dispose or give possession or control of the Goods to another person.

5.2 Services lien

- (a) The Customer must, if requested by DEG, make full payment for Services prior to the relevant Serviced Equipment leaving the possession of DEG or on such further or other terms as DEG may agree in writing.
- (b) The Customer agrees that DEG has a lien over, and may in its absolute discretion, retain possession of any Serviced Equipment until such time as all amounts which are owing by the Customer to DEG in connection with Services have been paid in full.
- (c) If a Customer has not confirmed the terms of a Service Quote within one month from the date of that Service Quote, then DEG may charge a rental fee to the Customer for the physical space occupied by the Serviced Equipment, based on the working value of the workshop area occupied. The Customer agrees that DEG may retain the Serviced Equipment until full payment of that rental fee together with any additional charges for work undertaken in connection with the preparation of the Service Quote, has been received.
- (d) If any person (other than the Customer) claims right, title or interest in Serviced Equipment and tenders full payment of the amounts owing to DEG in connection with the relevant

Services, then subject to DEG giving the Customer 48 hours written notice, DEG may accept that payment and release the Serviced Equipment to that person and the Customer waives all liability of DEG for any Loss arising as a result of the release of the Serviced Equipment.

6. Payment

6.1 Invoicing

DEG will invoice the Customer for each Purchase Order (the **Invoice**), in writing with each Invoice setting out the Price and the quantity of Goods or Services supplied for the relevant Purchase Order.

6.2 Payment

Subject to clause 6.3, the Customer must pay the Price for the Goods or Services supplied to the Customer:

- (a) in Immediately Available Funds in accordance with the terms of payment set out in the Credit Terms or if not set out therein, within 30 days from the date of DEG's Invoice; or
- (b) in any other way that DEG directs in writing to the Customer.

6.3 Progress Payments

DEG may request that the Customer make one or more upfront or Progress Payments in respect of particular Goods or Services.

6.4 Late Payment

If payment for any Goods or Supplies is not made in full by Customer by the due date:

- (a) any discount (prompt payment or otherwise) or rebate (if any) lapses and the Customer must immediately pay the non-discounted price of the Goods or Services and receives no discount or rebate;
- (b) DEG is entitled to charge the Customer interest on the unpaid overdue balance (both before and after judgment) at the rate of 5% per annum above the current overdraft rate charged by DEG's bankers;
- (c) DEG may at its option suspend delivery of further Goods or Services or performance of further work until the account is fully paid; and
- (d) the Customer agrees to pay, and hereby indemnifies DEG for all costs, fees, damages and expenses incurred by DEG in collecting overdue amounts, including administrative costs, legal costs on a solicitor/client basis and any debt collection agency charges.

7. Goods and Services warranties

7.1 Goods warranties

- (a) **Manufacturer warranties** - Goods are supplied in accordance with the manufacturer's specific warranty (if any) (**OEM Warranty**) which applies directly between the Customer and the manufacturer. Copies of the applicable manufacturer's warranty statements are available on request.
- (b) **Other Goods warranty** - unless expressly notified by DEG to the Customer, DEG gives no warranty to the Customer in respect of Goods. DEG may offer in writing a specific warranty (**DEG Warranty**) in relation to specific Goods. Copies of applicable warranty statements are available on request.
- (c) **Used Goods** - used Goods are sold in an 'as is' condition. To the maximum extent permitted by law, no warranty of any kind is implied or given by DEG in relation to used Goods.

7.2 Services warranties

- (a) Services may be supplied subject to the standard of the manufacturer's service manual for the relevant Equipment or if there is no such manual, Best Industry Practices (also, a **DEG Warranty**).
- (b) Parts supplied by DEG in carrying out Services are supplied in accordance with the manufacturer's specific warranty (if any). Copies of the manufacturer's warranty statements are available on request.

8. Limitation of Liability

- (a) The Customer's sole Claim against DEG in relation to any Goods or Services DEG provides to the Customer, are the DEG Warranties and the Customer's sole remedy in relation to breach by DEG of a DEG Warranty is:
- (i) in the case of Goods, the re-supply by DEG of the Goods or goods DEG reasonably considers equivalent to them; and
 - (ii) in the case of Services, the re-supply by DEG of the Services or services DEG reasonably considers to be equivalent to them.
- (b) Despite anything in these Sales Terms, this clause 8 sets out the entire financial liability of DEG (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) to the Customer in respect of:
- (i) any Claim by the Customer against DEG under or in relation to these Sales Terms, any Purchase Order or their subject matter;
 - (ii) any use made by the Customer of Goods or Services or any part of them; and
 - (iii) any representation, statement or tortious act or omission (including negligence) arising under or in connection with a these Sales Terms, any Purchase Order or their subject matter or the provision by DEG of Goods or Services.
- (c) Under no circumstances will DEG be liable to the Customer for any Consequential Loss.
- (d) Without limiting any other provision of this clause 8, DEG's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance of any Purchase Order or these Sales Terms, will be 10% of the value of the Goods manufactured by DEG, 10% of the value of Services, in relation to which DEG's liability arises.
- (e) Without limiting any other provision of this clause 8, the Customer will have no Claim against DEG under or in relation to provision of any Goods or Services and the Customer releases and discharges DEG in respect of such Claims, if the Customer does not notify DEG of the Claim in writing within 3 months of delivery of the Goods or provision of the Services to which it relates and within 1 month of that date, the Claim has not been agreed, compromised or settled or the Customer has not commenced legal proceedings against DEG in respect of the Claim.
- (f) All conditions, terms and warranties that are or might otherwise be implied by law, practice, trade usage, or international convention, are excluded to the fullest extent permitted by law. Without limiting the foregoing, except as expressly set out in these Sales Terms, DEG gives or will be bound by no warranty, representation or condition and excludes all implied warranties, representations and conditions of any type, including as to the fitness of the Goods or Services for any use or purpose.
- (g) Provisions of the Australian Consumer Law and other legislation in some cases either cannot be excluded, restricted or modified or can only be restricted or modified to a limited extent. If any provision of that type applies, then to the extent permitted by law, DEG's liability under the provision is limited as follows: DEG's liability in relation to supply of Goods is limited at its option to replacement of the Goods or the supply of equivalent goods or repair of the Goods or payment of the cost of replacing the Goods or of acquiring equivalent goods or payment of the cost of having the Goods repaired or modified.
- (h) The Customer discharges DEG and indemnify and hold DEG harmless from and against all Claims, costs,

damages, losses or expenses of any kind howsoever arising under tort (including but limited to negligence), contract, strict liability, statute or otherwise in relation to any Claim against DEG that this clause 8 purports to exclude.

9. General Representations and warranties

9.1 Reliance

The Customer acknowledges that DEG is relying on the representations and warranties made to it by the Customer in connection with these Sales Terms.

9.2 Representations

The Customer represents and warrants to DEG that:

- (a) if it is a company:
 - (i) it is duly incorporated and validly existing under the laws of its place of incorporation;
 - (ii) it has the corporate power to own its own assets and to carry on its business as it is now being conducted; and
 - (iii) the Customer Representatives have authority to bind the Customer in respect of any matters stated in these Sales Terms and each Purchase Order;
- (b) it has taken all necessary action to authorise the execution, delivery and performance of the Sales Terms and each Purchase Order, in accordance with its terms;
- (c) it has power to enter into and perform its obligations under the Sales Terms and each Purchase Order and to carry out the transactions contemplated by the Sales Terms and each Purchase Order;
- (d) its obligations under the Sales Terms and each Purchase Order are valid and binding and are enforceable against it in accordance with their respective terms;
- (e) the execution, delivery and performance of the Sales Terms and each Purchase Order and the transactions under them do not:
 - (i) if applicable, breach its constitution or other constituent documents or any relevant trust deed or partnership agreement;
 - (ii) breach any law or decree of any court or official directive which is binding on it;
 - (iii) violate any other document or agreement to which it is expressed to be a party or which is binding on it or any of its assets; or
 - (iv) cause a limitation on its powers or the powers of its directors or other officers to be exceeded;
- (f) no litigation, arbitration, tax claim, dispute or administrative or other proceeding (which has not been disclosed to the other party in writing) has been commenced, is pending or, to its knowledge, threatened in writing against it which is likely to have an adverse effect upon it or its ability to perform its financial or other obligations under the Sales Terms and each Purchase Order;
- (g) an Insolvency Event has not occurred in relation to it; and
- (h) unless expressly stated, it does not enter into the Sales Terms or any Purchase Order as a trustee.

10. Confidentiality

10.1 Obligation of confidentiality

- (a) Subject to clause 10.2, the Customer must keep secret and confidential, and must not divulge or disclose any of DEG's Confidential Information or use DEG's Confidential Information for a purpose unrelated to the Customer's use of Goods or Services.
- (b) The Customer must take all reasonable steps to ensure that any person to whom it discloses Confidential Information under the Sales Terms or a Purchase Order does not make public, or disclose, the Confidential Information or use DEG's Confidential Information for a purpose unrelated to the Customer's use of Goods or Services.
- (c) If a Customer delegates any of its authorities, powers, duties or discretion under the Sales Terms or a Purchase Order to

an entity or person who is not a director, officer or employee of the Customer (**Delegate**), DEG may request the Customer to procure the Delegate to enter into a confidentiality agreement with DEG prior to any of the Confidential Information being provided to the Delegate.

10.2 Exceptions

Clause 10.1 does not apply where the relevant Confidential Information:

- (a) is public knowledge (other than as a result of a breach of any obligation of confidentiality owed to DEG);
- (b) subject to clause 11(h), is required by law to be disclosed, provided the Customer has notified DEG of such requirement as soon as possible after becoming aware of such requirement; or
- (c) is disclosed to the Customer's directors, officers, employees, financial advisers, analysts and legal representatives for the purpose of exercising rights under and performing the Sales Terms or a Purchase Order.

11. Personal Property Securities Law

- (a) The Customer acknowledges that under these Sales Terms the Customer grants Security Interests to DEG including a retention of title in respect of the Goods (in accordance with clause 5.1) and a lien in respect of the Serviced Equipment (in accordance with clause 5.2).
- (b) The Customer acknowledges that the Sales Terms constitutes a Security Agreement.
- (c) The Security Interests arising under these Sales Terms remain attached to the Goods or Serviced Equipment (as applicable) when the Customer obtains possession of the Goods or Serviced Equipment (as applicable) and the parties confirm that they have not agreed that any Security Interest arises under these Sales Terms at any later time.
- (d) The Customer acknowledges that DEG may at any time perfect its Security Interests by lodging a Financing Statement (as defined in the PPS Act) on the Personal Property Securities Register established under the PPS Act.
- (e) The Customer undertakes to do anything reasonably required by DEG to enable DEG to register its Security Interests, with the priority DEG requires and to maintain the registration.
- (f) The Customer must pay DEG all registration and enforcement costs and expenses which DEG may incur in:
 - (i) preparing, lodging or registering any Financing Statement or Financing Change Statement (each as defined in the PPS Act) in relation to any Security Interests that are granted to DEG under these Sales Terms;
 - (ii) maintaining those registrations; and
 - (iii) enforcing any Security Interests granted to DEG under these Sales Terms.
- (g) DEG does not need to give the Customer any notice under the PPS Act (including a notice of a Verification Statement) unless the notice is required by the PPS Act and that requirement cannot be excluded.
- (h) The parties agree that neither party will disclose to an "interested person" (as defined in section 275(9) of the PPS Act) or any other person, any information of the kind described in section 275(1) of the PPS Act. The Customer will not authorise the disclosure of any information of the kind described in section 275(1) of the PPS Act.
- (i) All of the enforcement provisions of Chapter 4 of the PPS Act apply to all of the Security Interests created under or referred to in these Sales Terms except that the following provisions of the PPS Act will not apply:
 - (i) section 95 (notice of removal of accession), to the extent that it requires DEG to give a notice to the Customer;

- (ii) subsection 121(4) (enforcement of liquid assets - notice to grantor);
- (iii) section 125 (obligation to dispose of or retain collateral);
- (iv) section 130 (notice of disposal), to the extent that it requires DEG to give the Customer a notice;
- (v) paragraph 132(3)(d) (contents of statement of account after disposal);
- (vi) subsection 132(4) (statement of account if no disposal);
- (vii) section 135 (notice of retention);
- (viii) section 142 (redemption of collateral); and
- (ix) section 143 (reinstatement of security agreement).

12. Intellectual Property

The Customer acknowledges that DEG is and remains the owner of all Intellectual Property Rights used on or in relation to the Goods and Services and advertising materials supplied in connection with the Goods and Services.

13. Termination

- (a) It is a Termination Event if:
 - (i) any amount payable by the Customer to DEG is not paid when due;
 - (ii) the Customer makes any false representation (whether by act or omission) in respect of the Credit Application;
 - (iii) the Customer breaches or fails to comply with any term of the Credit Terms;
 - (iv) an Insolvency Event occurs with respect to the Customer or a guarantor of the Customer's indebtedness to DEG;
 - (v) any guarantor of the Customer's indebtedness to DEG revokes a guarantee; or
 - (vi) a Change in Control of the Customer occurs.
- (b) If a Termination Event occurs DEG is entitled (without prejudice to any other right or remedy) at its option, to immediately do any one or more of the following:
 - (i) declare all amounts actually or contingently owing by the Customer to DEG, whether or not due and payable, to be immediately due and payable;
 - (ii) refuse to supply Goods or Services to the Customer;
 - (iii) terminate the Sales Terms and refuse to provide credit to the Customer; or
 - (iv) repossess and remove all Goods for which title has not passed to the Customer in accordance with clause 5.1(d).

14. General

14.1 Assignment

- (a) DEG may transfer, assign, novate or sub-contract any of its rights or obligations under the Sales Terms without the prior written consent of the Customer.
- (b) The Customer's rights and obligations arising out of or under the Sales Terms are not assignable by the Customer without DEG's prior written consent.

14.2 Further Assurances

The Customer must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to DEG) required by law or reasonably requested by DEG to give effect to these Sales Terms or any obligation under them.

14.3 Waiver

- (a) Waiver of any right by DEG arising from a breach of these Sales Terms by the Customer or on the occurrence of a Termination Event must be in writing and executed by DEG.
- (b) A failure to exercise, a delay in exercising, or a partial exercise of, a right by DEG created under or arising from a breach of these Sales Terms or on the occurrence of a Termination Event does not result in a waiver of that right.

14.4 Relationship between the parties

These Sales Terms are not intended to create a partnership, joint venture or agency relationship between the parties.

14.5 Severability

(a) A provision of, or the application of a provision of, these Sales Terms which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of:

- (i) that provision in any other jurisdiction; or
- (ii) the remaining provisions in that or any other jurisdiction.

(b) Where a clause in these Sales Terms is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in these Sales Terms.

14.6 Variation of Sales Terms

DEG may, in its absolute discretion, vary these Sales Terms (including the withdrawal of credit) at any time by notice to the Customer by any of the following methods:

- (a) by written notice to the address listed in section 1 (*Details of Customer*) of the Credit Application or Purchase Order;
- (b) by email sent to the email address listed in section 1 (*Details of Customer*) of the Credit Application or Purchase Order; or
- (c) by uploading the varied Sales Terms onto the public website of DEG.

14.7 Entire agreement

The Sales Terms replaces all previous agreements between the parties concerning its subject matter and contains the entire agreement between the parties.

14.8 Governing law and jurisdiction

These Sales Terms are governed by and construed in accordance with the law of Queensland and the parties submit to the exclusive jurisdiction of the courts of Queensland.

15. Definitions

15.1 Defined Terms

In these Sales Terms, unless the context clearly indicates otherwise:

Administrator means a receiver, receiver and manager, judicial manager, liquidator, administrator or like official.

Australian Consumer Law means Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

Best Industry Practices means the standard that can be expected of a reasonably competent provider of services similar to the Services, in DEG's industry and of a similar size to DEG.

Change in Control means a change in Control from the position applying on the date of the Rental Agreement.

Claim means any claim, demand, suit, proceeding, action, damages, loss, liability, costs, charges, expenses, outgoing or payments suffered, paid or incurred or threatened, including those arising in contract (including, but not limited to, breach of warranty), those arising in tort (including, but not limited to, misrepresentation or negligence), those arising under statute, those in relation to any breach of an agreement or deed, those based on any statement, representation, warranty, promise, indemnity or undertaking and damages or compensation of any nature and on any grounds.

Consequential Loss means:

- (a) in the case of loss or damage resulting from a breach of contract, by virtue of any breach of any fiduciary obligation, by virtue of any actionable wrongful act, or under any other principle of equity, by virtue of any breach of any statutory duty, or under any other legal doctrine, principle or theory all:
 - (i) loss of revenue (other than revenue derived directly from payments for Goods or Services to be made, or which represents the value of Goods or Services required to be delivered or provided, under the express terms of these Sales Terms);

- (ii) loss of profit (other than profit derived directly from payments for Goods or Services to be made, or the turning to account of the value of Goods or Services required to be delivered or provided, under the express terms of these Sales Terms);

- (iii) loss or denial of opportunity, loss of access to markets, loss of goodwill or loss of business reputation;

- (iv) increased overhead costs; and

- (v) all other loss which is indirect, remote or unforeseeable loss or loss resulting from some supervening event or special circumstance, whether or not in the reasonable contemplation of the parties at the time of execution of these Sales Terms as being a probable result of the relevant breach; and

- (b) in the case of loss or damage arising from any tort (which expression, for the purposes of this definition, includes any breach of a contractual duty of care and also negligence) - all loss of the kind described in paragraph (a) of this definition, all other loss which is indirect, remote or unforeseeable loss and all pure economic loss of any kind not flowing directly from the commission of the tort;
- (c) without limiting (a) or (b), any representation, warranty or condition other than a DEG Warranty.

Credit Application means the application by a Customer for provision of trade credit by DEG.

Credit Terms means the terms upon which DEG has agreed to provide trade credit to the Customer in response to an application by the Customer for trade credit.

Customer means the person seeking credit as set out in section 1 (*Details of Customer*) of the Credit Application or Purchase Order.

Customer Representative means a duly authorised representative of the Customer advised by the Customer to DEG in writing.

Confidential Information means confidential information, trade secrets, know-how, scientific, technical, product, market or pricing information relating to DEG's business or a Purchase Order.

Control means the ability to control the composition of the board of directors of the Customer.

Delegate has the meaning given to that term in clause 10.1(c).

Delivery has the meaning given in clause 3.

Delivery Date means the date specified as such in the Purchase Order for the delivery of Goods or Services.

Goods means the goods, equipment, components, parts, accessories and materials supplied, or to be supplied, by DEG to the Customer as requested by the Customer from DEG.

GST Act means *A New Tax System Goods and Services Tax Act 1999* (Cth).

DEG means DEG Oilfield Services Pty Ltd ABN 65 010 166 702.

DEG Warranty is defined in clauses 7.1(b) and 7.2(a).

Immediately Available Funds means cash, bank cheque or telegraphic or other electronic means of transfer of cleared funds into a bank account nominated in advance by DEG.

Insolvency Event means where the Customer:

- (a) is insolvent, bankrupt or unable to pay its debts as they fall due;
- (b) enters into an arrangement with its creditors;
- (c) takes or has instituted against it an action or proceedings whether voluntary or compulsory with the object of, or which may result in, the winding-up or bankruptcy of the Customer; or
- (d) has a winding-up or bankruptcy order made against it or passes a resolution for winding-up or bankruptcy.

Intellectual Property Rights means all intellectual property rights throughout the world, whether present or future, including rights in relation to copyright, trade secrets, know how, trademarks (whether registered or unregistered or whether in word or logo/device form), brand names, designs, patents and patentable inventions, semiconductor or circuit layout rights, including the right to apply for registration of any such rights.

Invoice has the meaning given to that term in clause 6.1.

Loss means any damage, loss, liability, cost, charge, expense, penalty, outgoing or payment and includes legal costs and expenses on a solicitor/client basis.

Personnel means the directors, officers, employees, servants, agents, representatives, invitees of the relevant party or any of its Related Bodies Corporate.

PPS Act means the *Personal Property Securities Act 2009*.

Purchase Order means an order to purchase Goods or Services pursuant to clause 1, issued by the Customer to DEG and accepted by DEG as contemplated in clause 1.1(c).

Price means the price of the Goods or Services as specified by DEG.

Progress Payment means that portion of the Price, if any, payable in accordance with clause 6.3.

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

Sales Terms means the terms and conditions set out in this document (*Sales Terms*), as amended from time to time.

Security Agreement means a security agreement within the meaning of the PPS Act.

Security Interest means a security interest within the meaning of the PPS Act.

Service Quote means an estimate of the Price of a Service provided by DEG to the Customer.

Services means the services supplied, or to be supplied, by DEG to the Customer as ordered by the Customer from DEG and confirmed by DEG.

Serviced Equipment means goods, equipment, components, parts, accessories and other materials which are owned, leased or hired by the Customer and which are the subject of Services provided by DEG.

Supply Address means the address of the premises to which Goods are to be delivered or at which Services are to be performed.

Termination Event has the meaning set out in clause 13.

Verification Statement means a verification statement within the meaning of the PPS Act.

15.2 Interpretation

In these Sales Terms:

- (a) Headings and bold type are for convenience only and do not affect the interpretation of these Sales Terms.
- (b) The singular includes the plural and the plural includes the singular.
- (c) The word 'includes' in any form is not a word of limitation.
- (d) Words of any gender include all genders.
- (e) Other parts of speech and grammatical forms of a word or phrase defined in these Sales Terms have a corresponding meaning.
- (f) An expression importing a person includes any DEG, partnership, joint venture, association, corporation or other body corporate and any government agency as well as an individual.
- (g) A reference to a clause, party, schedule or attachment is a reference to a clause of, and a party, schedule or attachment to, these Sales Terms and a reference to these Sales Terms includes any schedule and attachment.

- (h) A reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them.
- (i) A reference to a document includes all amendments or supplements to, or replacements or novations of, that document.
- (j) A reference to a party to a document includes that party's successors and permitted assignees.
- (k) A promise on the part of 2 or more persons binds them jointly and severally.
- (l) A reference to an agreement other than these Sales Terms includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing.
- (m) A reference to insolvency includes appointment of an Administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding-up, dissolution, deregistration, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death.
- (n) No provision of these Sales Terms will be construed adversely to a party because that party was responsible for the preparation of these Sales Terms or that provision.
- (o) A reference to dollars or \$ is a reference to the lawful currency of Commonwealth of Australia unless expressly stated to the contrary.
- (p) A reference to a body, other than a party to these Sales Terms (including an institute, association or authority), whether statutory or not:
 - (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions.