

1 GENERAL OBLIGATIONS OF THE PARTIES

1.1 In consideration for the Client paying MPC Kinetic the Fee, MPC Kinetic will use its reasonable endeavours to perform the Services for the Client at the Site:

- (a) on or before the Delivery Date(s); or
- (b) between the date of the Quotation is signed or the Services are commenced (whichever is the earlier) and the Delivery Date (as the circumstance requires).

For clarity, it is not an essential term or condition of this Contract that the Services be completed before the Delivery Date(s). If MPC Kinetic is delayed in the performance of the Services by a cause outside its reasonable control, the Client will compensate MPC Kinetic for the actual reasonable, mitigated costs of that delay as a variation to the Fee.

1.2 Unless otherwise specified in the Quotation:

- (a) MPC Kinetic is only responsible for the performance of the Services expressly included in that Quotation;
- (b) any services, works, provision of labour, plant, materials or other items or activities ancillary to the provision of the Services will be the responsibility of the Client; and
- (c) if the Services include loading, transporting, unloading and similar of FIM or other Goods, this is the responsibility of the Client.

1.3 The Client must ensure that it complies with all laws and holds all consents, permits, licences and similar necessary to enable MPC Kinetic to provide the Services and, if those laws, consents, permits, licences or similar contain requirements which affect the performance of the Services, the Client must notify MPC Kinetic in writing of those requirements.

1.4 MPC Kinetic acknowledges that it will not be granted access to the Site by the Client until it has complied with any preconditions to Site access notified by the Client in writing.

1.5 MPC Kinetic must comply with all reasonable directions of the Client whilst on Site.

2 GOODS

2.1 To the extent that the performance of the Services includes the supply of Goods (excluding FIM):

- (a) MPC Kinetic takes the risk in damage to, and loss of, those Goods until they are physically delivered to the Client or the Site;
- (b) the Client will take the risk in damage to, or loss of, those Goods for any period that they are in the possession or under the control of the Client; and
- (c) Title to the Goods will not pass to the Client until all amounts owing to MPC Kinetic in connection with this Contract have been paid.

2.2 Where there is FIM:

- (a) notwithstanding subclause (b), the Client will be and remain responsible for any defects and non-conformances in the FIM at all times, and will indemnify MPC Kinetic in this regard; and
- (b) each party will be responsible for damage to, or loss of, the FIM whilst the FIM is in their possession or under their control.

3 DATA INTERPRETATION

3.1 This clause applies to the extent that the Services expressly include data interpretation. Unless the Services are expressly stated to include data interpretation, it is deemed that the Services do not include any judgement or interpretation of any survey results or data logged or otherwise provided by, or to, MPC Kinetic, other than by conventional calculation techniques

3.2 Where the Services include interpretation of survey results or data logged or otherwise provided by, or to, MPC Kinetic, the Client acknowledges and agrees that:

- (a) MPC Kinetic is providing the Client with its best judgement as to the interpretation of that survey data;
- (b) the interpretations are based on interferences from electrical or other logs, and other empirical factors which are not necessarily infallible and interpretations may vary between individuals undertaking the interpretation, as a result, MPC Kinetic cannot guarantee the accuracy or correctness of those interpretations;
- (c) MPC Kinetic's interpretation of any survey results or other data logs is not intended to form a recommendation to the Client about a particular course of action; and
- (d) MPC Kinetic will not be liable to the Client or any Third Party in connection with the interpretation of survey data, and the Client will indemnify and hold harmless MPC Kinetic from such Claims.

4 VARIATIONS

4.1 The Client's representative identified in the Quotation or otherwise notified in writing by the Client may direct MPC Kinetic in writing at any time to change the character of, increase or decrease the quantity or frequency of, or supply new or additional, Services and MPC Kinetic may (if reasonable) comply with the direction.

4.2 Within a reasonable time of MPC Kinetic receiving a direction from the Client under this clause, MPC Kinetic will provide the Client with the details of the effect of that direction on the Fee and Delivery Date.

4.3 If accepted in writing by the Client, the modified Fee and Delivery Date will apply to this Contract. If

the Client does not agree with the modified Fee and/or Delivery Date, and the parties cannot otherwise agree on the modified Fee and Delivery Date, MPC Kinetic will advise the Client of a reasonable modification to the Fee and Delivery Date, which will apply to this Contract from that point forward.

5 INSURANCE

- 5.1 During the Term, MPC Kinetic and the Client will effect and maintain:
- (a) public liability insurance with a limit of not less than \$20,000,000.00 per occurrence for personal injury, death and property damage;
 - (b) compulsory third party and comprehensive motor vehicle insurance;
 - (c) workers' compensation insurance as required by law; and
 - (d) any other insurance specified in the Quotation.
- 5.2 Within 24 hours of a request from the other party, MPC Kinetic or the Client must provide evidence in the form of a certificate of currency to the requesting party that the insurance required by this Contract is in place.

6 DEFECTIVE OR NON-CONFORMING SERVICES

- 6.1 If at any time prior to the Services being completed, the Client can prove that the Services have not been performed in accordance with the Contract or are otherwise defective, the Client's sole remedy is to request the re-performance of the Services by MPC Kinetic within a reasonable time.
- 6.2 MPC Kinetic does not warrant the Services or any part of them unless the Services involve the manufacture and supply of chemical products by MPC Kinetic, in which case, MPC Kinetic will re-supply any chemical products which are found to be defective or otherwise do not conform with the requirements of this Contract within the earlier of:
- (a) 6 months of the date of delivery of the chemical products; or
 - (b) the expiry of the shelf-life the chemical product,
- provided that the chemical products are stored in accordance with the manufacturer's instructions (the Client has the responsibility for understanding the manufacturer's instructions).

7 FEE

- 7.1 The Fee is only firm if the Quotation signed or the Services are commenced within any stated validity period or, if no validity period is stated, within 30 days from the date of the Quotation. If the Client proceeds with the Services outside of the Quotation validity period, this will be considered a variation directed by the Client to which clause 4 will apply.

- 7.2 Unless otherwise specified in the Quotation:
- (a) any reimbursables such as meals and accommodation, and other backcharges due to MPC Kinetic from the Client in connection with the performance of this Contract will be paid by the Client at actual cost incurred by MPC Kinetic plus a mark-up of 25% for logging tools and 15% for everything else; and
 - (b) the rates included in the Quotation will only be valid for a maximum of:
 - (A) where the Services are for the manufacture and supply of production chemicals, 12 months from the date of the Quotation, except for any portion of the Fee which is subject to FX, in which case the relevant portion of the Fee will be adjusted to reflect the actual cost of FX movements incurred by MPC Kinetic; and
 - (B) where the Services are for anything other than the manufacture and supply of production chemicals, 24 months from the date of the Quotation.

7.3 The Fee is quoted by MPC Kinetic, and will be paid by the Client, in the denomination specified in the Quotation. If no denomination is specified in the Quotation, the denomination will be as notified by MPC Kinetic.

7.4 The Fee excludes all applicable taxes (including GST), levies, duties, fees, bank charges or expenses assessed or levied in connection with the Client of the Services. The Client is responsible for the payment of all such taxes (including GST), levies, duties (including customs), fees, bank charges or expenses assessed or levied and, if levied on MPC Kinetic may be backcharged to the Client as part of the Fee.

8 PAYMENT

- 8.1 MPC Kinetic will provide a Tax Invoice for the relevant portion of the Fee to the Client upon completion the Services or any portion of the Services.
- 8.2 The Client will pay the amount of Tax Invoice issued by MPC Kinetic under this clause within 30 days from the date of the Tax Invoice, except where the Client disputes the Tax Invoice in which case:
- (a) the Client will pay the undisputed part of the Tax Invoice (if any) within this timeframe; and
 - (b) if the resolution of the dispute determines that the Client is to pay an amount to MPC Kinetic, the Client will pay that amount within 2 Business Days of resolution of that dispute.
- 8.3 Interest at a rate of 10% per annum will be payable by the Client in respect of any Tax Invoice which is due but unpaid.

9 LIABILITY

9.1 The Client will indemnify and hold harmless MPC Kinetic (and its Related Bodies Corporate) against the amount of any Claims (including legal costs on a full indemnity basis) which MPC Kinetic (or its Related Bodies Corporate) suffers or incurs, in respect of:

- (a) loss of, or damage to, any Goods or other property of the Client (whether owned, hired, leased or otherwise provided by the Client, including but not limited to the well itself or any facilities associated with the well) arising from, relating to or in connection with the performance or non-performance of this Contract;
- (b) personal injury, disease or illness (including mental illness) to, or death of any Client Personnel, arising from, relating to or in connection with the performance of this Contract;
- (c) personal injury, disease or illness (including mental illness) to, or death and loss of, or damage to the Goods or other property of any Third Party, but only to the extent caused by the Wilful Misconduct or Gross Negligence of the Client in the performance of this Contract.

For the purpose of this clause 9.1, any FIM is considered property of the Client.

9.2 Notwithstanding anything contained elsewhere in the Contract to the contrary, the Client will defend, indemnify and hold harmless MPC Kinetic and its Related Bodies Corporate from and against all Claims arising from or in connection with:

- (a) loss of or damage to any well or hole including, without limitation, the cost of re-drill and any associated Goods or services;
- (b) blowout, fire, explosion, cratering or any uncontrolled well condition (including the cost to control a wild well and the removal of debris);
- (c) damage to any reservoir, geological formation or underground strata or the loss of oil or gas there from;
- (d) the use of radioactive tools in relation to the Services; and
- (e) any contamination (man-made or natural) coming from beneath the rotary table or well head (as appropriate) or emanating from the Client's property or Goods, including retrieval and/or containment and clean up.

9.3 The Client will indemnify and hold harmless MPC Kinetic and its Related Bodies Corporate for loss of, or damage to, Goods or other property of MPC Kinetic, which occurs whilst in-hole, subsurface or below the rotary table. If required by MPC Kinetic, the Client will fish for in-hole Goods or other

property of MPC Kinetic and assume the entire responsibility for, and cost of, such fishing operations in the recovery or attempted recovery of any such lost or damaged Goods or other property of MPC Kinetic. If unable to be fished or fishing is not required by MPC Kinetic, the Client will reimburse MPC Kinetic all costs incurred by MPC Kinetic in relation to the full replacement or repair value of the Goods or other property of MPC Kinetic including any costs incurred by MPC Kinetic during the time the Goods or other property were unable to be used.

9.4 Notwithstanding anything expressed or implied in the Contract to the contrary MPC Kinetic will not be liable to the Client for any Consequential Loss arising out of, or in connection with this Contract.

9.5 MPC Kinetic will not be liable for any Claim by the Client unless the Client provides MPC Kinetic with written notice of the details (including the legal basis, factual basis and quantum) of the Claim within five (5) days of the time when the Client should have first become aware of the facts or circumstances giving rise to the Claim.

10 TERMINATION

10.1 Either party may terminate this Contract by written notice to other party if:

- (a) the other party commits a breach of this Contract and fails to remedy that breach within a reasonable time from receipt of a notice identifying the breach;
- (b) a party commits fraud or Wilful Misconduct; or
- (c) a party suffers an Insolvency Event.

10.2 If the Contract is terminated pursuant to clause 10.1:

- (a) irrespective of who the defaulting party is, the Client will pay the Fee owing to MPC Kinetic at the date of the termination; and
- (b) the Client is the defaulting party, the Client will pay to MPC Kinetic all costs incurred by MPC Kinetic in connection with the termination including demobilisation and orders for Goods.

10.3 Notwithstanding clause 10.1, MPC Kinetic may terminate this Contract at any time by giving the Client 30 days' notice, and upon termination, the Client will pay the Fee owing to MPC Kinetic at the date of the termination.

11 INTELLECTUAL PROPERTY

11.1 The right and title to all new Intellectual Property Rights created by MPC Kinetic under or in connection with this Contract will vest in MPC Kinetic upon creation.

11.2 MPC Kinetic provides a perpetual, worldwide, royalty-free, non-exclusive, transferable and sub-licensable licence to the Client (and any third parties to whom the Client need to grant a sub-

licence) to use and copy (but not modify, amend and enhance) all Intellectual Property Rights which were in existence at the time this Contract commenced and which are incorporated into, are necessary for the use of, or otherwise form part of the Services, and any new Intellectual Property Rights.

12 GENERAL

- (a) This Contract becomes binding once MPC Kinetic commences the performance of the Services or the Quotation is issued, whichever is the earlier.
- (b) This Contract supersedes all previous agreements about its subject matter and embodies the entire agreement between the parties.
- (c) Under no circumstances will any PO, document, requirement or information provided or issued by the Client (whether or not signed or impliedly accepted by MPC Kinetic) will form part of this Contract, unless expressly stated in the Quotation.
- (d) This Contract may only be amended by written agreement between all parties.
- (e) A right under this Contract may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.
- (f) MPC Kinetic may sub-contract, assign or novate any of its rights or obligations under the Contract without the prior written consent of the Client.
- (g) The law in effect at the Site will govern this Contract. Each party irrevocably submits to the exclusive jurisdiction of the courts of that law and courts competent to hear appeals from those courts.
- (h) The contents of this Contract and all communications, documentation and information provided by a party in connection with this Contract are considered confidential and must be kept confidential by the other party, except where disclosure is required by law or permitted by the other party.
- (i) Any dispute between the parties in connection with this Contract will be negotiated in good faith
- (j) A clause or part of a clause of this Contract that is illegal or unenforceable may be severed from this Contract and the remaining clauses or parts of the clause of this Contract continue in force.
- (k) Any notice, Tax Invoice or document given under the Contract shall be deemed to be sufficiently served, if delivered, posted (by prepaid post), faxed or emailed to a party as per the details in the Quotation or such other updated details provided by the party:
 - (i) if it is posted, on the second Business Day following the date on which it was posted,
 - (ii) if served by facsimile transmission and transmitted by facsimile out of normal

business hours (being 8:00am-5:00pm on a Business Day) the Business Day which next follows the day of transmission,

- (iii) in the case of electronic delivery, at the time shown in the delivery confirmation report generated by the sender's email system, or where a confirmation report is not generated, unless the sender receives a return notification that the email was not delivered, undeliverable or similar, at the time which is 12 hours from the time the email was sent, but if such time is outside of normal business hours, the next Business Day, and
- (iv) otherwise, any notice, Tax Invoice or document will be deemed to be received at the time of actual receipt.
- (l) Other than a Tax Invoice, all notices under this Contract must be given to, and by, the party's representative identified in the Quotation. If no representative is identified in the Quotation, all notices other than a Tax Invoice must be given to, and by the party's representative as notified (whether implied or expressly) by each party in writing from time to time.
- (m) In addition to this clause, clauses 5.2, 8, 9, 10.2, 10.3, 11, 12 and 13 will survive termination or expiry of this Contract.

13 DEFINITIONS & INTERPRETATION

13.1 In this Contract:

'Business Day' means a day that is not a Saturday or Sunday, a public holiday, nor 27, 28, 29, 30 or 31 December in any year at the Site.

'Claims' means any claim, notice, demand, debt, account, lien, liability, action, proceedings or suit under, arising out of, or in any way in connection with the Contract.

'Client' means the person receiving the Services, as identified in the Quotation or as otherwise advised by the Client (through the provision of a PO or otherwise).

'Consequential Loss' means any indirect, special or consequential losses including but not limited to business interruptions of any nature

- loss of production
- loss of product
- loss of use
- loss of opportunity
- loss of revenue or anticipated revenue
- loss of reputation
- loss of profit or anticipated profit or savings
- wasted overheads; and
- special, exemplary or punitive damages.

'Contract' means:

- (a) these 'O&G Australia & New Zealand – Services Terms and Conditions'; and

- (b) the Quotation for the Services provided to the Client; and
- (c) any documents or other information referenced in the Quotation, and in the event of an inconsistency, the order of precedence above will apply.

'Delivery Date' means the date specified in the Quotation and, if no date is specified in the Quotation, the date notified by MPC Kinetic.

'Fee' means the remuneration specified in the Quotation, as varied under clause 4.

'FIM' means any Goods free-issued by the Client to MPC Kinetic in connection with the performance of the Services.

'FX' means foreign currency exchange.

'Goods' means any goods, materials, plant, equipment, tools or other items.

'Gross Negligence' means any act or omission done or omitted to be done in which the party in question knew would involve negligence or a breach of duty and was done with deliberate or reckless disregard of its foreseeable, harmful and avoidable consequences, which is not an act or omission done or omitted to be done in good faith.

'GST' has the same meaning as in the GST Act.

'GST Act' means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) or *Goods and Services Tax Act 1985* (NZ), as applicable.

'Insolvency Event' means any of the following events:

- (a) a liquidator, receiver, receiver and manager, administrator, official manager or other controller (as defined in the *Corporations Act 2001* (Cth)) or other equivalent legislation, trustee or controlling trustee or similar official is appointed over any of the property or undertaking of the party;
- (b) the party or the party's property or undertaking becomes subject to a personal insolvency arrangement under part X *Bankruptcy Act 1966* (Cth) or equivalent legislation or a debt agreement under part IX *Bankruptcy Act 1966* (Cth);
- (c) the party is, or becomes unable to, pay its debts when they are due or is or becomes unable to pay its debts within the meaning of the *Corporations Act 2001* (Cth) or equivalent legislation, or is presumed to be insolvent under the *Corporations Act 2001* (Cth) or equivalent legislation;
- (d) the party ceases to carry on business; or
- (e) an application or order is made for the liquidation of the party or a resolution is passed or any steps are taken to liquidate or pass a resolution for the liquidation of the

party, otherwise than for the purpose of an amalgamation or reconstruction.

'Intellectual Property Rights' means any invention, patent, trade mark, copyright, industrial design or process of manufacture or similar.

'MPC Kinetic' means the Client entity identified as such in the Quotation.

'Personnel' means any employees, directors, officers, agents or contractors of a party.

'PO' means a 'Purchase Order' or other similar document issued by the Client.

'Quotation' means the 'Quotation' or other document providing the details of the Fee and/or scope of Services and other related terms and conditions issued to the Client.

'Related Body Corporate' has the same meaning as in the *Corporations Act 2001* (Cth).

'Site' means the place where the Services are to be performed. If there are multiple Services to be performed, the nearest capital city to the majority of the Services.

'Services' means any services specified in the Quotation or any services otherwise required by the Client, including the supply of any Goods.

'Tax Invoice' has the same meaning as in the GST Act.

'Term' means the period between the date the Quotation is signed or the Services are commenced (whichever is the earlier) and the expiry of each party's obligations under or in connection with this Contract.

'Third Party' means any person who is not a party to this Contract, excluding Personnel of a party.

'Wilful Misconduct' means any deliberate act or omission which is known by the party in question to be wrongful, or any deliberate act or failure to act in relation to which the person shows a reckless disregard, or is wantonly indifferent, as to whether it is wrongful or what its harmful consequences might be.

13.2 In this Contract, unless the context indicates otherwise:

- (a) a singular word includes the plural and vice versa;
- (b) 'includes' in any form is not a word of limitation;
- (c) a reference to a party to this Contract or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns; and
- (d) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it.