

1. PROVISION OF SERVICES AND/OR SUPPLY OF GOODS

- 1.1 The Supplier agrees to perform the Services and/or supply the Goods in accordance with the terms of this Purchase Order and in consideration of payment of the Price by HBS (PNG) Ltd.
- 1.2 This Purchase Order contains the entire agreement between HBS (PNG) Ltd and the Supplier with respect to its subject matter and supersedes all prior agreements, memoranda of understanding, representations, warranties, promises, statements, negotiations and letters in respect of its subject matter.
- 1.3 The Supplier's terms and conditions, or proposal or quotation for the performance of the Services and/or supply of the Goods shall have no validity and will not constitute part of this Purchase Order.
- 1.4 Where this Purchase Order relates to Services the subject of a Master Services Agreement between the Supplier and HBS (PNG) Ltd, the terms of the Master Services Agreement shall apply to the extent of any inconsistency with the Purchase Order.
- 1.5 This Purchase Order does not prevent HBS (PNG) Ltd from entering into arrangements or agreements with third parties for the provision of services or the delivery of goods equivalent or similar to the Services or Goods.

2. WARRANTIES

- 2.1 The Supplier warrants that, in performing the Services and/or supplying the Goods it will:
 - (a) do so and, procure that its Personnel do so, with due care and skill and safely so as to protect persons and property and comply with the Safety Management Plan;
 - (b) comply with all applicable Laws and ensure neither it nor its Personnel cause HBS (PNG) Ltd to be in breach of any laws;
 - (c) comply with and ensure its Personnel comply with all directions from HBS (PNG) Ltd, HBS (PNG) Ltd's Representative or any person authorised by Law to give directions; and
 - (d) provide all reasonable assistance to HBS (PNG) Ltd or its Representative undertaking any safety audit or inspection of the Supplier's work practices and compliance with applicable laws and the Safety Management Plan.
- 2.2 The Supplier warrants that in respect of the Goods:
 - (a) the Goods delivered to HBS (PNG) Ltd conform with the description provided by the Supplier, any applicable specifications agreed with HBS (PNG) Ltd and any sample provided by or on behalf of the Supplier;
 - (b) the Goods are of merchantable quality and are fit and safe for the purpose for which they are sold;
 - (c) the Goods are free from defects in material, workmanship and design;
 - (d) the Goods are new (unless otherwise specified);
 - (e) it will obtain at its cost all usual manufacturer's warranties with respect to the Goods and will assign the benefit of these warranties to HBS (PNG) Ltd (and provide copies of these warranties to HBS (PNG) Ltd with its Invoice); and
 - (f) the Supplier has good and marketable title to the Goods and HBS (PNG) Ltd will receive title to the Goods free from all liens and encumbrances.

3. DELIVERY OF GOODS

- 3.1 The Supplier, at its expense, must deliver the Goods to the Delivery Address on or before the Delivery Date and unless stated otherwise in the Purchase Order, unload the Goods at the location directed by HBS (PNG) Ltd's Representative.
- 3.2 The Supplier must ensure the Goods are suitably packed to prevent damage and deterioration in transit and storage.
- 3.3 Packages must be accompanied with a delivery docket securely attached to the packaging and must include the Purchase Order number, the order item number, the Supplier's details (including name and contact number), the Delivery Address, the contents, quantity, date of dispatch and weight of each package.
- 3.4 All Goods which are dangerous must be transported, packaged, marked/labelled and unloaded in accordance with PNG law and the Goods must be accompanied with relevant Safety Data Sheets

4. TITLE AND RISK

- 4.1 Title in each Good passes to HBS (PNG) Ltd upon payment of the Price.
- 4.2 Risk in the Goods passes to HBS (PNG) Ltd when the Goods are delivered to the Delivery Address and accepted by HBS (PNG) Ltd's Representative.

5. INSPECTION

- 5.1 The Supplier agrees that HBS (PNG) Ltd and its agents have the right to inspect and test any of the Goods at any time to determine whether the Goods are in accordance with and are to the standard provided for in the Purchase Order.
- 5.2 At all times the Supplier and its Personnel must provide HBS (PNG) Ltd and its agents with all necessary assistance and access to the Goods wherever they are located (including at the Delivery Address, in storage or in the course of manufacture) to enable HBS (PNG) Ltd and its agents to inspect and test the Goods. Any such inspection shall not relieve the Supplier of any obligations contained in the Purchase Order or at law.
- 5.3 The Supplier must conduct tests of the Goods or parts of the Goods in accordance with the Purchase Order and otherwise as required in accordance with relevant standards set by the Australian Standards Association and any applicable industry codes, or in the absence of such standards or codes, in accordance with generally accepted practices.

6. DEFECTIVE GOODS AND NON-COMPLIANT SERVICES

- 6.1 If in the reasonable opinion of HBS (PNG) Ltd the Goods or any parts of the Goods do not conform to the Purchase Order HBS (PNG) Ltd or its Representative will notify the Supplier that the Goods are defective and:
 - (a) where the Goods have yet to be delivered to the Delivery Address, HBS (PNG) Ltd may at its option:
 - (i) reject the Goods and terminate the Purchase Order and HBS (PNG) Ltd shall be under no liability to pay for the Goods; or
 - (ii) require the Supplier to do all such things, at the Supplier's sole cost, as is necessary to ensure the Goods conform to the Purchase Order and HBS (PNG) Ltd shall be under no liability to pay for the Goods until HBS (PNG) Ltd, in its sole discretion (but acting reasonably) accepts the Goods; and

- (b) where the Goods have been delivered to the Delivery Address, HBS (PNG) Ltd may at its option:
 - (i) reject the Goods and terminate the Purchase Order;
 - (ii) reject the Goods and return them to the Supplier's premises at the Supplier's sole risk and recover the costs incurred by HBS (PNG) Ltd in returning such Goods from the Supplier as a debt due;
 - (iii) reject the Goods and require the Supplier to remove the Goods from the Delivery Address or wherever they are located within a stated timeframe at the Supplier's sole cost and if the Supplier fails to remove the Goods within such time frame HBS (PNG) Ltd will be entitled to:
 - (A) store the Goods and recover the storage costs as a debt due from the Supplier; or
 - (B) sell the Goods and forward the proceeds of receipt, after deducting HBS (PNG) Ltd's costs in effecting such sale, to the Supplier.

- 6.2 Any payment by HBS (PNG) Ltd for Goods shall not prejudice its rights to reject Goods on the terms of this Purchase Order.
- 6.3 If the Services do not comply in all respects with the requirements of this Purchase Order, HBS (PNG) Ltd may by notice in writing require the Supplier to take such steps as are necessary to ensure that the Services comply, and the Supplier agrees that no payment will be made to the Supplier by HBS (PNG) Ltd for any work done to make good the non-compliance.
- 6.4 If the Supplier fails to take steps necessary to ensure that the Services comply with this Purchase Order in accordance with clause 6.3 within a reasonable period after receipt of a written notice, HBS (PNG) Ltd may make good the Services which do not comply with this Purchase Order. Any costs incurred by HBS (PNG) Ltd in making good any Services which do not comply with this Purchase Order will be a debt due and payable by the Supplier to HBS (PNG) Ltd.
- 6.5 The rights of HBS (PNG) Ltd under this clause do not in any way change or affect the Supplier's obligations under this Purchase Order or affect the rights of HBS (PNG) Ltd to claim for any damage or loss HBS (PNG) Ltd may suffer because of the Supplier's failure to fulfil its obligations under this Purchase Order.

7. DEFECTS LIABILITY

- 7.1 If during the Defects Liability Period any of the Goods or Services are found to be Defective, HBS (PNG) Ltd may, at its option:
 - (a) return the Defective Goods to the Supplier and the Supplier shall reimburse HBS (PNG) Ltd any Price and GST paid by HBS (PNG) Ltd with respect to such Goods and the reasonable costs incurred by HBS (PNG) Ltd in returning such Goods;
 - (b) require the Supplier to, at its sole cost, repair or replace the Defective Goods within such time frame as reasonably specified by HBS (PNG) Ltd and, if the Supplier fails to do so within the required time frame HBS (PNG) Ltd may instead make the election referred to in clauses 7.1(a) or 7.1(c) in respect of such Goods; or

- (c) repair or make good the Defective Goods and recover from the Supplier as a debt due the reasonable costs incurred by HBS (PNG) Ltd in doing so.

8. TIME FOR PERFORMANCE

- 8.1 The Supplier must perform the Services and deliver the Goods by the Delivery Date.
- 8.2 Time is of the essence insofar as it applies to the obligations of the Supplier and if any Goods are not delivered by the Delivery Date, HBS (PNG) Ltd may:
 - (a) refuse to accept such Goods and terminate the Purchase Order and recover as a debt due from the Supplier any reasonable costs incurred by HBS (PNG) Ltd in returning Goods which are delivered after the Delivery Date; or
 - (b) cause the Supplier to deliver the Goods by the most expeditious means at the Supplier's sole cost.

9. TERM

The Purchase Order will commence on the earlier of the acknowledgement of receipt of the Purchase Order by the Supplier or the date the Supplier commences to supply the Goods or perform the Services, and will remain in force, unless terminated earlier in accordance with its terms, until the completion by the Supplier of all of its obligations under the Purchase Order (**Term**).

10. PRICE AND PAYMENT TERMS

- 10.1 The Price is inclusive of all expenses in relation to the performance of the Services and/or provision of the Goods, including without limitation, travel and transit expenses, packaging, insurance and all taxes (but excluding GST).
- 10.2 The Price is not subject to rise and fall and is payable in the currency displayed on the official HBS purchase order.
- 10.3 Upon delivery of the Goods and/or upon completion of the Services and/or at such other times as set out in the Purchase Order the Supplier must provide an Invoice to HBS (PNG) Ltd at the address set out in the Purchase Order or, otherwise notified in writing to the Supplier, and the Invoice must include:
 - (a) the Purchase Order number;
 - (b) where the Purchase Order relates to the provision of Goods, a description of the Goods supplied, the quantity of Goods and units of measure and Price consistent with the Purchase Order;
 - (c) where the Purchase Order relates to Services, a description of the Services and the Price consistent with the Purchase Order and where the Price is calculated on the basis of time worked, the Invoice must be accompanied by time sheets detailing the hours worked by the Supplier or its Personnel relevant to the calculation of the Price.
- 10.4 If requested by HBS (PNG) Ltd within 7 days of receipt of the Invoice the Supplier will submit such further information reasonably necessary to substantiate the Invoice or any part thereof.
- 10.5 If HBS (PNG) Ltd disputes the amount of an Invoice HBS (PNG) Ltd will pay the undisputed part of the relevant Invoice and dispute the balance and, if the resolution of the dispute determines that HBS (PNG) Ltd is to pay an amount to the Supplier, HBS (PNG) Ltd will pay that amount upon resolution of the dispute.
- 10.6 HBS (PNG) Ltd will pay the invoiced amount by electronic funds transfer (EFT) to the bank account nominated by the Supplier in the relevant Invoice within the period specified on the Purchase Order or, if no period is specified, then

within 30 days from the end of the month in which the Invoice is submitted.

- 10.7 HBS (PNG) Ltd reserves the right to set off any amount owing under any Purchase Order against any amount due from the Supplier to HBS (PNG) Ltd for any reason whatsoever.

11. GST AND TAXES

- 11.1 If the Supplier is or becomes liable to pay GST in connection with a taxable supply under this Purchase Order the Supplier may recover from HBS (PNG) Ltd, in addition to the Price, an amount equal to the GST payable in respect of that taxable supply subject to the Supplier delivering an Invoice to HBS (PNG) Ltd.
- 11.2 If HBS (PNG) Ltd is or becomes liable to pay GST in connection with a taxable supply under this Purchase Order HBS (PNG) Ltd may recover from the Supplier an amount equal to the GST payable in respect of that taxable supply subject to HBS (PNG) Ltd delivering an Invoice to HBS (PNG) Ltd.

12. LIABILITY AND INDEMNITY

- 12.1 Subject to clause 12.2, the Supplier must indemnify HBS (PNG) Ltd (and its Related Persons) against the amount of any Claims which HBS (PNG) Ltd suffers or incurs in respect of loss of, or damage to, or loss of use of, any real or personal property, or the personal injury, disease or illness to, or death of, any person, caused by or in connection with the performance of this Purchase Order by the Supplier or its Personnel.
- 12.2 The indemnity in clause 12.1 does not apply to the extent that a Claim is caused by the wilful or negligent act or omission of HBS (PNG) Ltd or its Related Persons.
- 12.3 Under no circumstances will either party be liable to the other for any indirect or consequential loss which shall include, without limitation, loss of actual or anticipated profits or revenues, loss of goodwill, loss of business reputation, loss of opportunity or damage to credit rating except to the extent that such amounts are incurred by gross negligence, wilful misconduct, fraud, dishonesty or criminal acts or omissions of the Supplier or its Personnel.

13. INSURANCE

- 13.1 The Supplier must take out and maintain the following insurances:
- public and products liability insurance for the Term with a limit of indemnity for each and every occurrence of not less than PGK 20 Million;
 - workers compensation and employers' liability insurance for the Term as required by law;
 - if the Purchase Order requires the Supplier to transport Goods to or from the Delivery Address, insurance covering loss of or damage to the Goods during transit regardless of whether HBS (PNG) Ltd has paid for those Goods;
 - if the Purchase Order requires the Supplier to provide professional advice or services, professional indemnity insurance for the Term and for a period of 6 years following expiry of the Term with a limit of indemnity up to PNGK\$10,000,000 in aggregate; and
 - if the Purchase Order requires the Supplier to provide services which involves its Personnel using or providing for use, motor vehicles, mobile plant or mechanically propelled vehicles, third party liability insurance covering all liabilities in respect of any injury to, or death of, any person or any

loss, damage or destruction to any property arising from the use of such motor vehicles (collectively referred to as the "Insurances").

- 13.2 The Supplier must ensure that its subcontractors are insured as required by clause 13.1 as if they were the Supplier as is appropriate (including with respect to limits) given the work or services to be provided by each subcontractors.
- 13.3 The Insurances must be taken out with a reputable insurer and on terms approved by HBS (PNG) Ltd (whose approval must not be unreasonably withheld) and the Supplier must provide HBS (PNG) Ltd with certified copies of all certificates of currency and certificates of insurance upon request.

14. CONFIDENTIALITY

- 14.1 The Supplier must keep, and procure that its Personnel keep, confidential all information relating to the provision of the Goods and/or Services (including the Price but not including information that is, or subsequently becomes, in the public domain other than as a result of a breach of this clause or any other obligation of confidence imposed on the Supplier) except to the extent disclosure is:
- permitted in writing by HBS (PNG) Ltd;
 - strictly and necessarily required for the performance of the Supplier's obligations under the Purchase Order;
 - required by law or any authority or regulatory body; or
 - to the Supplier's legal or other professional advisers for the purposes of obtaining professional advice and provided such advisers are already under a legal obligation of confidentiality by reason of their profession;
- 14.2 In the event that the Supplier performs services which relate to or require the collection, handling, processing or analysis of personal information (as that term is defined in the PNG *Privacy Act*) then the Supplier will comply with the national privacy principles as set out in that Act.

15. INTELLECTUAL PROPERTY AND MORAL RIGHTS

- 15.1 The Supplier warrants that the supply of the Goods and/or provision of the Services and any use of them by HBS (PNG) Ltd or any Related Person for any purpose, will not infringe the Intellectual Property Rights of any third party or otherwise breach any law or obligation to any third party.
- 15.2 The Supplier will indemnify and hold harmless HBS (PNG) Ltd and its Related Persons in respect of any liability incurred or sustained by HBS (PNG) Ltd and/or its Related Persons resulting from any actual or alleged infringement of any Intellectual Property Rights of any third party arising out of or caused by the supply of the Goods and/or provision of the Services and any use of them by HBS (PNG) Ltd or any Related Person.
- 15.3 The Supplier agrees, and will procure that its Personnel agree, that:
- copyright and property in any intellectual property created by the Supplier and/or HBS (PNG) Ltd pursuant to the performance of the Services under this Purchase Order vest in HBS (PNG) Ltd and the Supplier will do everything necessary to perfect such vesting;
 - it will do everything required to be done to give HBS (PNG) Ltd, or HBS (PNG) Ltd's nominee, full legal ownership of the Intellectual Property Rights in any work created pursuant to the performance of the Services under this Agreement or to protect

those rights and the Supplier will not be entitled to any assignment fee or similar payment.

- 15.4 HBS (PNG) Ltd grants to the Supplier a revocable licence to use the intellectual property referred to in clause 15.3(a) for the purpose of performing the Services.
- 15.5 The Supplier consents, and will procure that its Personnel consent, to HBS (PNG) Ltd and all persons authorised by HBS (PNG) Ltd, doing any acts or omissions which would otherwise infringe their moral rights which the Supplier or their Personnel may have in any intellectual property created or developed by the Supplier or their Personnel in the course of, or substantially in the course of, providing the Services or while using facilities, resources or funding provided by HBS (PNG) Ltd or its related bodies corporate or joint venture partners.

16. TERMINATION

- 16.1 HBS (PNG) Ltd may terminate the Purchase Order or any part of it at any time for its own convenience, and without being required to assign any reason for such termination, by giving the Supplier 14 days' written notice.
- 16.2 HBS (PNG) Ltd may, without prejudice to any of its other rights or remedies, immediately terminate a Purchase Order by written notice to the Supplier if:
- (a) the Supplier breaches any of the terms of this Purchase Order and the breach is incapable of remedy or the Supplier fails to remedy the breach within 7 days of receiving written notice from HBS (PNG) Ltd that it is required to do so;
 - (b) an Insolvency Event happens in relation to the Supplier;
 - (c) the Supplier is or becomes incompetent in the performance of the Services (in HBS (PNG) Ltd's reasonable opinion); or
 - (d) the Supplier fails to supply the Goods and/or to carry out the Services in a timely and professional manner.
- 16.3 If HBS (PNG) Ltd terminates the Purchase Order under clauses 16.1 or 16.2:
- (a) the Supplier waives any Claim for damages or lost profits; and
 - (b) HBS (PNG) Ltd will pay the Supplier for the Services performed or Goods accepted by HBS (PNG) Ltd prior to the termination which have not been previously paid for.
- 16.4 If HBS (PNG) Ltd terminates the Purchase Order under clause 16.2 and the Purchase Order relates to Goods manufactured or fabricated to HBS (PNG) Ltd's specifications or specifications prepared by the Supplier for HBS (PNG) Ltd, then:
- (a) upon receipt of the termination notice the Supplier shall immediately cease manufacture of the Goods and shall immediately do everything necessary to mitigate any costs or losses due to the termination;
 - (b) provided that the Supplier is not in Default HBS (PNG) Ltd shall reimburse the Supplier, upon receipt of relevant Invoices, the reasonable cost (but not exceeding the Price) incurred by the Supplier in connection with the Purchase Order prior to the date of the termination notice; and
 - (c) upon payment being made by HBS (PNG) Ltd pursuant to clause 16.4(b), title to and property in any material or incomplete Goods shall pass to HBS (PNG) Ltd and such material or incomplete Goods shall be delivered to HBS (PNG) Ltd upon HBS (PNG) Ltd's written request.

- 16.5 Notwithstanding termination of this Purchase Order the obligations of the Supplier under this Purchase Order that are capable of surviving the termination of this Purchase Order or remain unfulfilled, including the provisions relating to confidentiality, intellectual property, indemnity and governing law will survive the termination of this Purchase Order until each of those obligations have been completely discharged.

17. SUBCONTRACTING AND ASSIGNMENT

- 17.1 The Supplier may not assign its rights or obligations under this Purchase Order or sub-contract any work to be performed pursuant to this Purchase Order without the prior written consent of HBS (PNG) Ltd.
- 17.2 Approval to subcontract shall not relieve the Supplier from any liability or obligation under this Purchase Order and the Supplier is liable and responsible for the acts or omissions of its subcontractors as if they were acts or omissions of the Supplier.

18. NO WAIVER

Failure or omission by HBS (PNG) Ltd at any time to enforce or require strict or timely compliance with any provision of this Purchase Order will not affect or impair that provision, or the right of HBS (PNG) Ltd to avail it of the remedies it may have in respect of any breach of a provision, in any way.

19. FURTHER ASSURANCES

Each party shall do all things necessary to give this Purchase Order its intended effect.

20. SEVERABILITY

Any provision of this Purchase Order which is or becomes illegal, void or unenforceable will be ineffective to the extent only of such illegality, voidness or unenforceability and will not invalidate the remaining provisions.

21. VARIATION

This Purchase Order may not be changed or modified in any way after it has been issued except in writing signed by or on behalf of all the Parties.

22. COSTS

Except as otherwise provided, each party shall pay its own costs and expenses incurred in connection with this Purchase Order.

23. GOVERNING LAW

This Purchase Order is governed by, takes effect and will be construed in accordance with the laws of PNG, and the parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of PNG and all courts competent to hear appeals from those courts.

24. DEFINITIONS AND INTERPRETATION

In this Purchase Order (unless the context otherwise requires):

"Claim" means a demand, claim, action, proceeding or prosecution made or brought by a person, however arising and whether present, unascertained, immediate, future or contingent.

"Default" means any of the circumstances set out in clause 16.2 have occurred.

"Defects Liability Period" means the period specified in the Purchase Order, or if no such period is specified the period of 12 months after the date the Goods are delivered to the Delivery Address and accepted by HBS (PNG) Ltd.

"Delivery Date" means the date specified in the Purchase Order, or if no such date is specified the date 30 Business Days after the date of this Purchase Order.

"Delivery Address" means the place specified in the Purchase Order or as otherwise advised in writing by HBS (PNG) Ltd or its Representative to the Supplier.

“Goods” means the goods or products referred to in the Purchase Order (and includes all raw materials, processed materials or fabricated products).

“Insolvency Event” means, in respect of a party, that it:

- (a) has a controller appoint to any part of its property;
- (b) is in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration or wound up or has had a receiver or a receiver and manager appointed to any part of its property;
- (c) is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other party to this Purchase Order);

“Intellectual Property Rights” means any and all beneficial and legal ownership and intellectual and industrial protection rights throughout the world, both present and future, including rights in respect of or in connection with any confidential information, copyright (including future copyright and rights in the nature of or analogous to copyright), moral rights, inventions (including patents, trademarks, service marks, designs, circuit layouts and performance protection) whether or not now existing and whether or not registered or registrable, whether or not patented or patentable, or capable of protection under copyright laws and includes any right to apply for the registration of such right and all renewals and extensions.

“Personnel” means an officer, employee, agent, contractor, any subcontractor or professional adviser of a party (or of its related bodies corporate) except that when referring to HBS (PNG) Ltd does not include the Supplier.

“Price” means the price set out in the Purchase Order.

“Purchase Order” means the Purchase Order and these Purchase Order General Conditions for Services and/or Goods.

“Related Persons” means for a party, the Personnel and related bodies corporate of that party and in respect of HBS (PNG) Ltd, it includes its joint venture partners.

“Safety Management Plan” means the Principal’s safety management plan for the site (being the Delivery Address or the area or location specified in the Purchase Order for performance of the Services) as in force from time to time.

“Services” means all obligations, duties and responsibilities of the Supplier under this Purchase Order and which are generally described in the Purchase Order and includes any incidental work or supplies that can be reasonably inferred as necessary or appropriate.

“HBS (PNG) Ltd’s Representative” means the person specified in the Purchase Order or otherwise notified in writing to the Supplier from time to time.

25. INTERPRETATION

In this Purchase Order (unless the context otherwise requires):

- (a) the singular includes the plural and vice-versa;
- (b) the words 'include' and 'including' are to be construed without limitation;
- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) headings do not affect the interpretation of this Purchase Order;
- (e) a reference to:
 - (i) any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinated

- (ii) legislation issued or made under, that legislation or legislative provision;
- (ii) a document or agreement includes a reference to that document or agreement as novated, altered or replaced from time to time;
- (f) natural persons includes partnerships, bodies corporate, unincorporated associations and authorities;
- (g) any party includes that party's executors, administrators, substitutes, successors and permitted assigns;
- (h) if the Supplier comprises two or more entities, then the Purchase Order will:
 - (i) bind each of those entities jointly and severally; and
 - (ii) benefit those entities jointly.