



BELLEVUE GOLD

Purchase Order - Standard Terms and Conditions

1 Definitions

1.1 In this Agreement unless the contrary intention appears:

Agreement means the agreement between the Principal and the Supplier comprised of the Purchase Order, these Purchase Order - Standard Terms and Conditions and all other documents annexed to this document or specifically incorporated by reference (which in the event of any inconsistency, are to be construed in this order).

Background IP means the Intellectual Property Rights of the Supplier or Principal (as applicable) which:

- (a) are in existence prior to or at the date of the Purchase Order; or
- (b) come into existence after the date of this Agreement otherwise than in connection with this Agreement.

Business Day means any day other than a Saturday, Sunday or public holiday in Perth, Western Australia.

Confidential Information means the terms of this Agreement and all commercial, technical and other information in any form whatsoever in the possession or knowledge of a Party which is disclosed to the other Party at any time in connection with this Agreement, or any other information that is confidential in nature, including any information of that sort which is provided verbally to a Party by any Personnel of the other Party and includes any information in relation to the Bellevue Gold Project, the Group or the Principal received or obtained by the Supplier in the course of providing the supply of the Goods and/or Services.

Conflict of Interest means a conflict of interest between the Principal or its Personnel, and the Supplier or its Personnel, whether that conflict of interest is perceived or actual.

Defective Goods and/or Services means Goods and/or Services which are not in conformity with this Agreement, or are of inferior quality or workmanship.

Delivery Date means (where relevant) the date the Goods must be delivered or the Services must be completed by the Supplier as specified in the Scope of Work.

Delivery Term means the terms of delivery (where relevant) as set out in the Scope of Work.

End Date means the date on which the Goods and/or Services have been delivered and commissioned or the Supplier has demobilised all of its Personnel and Equipment from Site as required under this Agreement (as applicable).

Equipment means the plant, equipment, tools, machinery, vehicles, appliances, items, consumables and other property supplied by the Supplier for the purpose of supplying and performing the Goods and/or Services.

Excluded Loss means:

- (a) loss of income, loss of revenue, profit or anticipated profit, loss of production, loss or denial of business opportunity, loss of access to markets, loss of goodwill, loss of business reputation, future reputation or publicity, damage to credit rating, cost of capital, loss of use and loss of interest; or
- (b) indirect, consequential or special damages or losses, suffered by the other Party, however arising due to any causes including but not limited to the default or negligence of a Party or its representatives and whether or not foreseeable at the date of this Agreement.

Fees means the fees payable for the Goods and/or Services as set out in the Purchase Order.

Force Majeure Event means any event or circumstance, or combination of events and/or circumstances, that:

- (a) causes or results in the prevention or delay of a Party from performing any of its obligations under this Agreement; and
- (b) is beyond the reasonable control of that Party and could not, or the effects of that event or circumstance, or that combination of events and/or circumstances, could not, have been prevented, delayed, overcome or remedied by that Party acting reasonably,

provided that the occurrence of the following acts, events or circumstances will not constitute a Force Majeure Event:

- (c) financial hardship or the inability of a Party (or its Related Bodies Corporate) to make a profit or achieve a satisfactory rate of return resulting from performance or failure to perform its obligations under this Agreement;
- (d) any occurrence which results from the wrongful act or omission of the affected Party or the failure by the affected party to act in a prudent and proper manner and in accordance with good and accepted industry practices;
- (e) any failure by the affected Party to reach agreement with any third party necessary to enable the affected Party to perform its obligations under this Agreement; or
- (f) industrial action of the Supplier's Personnel, except industrial action of an industry wide nature.

Good Industry Practice means the practices, methods and acts engaged in or approved by an organisation who, in the conduct of its undertaking, exercises that degree of diligence, prudence and foresight reasonably and ordinarily exercised by skilled and experienced professional contractors engaged in the same type of undertaking under the same or similar circumstances and conditions and in accordance with generally accepted industry and professional standards and practices.

Goods and/or Services means all goods to be supplied and/or services to be performed by the Supplier in accordance with this Agreement including:

- (a) all goods and/or services set out in any applicable Purchase Order including any items to be supplied by the Supplier in the performance of the Services;
- (b) other services, functions, responsibilities and obligations that this Agreement provides that the Supplier has or will perform; and
- (c) all responsibilities and functions not specifically described in this Agreement but which are incidental to, or otherwise necessary for the Supplier to provide the Goods and/or Services under this Agreement.

Group means Bellevue Gold Limited (ACN 110 439 686) and its Related Bodies Corporate.

Group Member means a member of the Group.

GST has the same meaning as in the GST Law.

GST Law means has the meaning given in section 195-1 of *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Insolvency and Insolvent has the meaning given to it in the *Corporations Act 2001* (Cth).

Intellectual Property Rights and **Intellectual Property** means all intellectual property rights (present or future) created, discovered or coming into existence as a result of, for the purpose of or in connection with the provision of any Goods and/or Services or this Agreement (including without limitation all intellectual property rights developed by the Supplier in providing the Goods and/or Services).

Law means:

- (a) any Act of Parliament in any Australian jurisdiction (including the Commonwealth) for the time being in force and all proclamations, regulations, by-laws, orders, notices, rules of court, town planning schemes, resolutions or other instruments made under any or by the authority of any such Act of Parliament or written law and having legislative effect; and
- (b) all licences, qualifications, registrations and other statutory requirements necessary for the supply of the Goods and/or performance of Services under this Agreement.

Modern Slavery is as defined in the *Modern Slavery Act 2018* (Cth).

Party means the Supplier or the Principal and **Parties** means both of them.

Personal Information means any information relating to an identified or identifiable natural person.

Personnel means:

- (a) in relation to the Principal, all employees, representatives, directors, officers, agents, advisers, labour hire workers, suppliers and sub-contractors of the Principal or any Related Body Corporate of the Principal (excluding the Supplier and any of the Supplier's Personnel), any of their respective past or present officers, employees, agents or representatives; and
- (b) in relation to the Supplier, any of its directors, officers, employees, suppliers, Subcontractors, their subcontractors, agents and representatives involved either directly or indirectly in the provision of the Goods and/or Services.

Principal means Bellevue Gold Limited (ACN 110 439 686) or its Related Body Corporate specified on the Purchase Order.

Principal's Policies and Procedures means the Principal's policies, standards, procedures and rules of conduct and operation applicable to the Services or the Site and includes the Site Safety Rules, as updated from time to time and notified or provided to the Supplier.

Principal's Property means any plant, equipment, tools, appliances or other property and items that the Principal provides to the Supplier to enable it to perform its obligations under this Agreement.

Principal's Representative means the person appointed by the Principal to act on its behalf in relation to this Agreement as notified to the Supplier.

Purchase Order means the document entitled 'Purchase Order' issued by the Principal to the Supplier for the supply of Goods and/or Services in accordance with this Agreement and includes any schedules attached.

Registered Mine Manager means the person appointed from time to time as the registered mine manager at the Site for the purposes of section 33 of the *Mines Safety and Inspection Act 1994* (WA).

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

Sanctioned Country or Territory means any country or territory against which comprehensive sanctions are imposed by the United States, the United Kingdom, the United Nations, the European Union, any European Union member states, Australia, Switzerland or any other country with jurisdiction over the activities in connection with this Agreement, and currently includes Cuba, Iran, North Korea, South Sudan, Syria and the Crimea.

Sanctioned Party means any person or entity or vessel that is listed on, or owned, or controlled by a person (including an entity that is 50% or more controlled or owned, directly or indirectly by a Restricted Party) listed on the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Treasury Department's Office of Foreign Assets Control or any similar restricted party or sanctions list maintained by the United States, the United Kingdom, the United Nations and the European Union, Australia, Canada or any other relevant government.

Scope of Work means the scope of the Services to be performed or the Goods to be supplied as specified in the Purchase Order.

Site means the Principal's Bellevue Gold Project site or other location specified in the Purchase Order or the location where the Services are performed.

Site Safety Rules means the Principal's rules in respect of health and safety, accommodation, drug and alcohol use, fire prevention, security, emergencies at the Project and other matters, as in force from time to time.

Subcontractor means any person engaged by the Supplier to perform all or any portion of the Services or supply under this Agreement on behalf of the Supplier, and includes their employees, agents, consultants and invitees;

Supplier means the person, firm or company named in the Purchase Order as the supplier of Goods and/or Services.

Supplier's Representative means the person appointed by the Supplier to act on its behalf in relation to this Agreement as notified to the Principal.

Purchase Order – Standard Terms and Conditions

Tax Invoice has the same meaning as in the GST Law.

Term means the period from the date of the Purchase Order until the End Date (unless extended by the agreement of the Parties).

Variation means any addition, reduction or change to the Scope of Work.

Variation Proposal means a written proposal provided by the Supplier addressing the particulars of any Variation.

Warranty Period means 12 months after the End Date, unless stated otherwise in the Purchase Order.

WHS Legislation means all relevant Laws relating to health and safety, including the *Mines Safety and Inspection Act 1994 (WA)*, the *Occupational Safety and Health Act 1984 (WA)* and any other applicable legislation relating to health and safety on the Site, and all relevant health and safety regulations, codes of practice of safety standards made pursuant to those Acts or any other legislation dealing with workplace health and safety that may apply from time to time.

2 Nature of Agreement

2.1 In consideration for the payment of the Fees, the Supplier agrees to diligently commence the supply of the Goods and/or performance of the Services from the date of execution of the Purchase Order to ensure it supplies the Goods to the Site and/or completes the Services:

- (a) by the Delivery Date (as applicable);
- (b) in accordance with the Delivery Term (as applicable); and
- (c) in accordance with the terms of this Agreement.

2.2 The Agreement does not confer upon the Supplier any exclusivity in respect of any Goods and/or Services at the Site or otherwise and does not oblige the Principal to procure any minimum level of Goods and/or Services from the Supplier.

2.3 The Supplier agrees to notify the Principal if it finds any errors, omissions or inconsistencies in information provided by the Principal. Except as prescribed by Legislation, the Principal gives no representation or warranty of accuracy, sufficiency or otherwise in relation to information provided to the Supplier and disclaims all responsibility for such information.

2.4 Any of the Supplier's terms and conditions supplied to the Principal in respect of the Goods and/or Services, are of no legal effect and will not constitute part of this Agreement.

3 Representations and Warranties

3.1 The Supplier represents and warrants that:

- (a) all information and communications it provides in connection with the performance of this Agreement are complete and accurate;
- (b) the Goods and/or Services will:
 - (i) be provided in an efficient manner and will match the description and specification in this Agreement;
 - (ii) be supplied in accordance with Good Industry Practice; and
 - (iii) comply with all applicable Legislation;
- (c) all Goods supplied will be:
 - (i) of merchantable quality, free of defects and fit for the purpose set out in the Agreement;
 - (ii) manufactured strictly in accordance with any manufacturing drawings, Scope of Work or descriptions supplied to the Supplier by the Principal; and
 - (iii) free from any encumbrance, lien, mortgage, security or charge in favour of a third party or any other third party interest, from the time of delivery to the Principal;
- (d) where Goods are procured from a third party, the Supplier will obtain all manufacturer's warranties that may be applicable to those Goods for the benefit of the Principal; and
- (e) all Equipment used by the Supplier in the supply of the Goods and/or Services will be maintained in safe working condition, complies with all Laws applicable to such Equipment, and is maintained and operated by suitably qualified and competent Personnel.

3.2 If the Supplier breaches clause 3.1, the Principal may, in its sole discretion:

- (a) instruct the Supplier to suspend performance of this Agreement immediately;
- (b) instruct the Supplier to leave the Site immediately;
- (c) instruct the Supplier to remove any or all of its Equipment from the Site immediately;
- (d) terminate this Agreement; and/or
- (e) claim damages from the Supplier.

3.3 These warranties remain unaffected notwithstanding any information which the Principal provides to the Supplier.

4 Site Access and Safety

4.1 The Principal grants to the Supplier a non-exclusive and non-assignable licence to access the Site during the Term to perform its obligations under this Agreement.

4.2 The Supplier must obtain all applicable permits, licences, exemptions, consents and approvals required for the Supplier to perform the Goods and/or Services.

4.3 The Supplier must, and must ensure its Personnel, in supplying the Goods and/or Services:

- (a) perform in a safe manner that does not prejudice safe working practices, safety and care of property and continuity of work, and use best endeavours to achieve zero classified injuries;
- (b) not interfere with the Principal's activities or the activities of any other person at the Site;
- (c) provide all information and assistance reasonably required by the Principal in connection with any statutory or internal health and safety, environment or community investigation in connection with this Agreement; and
- (d) be aware of and comply with, and ensure that its Personnel are aware of and comply with, all:
 - (i) applicable Laws (including WHS Legislation);
 - (ii) the Principal's Policies and Procedures (to the extent they are applicable to the Services); and
 - (iii) all lawfully given directions from the Principal's Representative and the Registered Mine Manager.

4.4 Without limiting the Supplier's other obligations under this Agreement, the Supplier must notify the Principal's Representative and the Registered Mine Manager as soon as practicable but in any event within 12 hours of any accident, injury, loss or damage which occurs at the Site.

4.5 The Supplier must leave the Site secure, clean and orderly and fit for immediate use

having regard to the condition of the Site immediately prior to the supply of the Goods and/or Services.

4.6 If the Supplier breaches clause 4.2 or 4.3, the Principal may, in its sole discretion:

- (a) instruct the Supplier to suspend performance of the Services immediately;
- (b) instruct the Supplier to leave the Site immediately;
- (c) instruct the Supplier to remove any or all of its Equipment from the Site immediately;
- (d) terminate this Agreement; and/or
- (e) claim damages from the Supplier.

5 Supplier's Personnel

5.1 The Supplier must engage all personnel necessary for the supply of the Goods and/or Services under this Agreement.

5.2 The Supplier must employ or cause to be employed only personnel that are trained, skilled and experienced to the degree ordinarily expected of personnel engaged in the supply of goods and/or services similar to the Goods and/or Services.

5.3 No Supplier's Personnel may commence work on Site unless she/he has attended the induction courses required by the Principal to be attended by all persons engaged at the Site.

5.4 To the extent permitted by Legislation, during the Term and extending for a period of 6 months after the End Date, the Principal's Personnel are not to be engaged or offered employment by the Supplier, without prior written approval of the Principal.

6 Industrial Relations

6.1 The Supplier is responsible for conducting its industrial and employee relations with its Personnel in a manner conducive to preventing any delay or disruption in the provision of the Goods and/or Services, including by taking all prudent steps to maintain harmonious and productive relations with its Personnel.

6.2 The Supplier must ensure that the terms and conditions of employment of all of its Personnel engaged in the supply of Goods and/or Services under this Agreement are at all times regulated by an agreement made under the *Fair Work Act 2009 (Cth)*.

6.3 The Principal may, at any time in its absolute discretion, request the Supplier to withdraw any of its Personnel from providing any part of the Goods and/or Services and the Supplier must promptly arrange for the person to cease being involved in any way in the provision of the Goods and/or Services notwithstanding any provision in any other contract. If requested by the Principal, the Supplier must replace the person with a person of suitable ability, experience and qualifications as soon as reasonably practicable.

7 Equipment

7.1 The Supplier agrees to supply the Equipment at its own risk and expense and to maintain such on Site and in safe, operable, good working condition throughout the Term.

7.2 The Principal may reject any item of the Equipment which it determines is unsuitable for the purposes of this Agreement. If any Equipment is so rejected then it must be either repaired, removed or replaced to the reasonable satisfaction of the Principal promptly after notification by the Principal. If the Supplier does not remove the Equipment by the date required by the Principal, the Principal may remove the Equipment at the Supplier's cost and risk.

7.3 The Supplier must provide all spare parts and consumable items for the Equipment.

7.4 The Supplier agrees the Principal's Property may only be used for the purposes of fulfilling the Supplier's obligations under this Agreement, and the Supplier is liable to the Principal for any loss or damage to the Principal's Property by the Supplier's Personnel.

8 Inspection

8.1 The Supplier must keep the Principal's Representative fully informed of all aspects of the provision of the Goods and/or Services.

8.2 Subject only to providing reasonable notice, at any time during the supply of the Goods and/or Services the Principal may inspect, examine, review and witness tests on the Goods and/or Services or their results at the Site, the Supplier's premises or at the premises of a Subcontractor.

9 Records and Audits

9.1 The Supplier must keep and maintain an accurate and reasonably detailed record of all documents relating to the supply of Goods and/or Services and retain copies of them for a period of 6 years, or any longer period required by any applicable law, following the expiry or termination of this Agreement.

9.2 The Principal may request an audit of the Supplier's compliance with this Agreement for any reason. The Supplier must provide the Principal with reasonable access to its premises and Personnel to conduct any audit under this clause 9.2.

10 Defective Goods and/or Services

10.1 If upon inspection or testing during the Term and until the end of the Warranty Period, the Principal identifies Defective Goods and/or Services, it may give the Supplier a notice requiring the Supplier to rectify any defects identified (**Defect Notice**).

10.2 The Supplier must, at its own cost and risk, rectify the defect to the Principal's satisfaction, by the date specified in the Defect Notice.

10.3 If the Supplier fails to comply with clause 10.2, the Principal may:

- (a) reject the Defective Goods and/or Services by notifying the Supplier that it is rejecting them; or
- (b) make good the Defective Goods and/or Services itself; and the Supplier must:
- (c) refund to the Principal any payments made by the Principal in respect of any Defective Goods and/or Services that the Principal rejects; or
- (d) reimburse the Principal for any expenses the Principal incurs in making good any Defective Goods and/or Services itself.

10.4 The remedies provided in this clause do not exclude any other remedies provided by law.

11 Fees

11.1 In consideration for the supply of the Goods and/or Services, the Principal will pay the Supplier the Fees.

11.2 The rates set out in this Agreement will be the sole consideration payable to the Supplier under this Agreement, and are deemed to include all risks, liabilities and obligations expressed or implied in this Agreement or incurred in the course of the supply of the Goods and/or Services.

Purchase Order – Standard Terms and Conditions

- 113 The Supplier will pay all costs, taxes, expenses and liabilities incurred by the Supplier in the course of the supply of Goods and/or Services under this Agreement.
- 12 Invoicing and Payment**
- 121 The Supplier must submit a Tax Invoice to the Principal following the end of each calendar month for the Goods and/or Services supplied in the previous month.
- 122 The Tax Invoice must set out:
- (a) particulars of all Goods and/or Services supplied by the Supplier;
 - (b) the amount payable by the Principal under this Agreement in respect of those Goods and/or Services, and how the amount of the Tax Invoice was calculated;
 - (c) the Purchase Order Number and any line item numbers on the Purchase Order;
 - (d) the date of issue of the Tax Invoice and the period it covers;
 - (e) a description of the Goods and/or Services supplied;
 - (f) the Site and Delivery Date;
 - (g) if Services are charged by time, the time spent by the Supplier's Personnel; and
 - (h) any other information required by any applicable law or as the Principal reasonably requires.
- 123 Subject to clauses 12.4, 12.5 and 13, the Principal will pay all Tax Invoices submitted by the Supplier by the end of the month following the month in which the Tax Invoice was received (or such other period required by Legislation).
- 124 If a Tax Invoice rendered under clause 12.1:
- (a) does not reference a valid Purchase Order number in accordance with clause 12.2(c); or
 - (b) where the amount stated on the Tax Invoice, when aggregated with all prior Tax Invoices, exceeds the amount stated on the Purchase Order, then the Principal is not required to pay the amount stated on that Tax Invoice and the Supplier must resubmit a Tax Invoice which (as applicable):
 - (c) complies in full with clause 12.2; and
 - (d) states an amount on the Tax Invoice for payment that, when aggregated with all prior Tax Invoices, does not exceed the amount stated on the Purchase Order.
- 125 The Principal must pay the amount of a Tax Invoice resubmitted in compliance with clause 12.4 by the end of the month following the month in which the Principal receives the resubmitted invoice (or such other period required by Legislation).
- 126 If a positive adjustment to the Fee is required as a consequence of a Variation in accordance with clause 17, then the Principal must ensure that the Purchase Order is amended to reflect any such adjustment.
- 13 Withholding Fees**
- 131 The Principal may deduct from any money due or becoming due to the Supplier under this Agreement, including but not limited to:
- (a) all debts, damages, costs, expenses or any other moneys due from the Supplier or its Subcontractors to the Principal under or by virtue of any provision of this Agreement, the supply or non-supply of the Goods and/or Services, or the Supplier's presence on the Site; and
 - (b) all costs, losses, charges, damages, liquidated sums and expenses which the Principal may have paid or incurred and which, or for which, the Supplier or its Personnel is or are liable to bear, pay or make reimbursement to the Principal.
- 132 The remedies provided in this clause do not exclude any other remedies provided by law.
- 14 Representatives**
- 141 Unless expressly provided otherwise, all directions or any permission given on behalf of the Principal to the Supplier will be given by the Principal's Representative (or the Principal's Representative's delegate notified to the Supplier).
- 142 The Supplier must comply, and ensure its Personnel comply, with the lawful directions of the Principal's Representative and Registered Mine Manager in relation to the Supplier providing the Goods and/or Services at the Site. In any matter pertaining to the safety of persons or property or the proper compliance with any Laws which it is the Registered Mine Manager's duty to enforce, the Registered Mine Manager's decision will be final and any directions given must be obeyed in the manner directed.
- 143 The Supplier's Representative will represent and act for the Supplier at all times during the Term. The Supplier is bound by the actions of the Supplier's Representative. Matters within the knowledge of the Supplier's Representative are deemed to be within the knowledge of the Supplier.
- 15 Extension of Time**
- 151 The Supplier must immediately give the Principal written notice of all incidents, circumstances or events of any nature affecting or likely to affect the Supplier's ability to deliver the Goods and/or perform the Services by the Delivery Date.
- 152 Within 10 days after the date of the notice issued under clause 15.1, the Supplier must give a further notice to the Principal which must include all material details of the event and mitigating actions taken by the Supplier.
- 153 The Principal may grant an extension of time to the Delivery Date if the supply of the Goods and/or Services has been delayed by:
- (a) a Force Majeure Event;
 - (b) any negligent act or omission of the Principal or its Personnel or any breach of this Agreement by the Principal;
 - (c) any Variation approved by the Principal;
 - (d) a delay in the Principal providing access to Site; or
 - (e) a suspension by the Principal under clause 18.1 other than where the need for the suspension is due to a breach of this Agreement by, or an act or omission of, the Supplier.
- 154 If the Principal grants the Supplier an extension of time to the Delivery Date under either of clauses 15.3(b), (d) or (e), the Principal will reimburse the Supplier for its direct costs actually, reasonably and properly incurred as a direct consequence of the delay (evidenced on an open book basis and by the provision of documentation).
- 155 The Principal may, in its absolute discretion at any time by written notice to the Supplier, unilaterally extend the Delivery Date. The Principal is not required to exercise its discretion under this clause for the benefit of the Supplier.
- 16 Default and Termination**
- 161 If at any time a Party becomes Insolvent, the other Party may terminate this Agreement with immediate effect by giving written notice (subject to any applicable Laws).
- 162 The Supplier may terminate this Agreement by notice in writing to the Principal if the Principal fails to make a payment due to the Supplier under this Agreement, in respect of which there is no bona fide dispute as to the Principal's liability to make the payment, and provided the Supplier has delivered a notice of default to the Principal that states that the Supplier intends to terminate this Agreement if the breach is not remedied and the Principal fails to remedy the non-payment within the time specified in the notice of default (which must be no less than 10 Business Days).
- 163 The Principal may, at any time, terminate this Agreement in whole or in part without cause at its absolute discretion by giving the Supplier no less than 10 days' written notice. The Principal may terminate this Agreement under this clause during the existence of a Force Majeure Event and regardless of whether or not the Parties are in dispute.
- 164 The Principal may terminate this Agreement in whole or in part and with immediate effect, by notice to the Supplier, if:
- (a) the Supplier or any of its Personnel commits an act of gross negligence, wilful misconduct, fraud or dishonesty in respect of any matter in connection with this Agreement;
 - (b) the Supplier is in breach of any provision of this Agreement and the Principal reasonably determines that the breach is not capable of remedy;
 - (c) the Supplier is in breach of any provision of this Agreement which is capable of remedy and fails to remedy that breach at its own expense and to the reasonable satisfaction of the Principal within 14 days after receipt of a notice from the Principal specifying the breach; or
 - (d) the Principal is expressly entitled to exercise a right of termination under any other provision of this Agreement.
- 165 No action taken by the Principal under clause 16.4 will prejudice the existence of any of its rights and remedies under this Agreement or otherwise at Law which have accrued to Principal as at the date of action (and/or as at the date of any subsequent termination).
- 166 Without prejudice to any other rights of the Principal under this Agreement, in the event of termination under clause 16.3 or by the Supplier under clause 16.1 or 16.2, the Principal will pay to the Supplier:
- (a) the Fees for Goods and/or Services provided to the Principal prior to the effective date of termination and not included in any previous payment by the Principal;
 - (b) the cost of materials reasonably ordered by the Supplier for the purpose of providing the Goods and/or Services prior to the date of termination, which the Supplier is legally liable to accept and cannot otherwise utilise, but only if the materials become the property of the Principal upon payment;
 - (c) reasonable and substantiated costs of demobilisation from Site; and
 - (d) reasonable costs of complying with any directions given by the Principal upon, or subsequent to, termination.
- 167 Payment of the amounts set out in clause 16.6 by the Principal to the Supplier shall be the Supplier's sole and exclusive remedy arising out of the termination of this Agreement and, to the maximum extent permitted by Law, the Supplier waives any other right to claim against the Principal and releases the Principal from all claims and liabilities in respect of the termination, the Goods and/or Services and this Agreement.
- 168 On the expiration or earlier termination of this Agreement, the Supplier must:
- (a) cease supply of the Goods and/or performance of the Services;
 - (b) take such action as necessary or as the Principal directs, for the transfer, protection and preservation of the Principal's Property;
 - (c) do its best to minimise the cost of termination to the Principal;
 - (d) immediately cease using all items of applicable Principal's Property and Intellectual Property; and
 - (e) within 14 days after termination or expiration, return to the Principal (or if requested, erase and/or destroy) all copies in any form of the applicable Intellectual Property and Confidential Information in the possession or control of the Supplier and/or its Personnel.
- 17 Variation to the Scope of Work**
- 17.1 The Principal may by written notice direct a Variation and the Supplier must perform and be bound by such Variation. The Principal is not obliged to request a Variation Proposal in accordance with this clause.
- 17.2 The Principal may request that the Supplier prepare a Variation Proposal in accordance with this clause. The Supplier must as soon as practical (but no later than 7 days) after receiving such request, submit the Variation Proposal to the Principal addressing the effect on and value of the proposed Variation.
- 17.3 The Supplier may initiate and submit a Variation Proposal to the Principal. Following receipt of a Variation Proposal under this clause, the Principal may either:
- (a) direct the Supplier to perform the Variation in accordance with the Variation Proposal; or
 - (b) advise that it does not wish to proceed with the Variation.
- 17.4 If under clause 17.3 the Principal directs the Supplier to perform a Variation, the Principal will reimburse the Supplier for its costs actually, reasonably and properly incurred as a result of the Variation.
- 18 Suspension**
- 18.1 The Principal has the right, at any time and for any reason, to suspend this Agreement or any part of this Agreement immediately. When the Supplier receives a notice of suspension from the Principal, it must suspend the performance of its obligations until such time as the Principal directs that this Agreement is no longer suspended.
- 19 Insurance**
- 19.1 The Supplier must, before commencing the supply of Goods and/or Services, effect and maintain at its expense, the following insurances:
- (a) Workers Compensation insurance for an amount of not less than \$50,000,000 that must:
 - (i) comply with all statutory requirements including providing any compulsory statutory workers' compensation benefits;
 - (ii) provide common law liability as required by law in Western Australia; and
 - (iii) provide a principal's indemnity extension indemnifying the Principal and a waiver of subrogation in favour of the Principal and its Related Bodies Corporate, and if the provision of Goods and/or Services requires any of the Supplier's Personnel to:
 - (iv) attend any Site, then the Supplier must also effect and maintain an industrial disease workers compensation policy in accordance with the applicable legislation; and
 - (v) carry out any work underground, the Supplier's Workers Compensation insurance must extend to include employees underground.
 - (b) Public and Product Liability insurance that must:
 - (i) provide cover for general public and products liability to a limit not less than \$20,000,000 in respect to any one occurrence arising out of the same or original cause and unlimited in the aggregate for public liability as to the number of claims but limited in the aggregate to \$20,000,000 for products liability; and be endorsed to include:
 - (ii) a principal's indemnity extension indemnifying the Principal and a waiver of subrogation in favour of the Principal and its Related Bodies Corporate;
 - (iii) cover for worker to worker injury liability risks;
 - (iv) cover for goods in the care, custody and control of the Supplier for amount of not less

Purchase Order – Standard Terms and Conditions

- than the market value of any plant and equipment supplied by the Principal;
- (v) liability arising out of the use of unregistered motor vehicles; and
- (vi) a cross liability clause.
- (c) if the Purchase Order requires the Supplier to use or provide for use of motor vehicles the Supplier must provide motor vehicle insurance. The Supplier must ensure that all motor vehicles used or brought onto the Site are kept licensed in accordance with any Laws and insured against third party claims under a comprehensive motor vehicle third party liability policy. This policy must include a principal's indemnity extension indemnifying the Principal, with a cross liability clause and a waiver of subrogation in favour of the Principal and its Related Bodies Corporate. The limit of liability must be not less than \$20,000,000 for any one occurrence and unlimited as to the number of occurrences;
- (d) if the Services include professional services, the Supplier must take out professional indemnity insurance in respect of the supply of the Services to cover for liability to a limit of not less than \$5,000,000 (max \$100,000 excess) in relation to any one claim;
- (e) the Supplier must insure all items of the Supplier's Equipment that the Supplier brings onto Site for an amount of not less than its full replacement value (unless otherwise insured) to the satisfaction of the Principal. This policy must include a Principal's indemnity extension, with a cross liability clause and a waiver of subrogation in favour of the Principal;
- (f) if this Agreement requires the Supplier to be responsible for transport of property owned by the Principal, the Supplier must provide marine transit and property damage insurance for loss or damage to such property in transit or loading/unloading for 100% of the replacement value; and
- (g) any other insurances required by Law or regarded as Good Industry Practice.
- 192 The Supplier must provide evidence of the currency of insurance to the Principal at any time upon request.
- 193 The Supplier must ensure any Subcontractor engaged by the Supplier in relation to the Goods and/or Services effects and maintains the equivalent insurances nominated in this clause 19.
- 194 The Supplier shall at all times be responsible for complying with and abiding by the terms and conditions of the insurances arranged by it, including the giving of prompt notice of any loss or claim to the Supplier's insurers and the payment of any premium under the terms of the insurances. The Supplier will be responsible for the payment of any excess or deductible relating to the insurances effected by the Supplier under this Agreement.
- 20 Title and Risk**
- 20.1 Title in any Goods passes to the Principal when the Principal pays for the relevant Goods or when such Goods are applied in the course of provision of the Services, whichever is the first to occur.
- 20.2 To the extent permitted by law, the Supplier enters onto the Site and supplies the Goods and/or Services under this Agreement at its own risk. Risk in any Goods remains with the Supplier until delivery to the Principal.
- 21 Liability and Indemnities**
- 21.1 To the maximum extent permitted by law, the Supplier is liable for and must indemnify and hold harmless the Principal, the Principal's Personnel, each Group Member and each of their Personnel (**Indemnified Parties**) from and against any and all Liabilities:
- (a) relating to any loss of use of, destruction or damage to any property of any kind whatsoever, including that of any third party;
- (b) arising out of any Claims by any person against any of the Indemnified Parties relating to:
- (i) any illness, injury, occupational disease or death of any person; or
- (ii) any infringement or alleged infringement of the Intellectual Property Rights of any person;
- (c) relating to any Claims brought against the Indemnified Parties by any third party; and
- (d) relating to any non-compliance by the Supplier or the Supplier's Personnel with, or infringement of, any Laws applicable to the Goods and/or Services, that arise out of or in connection with any negligent or unlawful act or omission of the Supplier or the Supplier's Personnel or breach of this Agreement by the Supplier, except that the Supplier's liability to the Indemnified Parties shall be reduced proportionately to the extent that any negligent or unlawful act or omission of the Indemnified Parties or breach of this Agreement by the Principal caused or contributed to the Liability.
- 21.2 Notwithstanding anything in this Agreement to the contrary but subject to clause 21.3, neither Party will be liable to the other for any Excluded Loss.
- 21.3 The limitation set out in clause 21.2 will not apply to limit, or in any way restrict the liability of the Supplier:
- (a) for any liability relating to any illness, injury, occupational disease or death of any person;
- (b) if the Liability arises from the infringement of the Intellectual Property Rights of a third party;
- (c) in respect of a breach of a Party's obligations under this Agreement relating to Intellectual Property Rights or confidentiality;
- (d) any statutory fine payable by the Principal as a result of a breach of applicable work health and safety requirements or environmental requirements under law by the Supplier or any of the Supplier's Personnel; or
- (e) to the extent that the loss or liability is recoverable under a policy of insurance required to be effected or maintained pursuant to this Agreement or would have been recoverable but for the Supplier's failure to comply with its insurance obligations, the terms of the policy of insurance or if it fails to diligently pursue a claim.
- 21.4 These indemnities are a continuing obligation, separate and independent from the other obligations of the Parties and survive termination of this Agreement. It is not necessary for any of the Indemnified Parties to incur expense or make payment before enforcing a right of indemnity conferred by this clause.
- 21.5 Every exemption, limitation, defence, immunity, indemnity or other benefit contained in this Agreement or otherwise to which the Principal or a Group Member is entitled will be held by the Principal as trustee for the benefit of, and will extend to protect, each of the Principal's, and each Group Member's Personnel.
- 22 Data Protection**
- 22.1 Where the Supplier processes Principal Personal Information in connection with the activities under this Agreement, the Parties agree that the Principal will be the controller and the Supplier will be the processor for the purposes of any applicable law.
- 22.2 The Supplier must:
- (a) comply with all applicable law and not process Principal Personal Information in a manner that will or is likely to result in the principal breaching its obligations under any applicable data privacy law;
- (b) only process Principal Personal Information for the purposes of performing its obligations under this Agreement and as directed by the Principal unless required to do otherwise by an applicable law in which case the Supplier must notify the Principal of the legal requirement before processing the relevant data;
- (c) put in place and maintain technical and organisational measures to protect Principal Personal Information including against accidental loss, destruction, damage, alteration or disclosure and unlawful or unauthorised processing;
- (d) promptly inform the Principal of any complaint received from any regulatory body or individual regarding the way his or her Principal Personal Information has been processed and advise and assist the Principal in relation to such complaints and not correspond with the relevant regulatory body or individual without the Principal's prior written consent, unless required otherwise by law;
- (e) cooperate and provide information required by the Principal to meet its obligations under the applicable law;
- (f) return or destroy any Principal Personal Information after the expiry or Termination of this Agreement or as directed by the Principal;
- (g) not engage a subcontractor to process Principal Personal Information without the prior written consent of the Principal; and
- (h) not disclose the Principal Personal Information without the prior written consent of the Principal.
- 22.3 The Supplier must indemnify the Principal against all claims, losses, damages, liabilities, costs and expenses arising out of or in connection with any breach by the Supplier of clause 22.2.
- 23 Intellectual Property**
- 23.1 Each of the Parties grants the other a non-exclusive, royalty free licence to use its Background IP to the extent necessary to enable it to perform its obligations under this Agreement.
- 23.2 The Supplier acknowledges and agrees that all Intellectual Property created by the Supplier for the benefit of the Principal (whether existing or created prior to the date of this Agreement or otherwise) will vest in the Principal, and the Supplier hereby assigns all rights, title and interest in and to the Intellectual Property to the Principal.
- 23.3 The Supplier must not disclose, reproduce or otherwise deal with the Intellectual Property, or allow any other person to do the same, for any purpose other than to provide Goods and/or Services under this Agreement.
- 23.4 The Supplier warrants that:
- (a) it owns the Background IP and that the use of the Background IP does not and will not infringe any Intellectual Property Rights of third parties;
- (b) the provision of the Goods and/or Services does not and will not infringe the Intellectual Property Rights of any third party;
- (c) it will, at no further cost to the Principal, procure all licences and consents to use any Intellectual Property Rights of a third party which are necessary to provide the Goods and/or Services;
- (d) the Intellectual Property created in connection with this Agreement does not and will not infringe any Intellectual Property Rights; and
- (e) the Supplier has the right to assign all Intellectual Property to the Principal in accordance with clause 23.2.
- 24 Confidential Information**
- 24.1 The Supplier must not advertise or issue any information, publication, document or article (including photograph or film) for publication or media releases or other publicity relating to this Agreement or the Principal's Confidential Information without the prior written consent of the Principal.
- 24.2 Each Party must ensure that all Confidential Information is kept confidential and is not disclosed directly or indirectly to a third party without the prior written consent of the other Party, except that nothing in this Agreement prevents:
- (a) a Party from disclosing Confidential Information if disclosure is required to be made by Law or the rules of any stock exchange or securities;
- (b) a Party from disclosing Confidential Information to its Related Bodies Corporate, its professional advisers, any current or prospective banker or debt or equity financier of the Party or its Related Bodies Corporate or to any potential direct or indirect investors in the Party or its Related Bodies Corporate, provided in each case they are bound by an obligation of confidentiality;
- (c) disclosure that is reasonably required to enable a Party to perform its obligations under this Agreement or to enforce the terms of this Agreement;
- (d) a Party from disclosing information that has come into the public domain otherwise than as a result of a breach by any Party of this Agreement; or
- (e) a Party from disclosing information which is lawfully known to that Party before the date of this Agreement or which is or becomes available to that Party from another person who is in possession of it lawfully and can disclose it to the Party on a non-confidential basis.
- 24.3 This clause 24 survives termination of this Agreement for a period of 2 years.
- 25 Conflict of Interest**
- 25.1 The Supplier must, and must ensure its Personnel, declare any Conflict of Interest prior to entering into any agreements with the Principal, and in any event as soon as a Conflict of Interest comes to the attention of the Supplier.
- 26 Taxes**
- 26.1 If GST has application to any supply made by the Supplier under or in connection with this Agreement, the Supplier may, in addition to the consideration payable or to be provided for the supply, subject to issuing a Tax Invoice, recover from the Principal an additional amount on account of GST, such amount to be calculated by multiplying the amount or consideration payable or to be provided by the Principal for the supply by the prevailing GST rate.
- 26.2 Should any taxes (other than GST) be levied on, in respect of, or in relation to, the Goods and/or Services these will be to the Supplier's account. The Supplier will be responsible for the payment of those taxes and will provide documentary evidence of the payment of those taxes if made on the Principal's behalf.
- 26.3 The Supplier must do everything necessary to ensure that both the Supplier and Principal are eligible for any exemptions, credits, set-offs or deductions in respect of any applicable taxes.
- 26.4 If either Party is required by applicable Law to make a deduction or withholding from a payment to the other Party for or on account of any Taxes, the paying Party may make that deduction or withholding.
- 26.5 If a payment is made without a deduction or withholding for or on account of taxes and such a deduction or withholding was required by any applicable law then:
- (a) the payee must reimburse the paying Party for the amount that should have been withheld or deducted; and
- (b) reimbursement must be made within 14 days of receiving a copy of a receipt evidencing

Purchase Order – Standard Terms and Conditions

the amount that was required to have been withheld or deducted.

27 Assignment and Subcontracting

27.1 The Supplier must not assign, transfer, charge or otherwise dispose of any part or the whole of its rights or obligations under this Agreement except with the prior written consent of the Principal (which must not be unreasonably withheld). If required by the Principal, the Supplier must enter into any document reasonably required to effect the assignment, transfer, charge or disposal.

27.2 The Supplier must not subcontract any part or the whole of its obligations under this Agreement except with the prior written consent of the Principal, and must enter into a subcontract that contains terms that oblige the subcontractor to perform its obligations under the subcontract in a way that ensures that the Supplier complies with its obligations under this Agreement.

27.3 The Supplier is liable to the Principal for the acts and omissions of any subcontractor as if they were acts and omissions of the Supplier.

28 Force Majeure

28.1 If a Party is prevented from performing any of its obligations under this Agreement by reason of a Force Majeure Event, that Party must immediately give written notice to the other Party. Such notice must:

- the circumstances constituting the Force Majeure Event;
- the date of commencement of the Force Majeure Event and the expected duration of the impact of the Force Majeure Event; and
- the measures proposed to be adopted to remedy or abate the Force Majeure Event (to the extent known at the time the notice is issued).

The affected Party must promptly keep the other Party informed of any changes in the circumstances of the Force Majeure Event or the effects of the Force Majeure Event.

28.2 Non-performance or delay in performance (wholly or in part) as a result of a Force Majeure Event by an affected Party of any obligation or condition required by this Agreement to be performed:

- will be excused during the time and to the extent that Force Majeure Event prevents such performance, wholly or in part; and
- will not give rise to any liability to the other party for any liability directly arising out of that non-performance or delay.

28.3 The affected Party must use its best endeavours to remedy or mitigate the effect of any Force Majeure and comply with its obligations under this Agreement.

28.4 Notwithstanding any provision of this Agreement, if the Force Majeure causes the suspension of the Supplier's obligations for a continuous period of 60 days or a cumulative period of 60 days in any 180 day period, either Party may terminate this Agreement by written notice to the other Party.

29 Modern Slavery

29.1 The Principal works to comply with the requirements of the *Modern Slavery Act 2018* (Cth) and expects the same of its contractors. The Supplier represents and warrants that:

- it investigates the risk of modern slavery within its operations, and those of its supply chain;
- it assesses and addresses risks regarding modern slavery, including implementing appropriate due diligence and remediation programs;
- it will notify the Principal as soon as possible of any confirmed instances of modern slavery and the actions undertaken by the Supplier to remedy the issue;
- it has all the necessary processes, procedures, investigations and compliance systems in place to undertake the actions in this clause 29.1;
- upon request, the Supplier will provide evidence to the satisfaction of the Principal which validates the Supplier's compliance with this clause;
- upon request, the Supplier will permit the Principal's Personnel or its nominated representative/s to undertake verification activities to validate the Supplier's compliance with this clause, including access to the Supplier's premises and records as required; and
- it will include a clause similar to this clause 29.1 in all contracts it enters into with its suppliers.

29.2 In the event that the Supplier does not remedy, or provide an acceptable plan to remedy, any identified instances of Modern Slavery within the time frame specified by the Principal, the Principal reserves the right to terminate this Agreement in accordance with clause 16.4.

30 Bribery and Corruption

30.1 Each Party must:

- at all times comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and improper payments including but not limited to the *Criminal Code Act 1995* (Cth) (Australia), the *Foreign Corrupt Practices Act 1977* (United States), and the *Bribery Act 2010* (United Kingdom) (Relevant Requirements); and
- have and maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Relevant Requirements, to ensure compliance with the Relevant Requirements, and enforce them where appropriate.

31 Trade Controls

31.1 The Supplier must not, without the prior written consent of the Principal, provide to the Principal any:

- Goods that have been imported by a Sanctioned Person or sourced (including but not limited to any Goods that have been grown, produced, manufactured extracted or processed) in whole or part from a Sanctioned Country or Territory, or Sanctioned Party and any Goods that have entered into commerce in a Sanctioned Country or Territory; or
- Services from a Sanctioned Country or Territory origin, including but not limited to any services performed in a Sanctioned Country or Territory or outside of a Sanctioned Country or Territory by an entity organised under the laws of a Sanctioned Country or Territory or a person ordinarily a resident of a Sanctioned Country or Territory, or Services that involve a Sanctioned Party in any respect.

31.2 The Principal may terminate this Agreement by written notice to the other Party if that other Party breaches clause 31.1. If the Principal terminates this Agreement pursuant to this clause 31.2 the Principal will be under no obligation to return any Goods, make any payments or pay any compensation to the Supplier unless the Principal has received all government authorisations required to do so.

32 Dispute Resolution

32.1 Where a dispute arises between the Parties, either Party may give to the other Party a dispute notice specifying the nature of the dispute and requiring its resolution under this

clause 32.

32.2 The Parties must promptly meet and negotiate in good faith with a view to resolving the dispute. If the dispute has not been resolved within 14 days after the notice of the dispute is given to the other Party, each Party must nominate one representative from its senior management to negotiate and try and settle the dispute, who must negotiate in good faith with a view to resolving the dispute.

32.3 If the dispute has not been resolved within 30 days after the date of receipt of the dispute notice, either Party may commence legal proceedings in connection with that dispute in any Western Australian court of competent jurisdiction.

32.4 Despite the existence of a dispute, the Supplier must continue without delay to perform its obligations under this Agreement.

32.5 Nothing in this clause prevents either Party from applying to a court for urgent interlocutory, injunctive or declaratory relief.

33 Notices

33.1 Any notice, approval, consent or other communication in relation to this Agreement must:

- be in writing and signed by the Party sending it (or on that Party's behalf);
- be marked for the attention of:
 - in the case of a notice to the Principal, the Principal's Representative;
 - in the case of a notice to the Supplier, the Supplier's Representative; and
 - be left at or sent by prepaid ordinary post to the last notified address of the Party, or sent by email to the last notified email address of the Party.

33.2 A notice, approval, consent or other communication is taken to be received by the addressee:

- in the case of delivery by hand, when delivered;
- in the case of delivery by post, five Business Days after the date of posting (if posted to an address in the same country) or 10 Business Days after the date of posting (if posted to an address in another country); or
- in the case of email, when the email (including any attachment) is sent to the receiving party, unless the sending party receives a notification of delivery failure within 24 hours of the email being sent,

but if the result is that a notice would be taken to be given or made on a day that is not a Business Day in the place to which the notice is sent or is later than 5.00pm (local time) it will be taken to have been duly given or made at the commencement of the next Business Day in that place.

34 Other Matters

34.1 The Principal will not be liable for any claim made by the Supplier unless, within 21 days (or such other time as is expressly provided for in this Agreement) after the first day on which the Supplier could reasonably have been aware of the matters giving rise to the claim, the Supplier has given to the Principal a notice setting out, in summary, the details of the claim

34.2 This Agreement may only be varied by a document signed by or on behalf of each Party.

34.3 If any provision or part of a provision of this Agreement is held or found to be void, invalid or otherwise unenforceable (whether in respect of a particular party or generally), it will be deemed to be severed to the extent that it is void or to the extent of violability, invalidity or unenforceability, but the remainder of that provision will remain in full force and effect.

34.4 Waiver of any right arising from a breach of this Agreement must be in writing and executed by the Party granting the waiver. Failure by the Principal to exercise a right, remedy or power at any time will not be construed in any way to affect the enforceability of that right, remedy or power in any other instance, or the enforceability of this Agreement as a whole.

34.5 The Parties accept the laws of the State of Western Australia as the governing law of this Agreement submit to the exclusive jurisdiction of the Courts of the State of Western Australia any courts.

34.6 To the maximum extent permitted by law, the Parties agree that the operation of the Part 1F of the *Civil Liability Act 2002* (WA) is excluded in relation to all and any rights, obligations and liabilities under this Agreement whether such rights obligations or liabilities are sought to be enforced as a breach of contract or claim in tort (including negligence), in equity, under statute or otherwise at law.

34.7 This Agreement as amended or varied from time to time represents the entire agreement between the Parties and supersedes all prior arrangements whether written or oral in relation to the Services. Any terms that may have been attached or embodied in the Supplier's quotation or other correspondence are deemed to have been withdrawn in favour of the terms stated in the Purchase Order (including this Agreement).

34.8 The Principal and the Supplier are independent contracting parties and nothing in this Agreement will make either Party an agent or legal representative of the other for any purpose whatsoever. Nor does this Agreement grant either Party any authority to assume or to create an obligation on behalf or in the name of the other Party.

34.9 The Principal is not responsible to the Supplier or any of its Personnel for any payments in respect of any employment related expenses including wages, annual leave, sick leave, long service leave, superannuation, workers' compensation, accidents, sickness, or lift insurance.

34.10 Clauses 1, 3, 16, 19, 21, 22, 23, 24, 25, 32, 33 and this clause 34 survive the expiry or earlier termination of this Agreement.

34.11 This Agreement may be executed in counterparts. All counterparts of this Agreement, taken together, constitute one instrument.