

# Terms and Conditions for Provision of Supply



## 1. The Contract

- 1.1 The Contract is constituted by:
- these Terms and Conditions;
  - the Purchase Order; and
  - any other terms and conditions relating to the supply relationship between the parties which are agreed by the parties and recorded in written correspondence between the parties (the "Additional Terms").
- 1.2 Unless expressly provided otherwise, if there is any inconsistency between the Purchase Order, these Terms and Conditions and the Additional Terms then, to the extent necessary to resolve such inconsistency, the documents comprising this Contract apply in that order.
- 1.3 Notwithstanding clauses 1.1 and 1.2 where a Purchase Order for Goods and/or Services is issued under the terms of an existing written agreement between the Supplier and OZ Minerals, the terms of that agreement will prevail over these Terms and Conditions in the event of any inconsistency.

## 2. Definitions and Interpretation

- 2.1 The following definitions apply unless the context requires otherwise.

**"Force Majeure"** means any event or circumstance which is reasonably beyond the control of a party which, despite the exercise of a reasonable standard of care and diligence, cannot be prevented or overcome and includes any of the following events or circumstances:

- war, hostilities (whether war be declared or not), invasion, act of foreign enemies, rebellion, terrorism, revolution, insurrection, military or usurped power, munitions of war, or civil war;
- riot, commotion or civil disorder not directed at or caused by the Supplier;
- explosive materials, ionising radiation or contamination by radioactivity not caused by the Supplier;
- requirements by order of a Government Agency in respect of a pandemic or which prevent the Supply from being performed; or
- natural catastrophes such as flood, earthquake, hurricane, typhoon and volcanic activity.

**"Goods"** means the goods specified in the Purchase Order (including any parts of the goods specified) and includes any goods used during the performance of any Services or which are to be delivered to OZ Minerals in providing the Services.

**"Government Agency"** means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, court, department, commission, authority, tribunal agency or entity.

**"GST"** means the Goods and Services Tax as defined in the Tax Act.

**"Intellectual Property Rights"** means all industrial and intellectual property rights whether protectable by statute, at common law, or in equity, including all copyright and similar rights, rights in relation to inventions (including all patents and patent applications), trade secrets and know-how, rights in relation to designs, and rights in relation to trademarks.

**"Law"** means:

- any present or future requirements of any statute, regulation, order, rule, subordinate legislation, common law, equity or other document enforceable under such laws;
- any lawful requirements, directions or instructions of any Government Agency; and
- the listing rules of any recognised stock exchange.

**"OZ Minerals"** means the relevant related body corporate of OZ Minerals Limited set out in the Purchase Order.

**"OZ Minerals Policies and Governance Requirements"** includes OZ Minerals global Standards, Specifications, Frameworks, Code of Conduct and Asset or Corporate Function Guidelines, Procedures and Instructions applicable to the Site (as amended from time to time), including the OZ Minerals Stakeholder Value Creation Policies, that are provided by OZ Minerals to the Supplier, or are made available to the Supplier on the OZ Minerals website or otherwise.

**"Purchase Order"** means the purchase order relating to the Supply to OZ Minerals which refers to these Terms and Conditions.

**"Services"** means the services to be performed as specified in the Purchase Order (including any part of the specified services and the results of the specified services).

**"Site"** means the operating site of the OZ Minerals entity who has issued the Purchase Order.

**"Supplier"** means the person, firm or company to whom the Purchase Order is directed and who will provide the Supply to OZ Minerals.

**"Supplier Personnel"** means any of the Supplier's employees, sub-contractors, agents and representatives involved in providing the Supply and includes any other person for whose conduct the Supplier is liable under any Law.

**"Supply"** means the Services to be performed (if any) and the Goods to be delivered by the Supplier (if any).

**"Standards"** means all standards, specifications, requirements (including testing requirements) and rules issued by the various standards association bodies or required by Law.

**"Tax Act"** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and the *A New Tax System (Goods and Services Tax) Regulations 1999* (Cth).

**"Taxes"** means all taxes, fees, levies, duties and charges imposed or assessed in respect of the provision of the Supply under any Law.

- 2.2 A reference to an agreement or document is to the agreement or document as amended, supplemented, novated or replaced except to

the extent prohibited by the Contract or that other agreement or document.

- 2.3 A reference to *conduct* includes an omission, statement or undertaking, whether or not in writing.
- 2.4 Mentioning anything after *included, including, for example, or* other similar expressions does not limit what else might be included.
- 2.5 A reference to *writing* includes an email or facsimile transmission and any other physical or electronic means of reproducing words in a tangible and permanently visible form.
- 2.6 A reference to a document (or any similar word) includes a reference to all electronic, magnetic, photographic and other mediums by which information may be stored or reproduced.

### 3. Performance / Delivery

- 3.1 When providing the Supply to OZ Minerals, the Supplier must deliver all Goods (if any) and perform all Services (if any) at the address nominated on the Purchase Order and on the date or dates specified in the Purchase Order or to another address or later date reasonably requested in writing by OZ Minerals.
- 3.2 In performing the Supply, the Supplier must comply with the OZ Minerals Policies and Governance Requirements.
- 3.3 The Goods delivered to OZ Minerals must be accompanied by:
  - (a) a delivery docket or packing slip (or other similar documentation) which quotes the Purchase Order number, item number, units of measure, quantity delivered, the name of the OZ Minerals representative who made the Purchase Order and any other requirements specified in the Purchase Order; and
  - (b) all relevant manufacturer or Supplier instructions concerning the use of the Goods and all relevant manufacturer or Supplier warranties in respect of the Goods.

### 4. Quality and description of Goods

- 4.1 The Supplier must ensure that the Goods:
  - (a) match the description in the Purchase Order;
  - (b) correspond with any sample provided to OZ Minerals by the Supplier;
  - (c) comply with all relevant Standards and Laws (including in relation to packaging and labelling, occupational health and safety and the environment) and any relevant information in relation to such compliance is provided to OZ Minerals; and
  - (d) be new and of merchantable quality, fit for purpose and free from any defects.

### 5. Quality of Services

- 5.1 The Services must:
  - (a) match the description of the Services in the Purchase Order and the scope of work issued by OZ Minerals and/or quote provided by the Supplier relating to the Services;
  - (b) correspond in nature and quality with any Services demonstrated to OZ Minerals by the Supplier;
  - (c) correspond in quality with any result which the Supplier showed could be achieved by the Services;
  - (d) be performed:
    - (i) by appropriately qualified and trained personnel; and
    - (ii) with due care and skill; and
  - (e) be fit for the purposes for which those types of services are commonly procured and for any other purposes which are specified in the Purchase Order.
- 5.2 The performance of the Services must comply with all relevant Standards and Laws (including in relation to packaging and labelling and occupational health and safety and the environment) and any relevant information in relation to such compliance is provided to OZ Minerals.

### 6. Hazardous Materials

- 6.1 The Supplier must transport and store all hazardous materials and dangerous Goods in accordance with all Laws, Standards and OZ Minerals Policies and Governance Requirements and must provide OZ Minerals with the relevant materials safety data sheet ("MSDS") for all such materials and Goods.
- 6.2 No hazardous materials or dangerous Goods may be delivered to OZ Minerals until the relevant MSDS has been provided to OZ Minerals.

### 7. Acceptance

- 7.1 OZ Minerals may require the Supplier to provide evidence, acceptable to OZ Minerals, that the Supply is in accordance with the Contract and the Supplier must provide such evidence within the time prescribed in the request.
- 7.2 The Supply is accepted by OZ Minerals upon the later of:
  - (a) if a request is made by OZ Minerals in accordance with clause 7.1, OZ Minerals determining at its discretion that the evidence provided to it by the Supplier is satisfactory; and
  - (b) the passage of a reasonable period of time for OZ Minerals to inspect the Goods after delivery and to inspect and test the results of any Services after performance.

For the avoidance of doubt, payment for the Supply or the signing of delivery documents does not constitute acceptance of the Supply and will not be construed as evidence or an admission that the Supply has been supplied in accordance with the Contract but is a payment on account only.

7.3 Subject to clause 8, the title and risk in any Goods passes to OZ Minerals upon acceptance of the Supply.

## 8. Rejection

OZ Minerals may, at any time and despite any acceptance of the Supply, reject the Supply if it reasonably determines that:

- (a) the Supply does not comply with the Contract;
- (b) the Supplier has breached any terms of the Contract; or
- (c) if Goods are specified in the Purchase Order, the Goods are delivered in greater quantity than is specified.

8.2 If OZ Minerals rejects the Supply, OZ Minerals may at its election and without limiting its other rights under the Contract or at Law:

- (a) require the Supplier to re-supply any or all of those Goods or remedy a defect in the Services performed or re-do the Services at no additional cost to OZ Minerals;
- (b) require the Supplier to provide a credit or a refund to the value of any or all the relevant Goods or Services;
- (c) require the Supplier to reimburse OZ Minerals for any expenses incurred by OZ Minerals in making good any defective Goods and any defective Services provided; or
- (d) return any rejected Goods to the Supplier at the Supplier's risk and expense.

8.3 OZ Minerals may return any Goods that have been incorrectly ordered by OZ Minerals. If OZ Minerals decides to return such Goods, it is required to pay only the freight and handling charges associated with effecting the return of such Goods to the Supplier.

## 9. Price

The price of the Supply is inclusive of all costs of the Supplier whether foreseen or unforeseen, including all insurance and Taxes (other than GST) (if any) which must be paid by the Supplier.

## 10. GST

10.1 Words or expressions used in this clause which are defined in the Tax Act or, if not so defined, then which are defined in the *Trade Practices Act 1974* (Cth), have the same meaning in this clause.

10.2 The Supplier must submit tax invoices in compliance with the Contract and OZ Minerals Policies and Governance Requirements, and OZ Minerals will have no obligation to pay any part of the price or any other amount due under the Contract until it receives such a tax invoice for the relevant amount.

10.3 If required by Law, the Supplier must be registered for GST.

10.4 Despite any other provision in the Contract, if a party ('Supplying Party') makes a taxable supply under or in connection with the Contract on which GST is imposed:

- (a) the consideration payable or to be provided for that supply under the Contract but for the application of this clause ('GST exclusive consideration') is increased by, and the recipient of the supply ('Receiving Party') must also pay to the Supplying Party, an amount equal to the GST exclusive consideration multiplied by the rate of GST prevailing on the date the supply is made; and
- (b) the amount by which the GST exclusive consideration is increased must be paid to the Supplying Party without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided.

10.5 All tax invoices must comply with the requirements of the Tax Act (as a 'tax invoice') and be submitted by the tenth business day of the month following the month in which the Services are accepted.

## 11. Terms of payment

11.1 Subject to compliance with clause 10 (if applicable), all payments will be made within thirty (30) days from end of month of date of invoice received by OZ Minerals. Where the Supplier is a 'small business' under the *Payment Times Reporting Act 2020* (Cth), OZ Minerals will use its best endeavours to make payment within 21 days of receipt of the invoice by OZ Minerals.

11.2 Invoices should be forwarded to [invoices@ozminerals.com](mailto:invoices@ozminerals.com) in PDF format.

11.3 OZ Minerals may set off against any amount due for payment by OZ Minerals to the Supplier any amount the Supplier owes OZ Minerals. This clause does not limit OZ Minerals' right to recover those amounts any other way.

## 12. Termination

12.1 OZ Minerals may, without cause and at any time, terminate the Contract prior to the provision of the Supply and OZ Minerals will not be liable to the Supplier in any respect by reason of any such termination.

12.2 Without limiting its rights under clause 12.1, OZ Minerals may at its discretion pay the Supplier such sum in respect of any Services rendered by the Supplier up to the date of termination (if any) as it determines.

## 13. Insurance

13.1 Before commencing the provision of the Supply under the Contract, the Supplier must effect and maintain:

- (a) all insurances required by Law, OZ Minerals Policies and Governance Requirements, any applicable Standards or the Contract;
- (b) not less than \$10 million public liability insurance for any one occurrence;

- (c) where Goods are being supplied, product liability insurance of not less than \$10 million in the aggregate for one 12-month period of insurance;
- (d) where professional Services are being supplied, not less than \$2 million professional indemnity insurance for each and every claim and in aggregate for one 12-month period of insurance;
- (e) where a motor vehicle is being used for the Supply, motor vehicle insurance of at least \$10 million for each and every claim; and
- (f) all insurances which a prudent supplier would maintain in providing the Supply.

13.2 The insurances held by the Supplier must cover the Supplier, the Supplier Personnel and any relevant third parties (including any sub-contractors) for their respective rights, interests and liabilities under the Contract or under any Law.

13.3 The Supplier must provide on demand by OZ Minerals evidence satisfactory to OZ Minerals of the insurances referred to in clause 13.1.

#### 14. Withholding payment amounts required by Law

14.1 OZ Minerals may deduct, withhold or retain from any payment to the Supplier in relation to the Contract any amount OZ Minerals is required by any Government Agency to deduct, withhold or retain or otherwise required by Law to deduct, withhold or retain (a "Withholding Amount") and OZ Minerals conduct will constitute full discharge of OZ Minerals obligation to pay the consideration to the extent of that Withholding Amount.

14.2 If any consideration paid to the Supplier by OZ Minerals under or in connection with the Contract is paid free of a Withholding Amount, and at any time after such payment, OZ Minerals becomes aware (either by notification from a Government Agency or otherwise), that a Withholding Amount should have been withheld, deducted or retained from such consideration, OZ Minerals shall be entitled to recover from the Supplier any subsequent amount OZ Minerals may be required to pay to a Government Agency for failing to withhold such Withholding Amount (including any amounts required to be withheld). Such payments must be paid to OZ Minerals within 30 days of receipt of written notice from OZ Minerals and in accordance with clause 11. For the avoidance of doubt any such amounts to be recovered from the Supplier will be exclusive of the consideration payable to the Supplier.

#### 15. Warranties

15.1 The Supplier represents and warrants to OZ Minerals that:

- (a) it is capable of supplying and will supply the Goods and perform the Services as ordered by OZ Minerals in accordance with the Contract;
- (b) it will perform its obligations under the Contract with due care, skill and diligence and the Goods supplied and the Services performed will be in accordance with the Contract including clauses 3, 4 and 5 of these Terms and Conditions;

- (c) it will obtain, at its cost, and assign to OZ Minerals the benefit of all usual trade warranties and any other warranties requested by OZ Minerals;
- (d) it has good and marketable title in any Goods;
- (e) the Supplier is the sole legal and beneficial owner of any Goods free from all mortgages, charges, encumbrances, liens and other third-party rights and claims;
- (f) it is not insolvent within the meaning of section 95A of the *Corporations Act 2001* (Cth) or otherwise;
- (g) it has examined and considered information made available by OZ Minerals to the Supplier for the purpose of providing the Supply;
- (h) it has taken all reasonable measures to ensure that no conflict of interest exists or is likely to arise in the performance of its obligations under the Contract;
- (i) it will remain fully responsible for the provision of the Supply and all information created or developed or required to be created or developed under the Contract by the Supplier irrespective of any review or acceptance of that Supply or information by OZ Minerals;
- (j) it is registered for GST, if required by Law to be;
- (k) it has not relied upon any representation of, or information provided by, OZ Minerals which is not expressly stated or included in the Contract;
- (l) it will pay all Taxes (other than any GST);
- (m) it implements appropriate cyber security measures and has in place appropriate plans and procedures to allow it to respond efficiently and effectively to a cyber security incident;
- (n) it will use reasonable endeavours to maintain its information technology systems, operational technology systems, networks, internet-enabled applications from loss or unauthorised destruction, alteration, disclosure of, access to or control and will regularly review its cyber security arrangements to verify its application in practice and maintain and keep records evidencing the same; and
- (o) the use of any Goods and the performance of any Services does not infringe upon, or contribute to the infringement of, any Intellectual Property Rights.

15.2 The Supplier acknowledges that OZ Minerals has relied upon such warranties in entering into the Contract.

15.3 This clause 15 survives any termination of the Contract.

#### 16. Indemnities

16.1 The Supplier will be liable for, and indemnifies OZ Minerals and OZ Minerals personnel for all actions, claims, costs, charges, damages, expenses, liabilities, losses or damages (including legal costs on an indemnity basis whether incurred by or awarded against OZ Minerals)

that OZ Minerals and OZ Minerals personnel may suffer, incur or sustain arising directly or indirectly out of or in connection with:

- (a) the performance, non-performance or any breach of the Contract or of any Law by the Supplier or Supplier Personnel;
- (b) any negligent, wilful or unlawful conduct of the Supplier Personnel;
- (c) the illness, injury or death of any Supplier Personnel arising out of, or in connection with, the provision of the Supply;
- (d) any claim made against OZ Minerals by any Supplier Personnel in respect of any Law;
- (e) the death, illness, or injury of any person or loss or damage to any property of any kind whatsoever, caused or contributed by the provision of the Supply or by Supplier Personnel;
- (f) any false, misleading or deceptive statement or conduct of the Supplier or of Supplier Personnel.

16.2 The Supplier's liability to indemnify OZ Minerals will be reduced proportionally to the extent that any negligent or unlawful act or omission of OZ Minerals contributes to the loss or liability.

16.3 This clause 16 survives any termination of the Contract.

## 17. Confidentiality

17.1 The Supplier shall ensure that the Supplier Personnel keep confidential, not disclose to any third party or use (other than for the purposes of this Contract), without the prior written consent of OZ Minerals, any data, information or documents obtained as a consequence of the Contract.

17.2 The obligation referred to in clause 17.1 does not apply to information which becomes generally available to the public other than by disclosure in breach of the Contract or an obligation of confidence owed by the Supplier or Supplier Personnel to OZ Minerals.

17.3 Upon written request by OZ Minerals, the Supplier must return to OZ Minerals (or destroy at OZ Minerals' discretion) all data, information or documents referred to in clause 17.1, but may retain such information on the Supplier's back-up servers or tapes subject to and for so long as the Supplier makes not direct attempt to restore and access OZ Minerals information data, information or documents referred to in clause 17.1.

17.4 The Supplier must take all practical steps as may be necessary for compliance with clause 17.

17.5 The Supplier shall not issue any public statement concerning OZ Minerals or its affairs without OZ Minerals' prior written consent.

17.6 This clause 17 survives any termination of the Contract.

## 18. Privacy

18.1 Where the Contractor Processes Personal Information in connection with this agreement, the Contractor will:

- (a) comply with all applicable Data Privacy Laws; and

- (b) take all appropriate technical and organisational measures against unauthorised or unlawful Processing of Personal Information and against accidental loss, disclosure or destruction of, or damage to, Personal Information.

## 19. Assignment and Sub-contracting

19.1 OZ Minerals may assign or novate or otherwise transfer any of its rights or obligations under the Contract at its absolute discretion.

19.2 The Supplier must not, without the prior written consent of OZ Minerals assign, novate, sub-contract or otherwise transfer any of its rights or obligations under the Contract or sub-contract any part of the performance of the Contract.

## 20. Intellectual Property

20.1 Subject to clause 20.2, this Contract does not assign any background Intellectual Property Rights i.e., those rights owned by OZ Minerals or the Supplier which did not come into existence because of the performance of the Supply under this Contract.

20.2 The Supplier agrees to grant to OZ Minerals a non-exclusive, transferable, royalty free, irrevocable and perpetual licence (with a right to grant sub-licences) to use all of the 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, the Supply (including without limitation all Intellectual Property Rights developed by the Supplier in providing the Supply and any Intellectual Property Rights created or discovered by the Supplier in documents or inventions provided or disclosed by the Supplier to OZ Minerals) only for the purposes of, or in connection with, OZ Minerals' use of the Supply.

20.3 This clause 20 survives the termination or expiry of the Contract.

## 21. Local suppliers

21.1 OZ Minerals prefers (wherever possible) to provide local (Australian) suppliers with a full, fair and reasonable opportunity to provide the Supply in relation to the Contract.

## 22. Anti-bribery

22.1 Each party must:

- (a) 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
- (b) 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.

### 23. Modern Slavery

- 23.1 The Supplier must ensure that its Supplier Personnel, comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes in force from time to time.
- 23.2 The Supplier represents and warrants that, as at the date of this Contract:
- (a) it has investigated its labour practices, to satisfy itself that to the best of its knowledge there are no identified cases of modern slavery or human trafficking used anywhere in its business, its supply chain, or by any sub-contractors; and
  - (b) the Supplier and any Supplier Personnel:
    - (i) has not been convicted of any offence involving slavery or human trafficking; or
    - (ii) to the best of its knowledge, has not been, or is, the subject of any formal complaint, investigation, inquiry or enforcement proceedings by any person or regulatory body in connection with slavery or human trafficking.
- 23.3 The Supplier must use commercially reasonable endeavours to ensure its contractual relationships with its supply chain (including the sub-contractors), include anti-slavery and human trafficking due diligence procedures relating to their respective supply chain.
- 23.4 The Supplier must give OZ Minerals all information requested by OZ Minerals to report on, or comply with, any anti-slavery or human trafficking laws in force from time to time, or any direction of a governmental agency relating to anti-slavery or human trafficking, promptly after a request from OZ Minerals to do so.
- 23.5 Notwithstanding clause 18, if the provision of the Supply is to be supplied by a sub-contractor to the Supplier, then the Supplier must satisfy the terms and intent of this clause, that is, local (Australian) suppliers must be given a full, fair and reasonable opportunity to submit a prequalification proposal in respect of the provision of the Supply.

### 24. Import duty

- 24.1 OZ Minerals may make applications for import duty concessions in relation to the Supply procured in accordance with the Contract.
- 24.2 The Supplier will provide whatever assistance and information requested by OZ Minerals in a timely manner to assist in such applications.
- 24.3 Where OZ Minerals succeeds with such applications, the Supplier will obtain duty refunds as requested by OZ Minerals and remit the proceeds to OZ Minerals.

### 25. Force Majeure

- 25.1 Where a party is unable, wholly or in part, by reason of Force Majeure, to carry out any obligations under the Contract and that party:
- (a) gives the other party prompt written notice stating the circumstances constituting the Force Majeure, the extent and

likely duration of those circumstances and specifying the measures proposed to be adopted to remedy or abate the Force Majeure;

- (b) makes every reasonable effort to minimise the effects of the Force Majeure; and
- (c) has not caused or contributed to the Force Majeure,

25.2 then that obligation is suspended so far as it is affected by Force Majeure but must be resumed as soon as reasonably possible after the cessation of the Force Majeure.

### 26. Jurisdiction

26.1 This Contract shall be governed by the laws of South Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that State.

### 27. Amendments

27.1 This Contract may be varied by OZ Minerals at any time by giving the Supplier written notice.

### 28. Waiver

28.1 No waiver by OZ Minerals regarding a breach of any obligation contained or implied in this Contract operates as a waiver of another breach of the same or of any other obligation contained or implied in the Contract.

### 29. Indemnities

- (a) Each indemnity in this Contract is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of the Contract.
- (b) It is not necessary for OZ Minerals to incur expense or to make any payment before enforcing a right of indemnity conferred by this Contract.