

PURCHASE ORDER TERMS AND CONDITIONS

- 1) **Definitions:** The following definitions shall be referenced for the purpose of interpreting the Purchase Order (**PO**) and these Purchase Order Terms and Conditions;

Purchaser	means the Pilbara Resource Group Pty Ltd (PRG) entity so named in the Purchase Order together with its related parties including its duly appointed nominated representatives as defined in the Corporations Act 2001.
Supplier	means the person(s) (including an individual, firm or corporate entity) so named in the Purchase Order who is bound to supply and deliver the Goods and Services.
Purchase Order	has the meaning given in clause 2.
Goods and Services	means labour, plant, materials and services and items of any nature to be supplied, delivered or performed by the Supplier in accordance with the Purchase Order.
Revision	has the meaning given in clause 5.
Party or Parties	means The Purchaser and Supplier, as individuals or collectively.
Business Day	means a day other than a Saturday, Sunday or day that is a gazetted public holiday in Perth, Western Australia.

- 2) **Purchase Order:** A Purchase Order for Goods and Services is issued by the Purchaser to the Supplier and is an agreement between the Purchaser and the Supplier comprised of the Purchase Order document, these Purchase Order Terms and Conditions and any special conditions and attachments.

The Purchase Order supersedes all previous communications and negotiations and shall be acknowledged by the Purchaser and the Supplier as sole authority for charging Goods and Services to the Purchasers account.

The Purchase Order is generated and recorded in an electronic document by the Purchaser. The Purchase Order must be entitled Purchase Order and bear identification codes, including a unique Purchase Order number. All purchase orders are bound by these Terms and Conditions.

The Purchase Order shall contain a description of the Goods and Services, including applicable pricing delivery method(s) and any special conditions. Any attachments referenced therein may also be attached. In case of ambiguity or conflict, the Purchase Order, including any attachments or special conditions will have precedence over these Purchase Order Terms and Conditions.

Any reference by the Supplier to the Suppliers own or any other Terms and Conditions in its quotation or other supplied documentation presented in connection with the Purchase Order, will have no bearing on the Purchase Order.

The Purchase Order shall be effective from the date of issue as stated on the Purchase Order.

- 3) **Acceptance:** Upon receipt of Purchase Order(s), the Supplier shall check for discrepancies. The Supplier shall acknowledge the Purchase Order by signing and returning a copy to Purchaser within five (5) days of receipt of the Purchase Order. In the absence of such acknowledgment, the supply and/ or performance of the Goods and Services by the Supplier shall constitute acceptance.

The Purchase Order shall constitute the entire agreement between the Purchaser and the Supplier with respect to the Goods and Services and no representation or statements by any representative or agent of the Venture not expressly stated in the Purchase Order shall be binding upon the Purchaser.

- 4) **Delivery:** The Supplier, at its expense, shall, on the date and location as stated within the Purchase Order deliver and / or supply the requirements stipulated in the Purchase Order. Any required advance notification of delivery may be indicated on the Purchase Order. Unless stated otherwise in the Purchase Order, the Supplier at its cost shall unload the Goods and Services at the specified location.

- 5) **Revision:** The Purchaser reserves the right at any time in relation to the Goods and Services to make a Revision to the Purchase Order to correct any errors or omissions therein or to make any changes, including in respect of specifications, quantity and delivery.

A Revision shall be made by voiding the original Purchase Order in the Purchasers electronic system and issuing a new Purchase Order for the Goods and Services, with a new, unique Purchase Order number. The Purchase Order numbers will signify the chronological order of issue.

The Supplier must not make such corrections or changes until the resulting cost and time impacts have been agreed with the Purchaser and the revised Purchase Order has been authorised and issued by the Purchaser and acknowledged and accepted by the Supplier, as outlined in clause 3. Thereafter the Supplier agrees to take immediate and necessary action to comply with the new Purchase Order.

- 6) **Title and Risk:** The Supplier shall retain title to and property in the Goods and Services until the first occurrence of either payment of part of the Purchase Order price, or delivery to the location specified in the Purchase Order has been undertaken. Any such Goods and Services remaining to be delivered by the Supplier shall be marked accordingly and identified as the property of the Supplier.

Risk in the Goods and Services shall remain with the Supplier until the time the Purchaser signs and agrees that the Goods and / or Services have been provided satisfactorily unless otherwise expressly agreed between the two parties in writing. Any loss or damage to Goods and Services whilst they remain at the Suppliers risk shall be rectified by the Supplier at its own cost and thereafter when the risk in the Goods and Services has transferred to the Purchaser, the Supplier shall be liable for any loss or damage to such Goods and Services to the extent caused by its negligence, wilful act, misconduct, breach or duty (statutory or otherwise), fault or breach of the Purchase Order.

- 7) **Price:** The total Purchase Order price, unless otherwise stated, as indicated in the Purchase Order is in Australian currency exclusive of Goods and Services Tax (GST) and is firm fixed, not subject to escalation over the duration of the Purchase Order and is inclusive of all packing, documentation, delivery, testing and the Purchasers obligations under the Purchase Order.
- 8) **Payment:** Payment of the Purchase Order shall be made, once the agreed Goods / Services and/or Supplies have been acquired to the satisfaction of the Purchaser and within forty-five (45) days upon receipt of the Suppliers valid Tax Invoice. Sufficient supporting documentation may be required as defined in the Purchase Order or as required by the Purchaser.
- 9) **Insurance:** The Supplier shall at its cost, effect and maintain until the risk in the Goods and Services passes to the Purchaser, adequate material loss or damage insurance at least to the full replacement value of the Goods and Services including adequate transit insurance and also covering unloading, if the Supplier is required to unload the Goods and Services. Such insurance shall cover the parties' respective rights and if required by the Purchaser shall be in the joint names of the parties.

Supplier shall carry:

- a) Workers Compensation Policy required by law with where legally permitted an indemnity for the Purchaser (including its client and authorised representatives as applicable) and ensure that its sub-suppliers and affiliates have similarly insured its employees;
- b) Adequate public and product liability insurance; and
- c) any other insurance pursuant to clause 16 (if applicable) or as required by law.

Before the supply commences and whenever requested in writing, the Supplier shall provide satisfactory evidence of such insurances effected and maintained.

- 10) **Licences:** The Supplier must possess the relevant skills and/ or qualifications to provide the Goods and/ or Services. The Supplier must provide the Purchaser with copies of all relevant licences which determines their capabilities of delivering the Goods and Services under the Purchase Order prior to commencing work on the Purchase Order.
- 11) **Drawings / Documentation and Data:** The Supplier is responsible for ensuring that all documentation, drawings and data used have been certified and released for construction and that the Goods and Services supplied are suitable and manufactured according to such documentation including any subsequent revisions.

- 12) Warranty:** The Goods and/or Services supplied must be fit for purpose, of a merchandisable quality and free of defects in materials, design and workmanship. The Supplier warrants that all Goods and Services supplied are also in accordance with any manufacturing drawings provided by the Purchaser.

The Supplier shall replace or repair and make good any Goods and/or Services or parts thereof supplied which are found to be defective or in any way unsuitable for the purpose intended for twelve (12) months from the date of delivery to the location stated in the Purchase Order (**Warranty Period**). If the Supplier repairs or replaces the Goods and/or Services during the Warranty Period, then those Goods and/or Services repaired or replaced have a further twelve (12) month warranty from the date such is completed.

- 13) Patents:** The Supplier warrants that Goods and/or Services supplied, excluding any Goods and/or Services supplied in accordance with technical plans or drawings provided by the Purchaser do not infringe upon any foreign or domestic trademark, design, patent or copyright which any person may in any way be entitled to and indemnify the Purchaser from and against all claims on account of such infringements in respect of the Goods and Services supplied by the Supplier and from all related claims, charges, expenses, proceedings and damages.

- 14) Inspection:** The Purchaser may at any time during manufacture or otherwise, inspect the Goods and Services to be supplied subject to suitable notice to the Supplier.

Inspection by the Purchaser shall neither relieve the Supplier of its obligations under the Purchase Order or otherwise nor waive the Purchaser's rights or remedies provided under the Purchase Order.

- 15) Packaging:** The Supplier shall be liable for all or any damage, loss or destruction to any Goods and/or Services or property resulting from improper packaging or handling by the Supplier.

- 16) Test Certificates:** Upon completion of testing, Test Certificates must be supplied to the Purchaser (if any) as outlined in the Purchase Order and/or in accordance with the relevant and applicable codes and standards.

- 17) Erection and Works:** In the case of erection work or services being required by the Purchase Order on an external site (**Works**) away from the Supplier premises the following conditions are applicable;

- a) All invoices must be accompanied by a schedule certified by the Purchaser and or its authorised representatives of the Works completed; and
- b) Progressive Payments for works completed shall not be made unless so stated in the Purchase Order.

- 18) Assignment:** The Supplier shall not, without the Purchaser's prior written approval except on such reasonable Terms and Conditions approved in writing by the Purchaser, assign the supply or any part or other right, benefit or claim to another supplier or third party. The Purchaser has absolute discretion as to whether it shall give or withhold approval.

The Purchase Order shall be binding upon and inure to the benefit of the parties hereto and (unless such interpretation shall be repugnant to the sense or context) their respective executors, administrators, personal representatives, successors and delegates but shall not be assignable by the Supplier without the consent of the Purchaser.

- 19) Suspension:** The Purchaser may suspend all or part of the supply of the Goods and Services at any time for any period by notice in writing to the Supplier. The Supplier must comply with the notice and recommence supply when notified by the Purchaser. The Supplier will not be entitled to any additional payment arising because of the suspension.

- 20) Waiver and Amendment:** Neither a waiver of any provision of the Purchase Order nor consent to any departure therefrom shall be effective unless given in writing by the Purchaser. Except as provided by law or equity or elsewhere in the Purchase Order, none of the provisions of the Purchase Order shall be varied or amended without the prior written consent of the Parties.

- 21) Termination:** Without prejudice to any of the Purchaser's other rights, the Purchaser may:

- a) at any time, for any reason and for its sole convenience by written notice to the Supplier terminate the supply; and
- b) either itself or by a third party complete the uncompleted supply of the Goods and Services.

The amount to which the Supplier is entitled to will be a limitation of the Purchaser's liability arising out of or in connection with the termination of the supply and the Purchaser will not be liable to the Supplier for any claim in respect of the

termination other than for the amount payable under the Terms and Conditions stipulated in the agreed Purchase Order. For the avoidance of doubt, the Supplier is not entitled to claim for (however, not limited to) incident or consequential loss.

22) Termination for Default: Should the Supplier:

- a) fail to make delivery;
- b) fail to perform within the time specified in the Purchase Order;
- c) deliver non-conforming Goods and Services; and/ or
- d) fail to make progress so as to endanger performance of the Purchase Order

then the Purchaser may cancel the Purchase Order or part thereof and the Supplier shall be liable for all costs incurred by the Purchaser in fulfilling the Purchase Order elsewhere.

23) Indemnity: Insofar as this clause 22 applies to property, it applies to property other than the Goods and Services. The Supplier shall be solely responsible for and shall indemnify and hold the Purchaser harmless against all claims, liens, demands, proceedings, judgements, fines, penalties, costs (including legal), losses, liabilities and other expenses whatsoever for any personal injury, including death and disease or loss of or damage to any property (including the Purchasers personnel and property) arising directly or indirectly out of or as a consequence of the performance of the Purchase Order or by failure of the Supplier to perform any of its obligations under or to comply with requirements of the Purchase Order irrespective of sole or contributory negligence, misconduct, fault or breach of duty (statutory or otherwise) on the part of the Purchaser. However, in circumstances where the Supplier is performing Works (as defined in clause 16), the Suppliers liability to the Purchaser under the foregoing paragraph that arises as a direct result of such Works shall be reduced proportionally to the extent that an act or omission of the Purchaser may have contributed to the injury, death, loss or damage. The provisions of Part 1 F of the Civil Liability Act 2002 (WA) are excluded from operation with respect to any matter arising out of or in connection with this Purchase Order.

24) Time: If at any time the Supplier should become aware that the time of delivery will not be met, it shall notify the Purchaser within two (2) Business Days in writing, clearly stating cause of delay and earliest possible delivery date. The Purchaser may thereupon, without prejudice to any other rights, terminate all or part of the Purchase Order.

If the Supplier is delayed in delivery of the Goods and Services by unforeseeable occurrences or causes such as acts of nature, state or nationwide strikes, fire or other causes of a similar nature beyond the Suppliers reasonable control, the Supplier shall notify the Purchaser, in writing, within two (2) Business Days of the commencement of each such occurrence or cause and request an extension of time. If approved by the Purchaser, an extension of time shall be granted in writing. The Supplier shall not be entitled to and hereby waives any and all claims to increased compensation for/ or damages which it may suffer from any such unforeseeable causes. Should the Purchaser not grant an extension of time, clause 20 of these Terms and Conditions applies.

25) Expediting: The Purchaser shall be granted access to any and all parts of the Suppliers work premises and those of its sub-suppliers. The Supplier shall expedite all Goods and Services ordered through sub-purchase orders on a regular basis and visit sub-supplier facilities or premises when necessary.

26) Applicable Law: The Purchase Order and the rights and obligations of the parties hereto shall be construed in accordance with and be governed by the laws applicable in the State of Western Australia.

All parties hereto hereby agree that any legal action or proceedings with respect to its obligations hereunder shall be brought in the State of Western Australia and each of the parties hereto hereby submits to such jurisdiction.

27) Service of Notice: Unless otherwise agreed to by the parties, any notice (and other documents) required or permitted to be given or delivered under this Purchase Order shall be delivered and addressed to the party at the addresses set forth in the Purchase Order. Notice shall be deemed to have been received by any party, and shall be effective:

- a) on the day given, if personally delivered or if sent by confirmed electronic mail transmission (including any attached scanned documents), receipt verified, to an electronic mail address provided by the receiving party to the sending party for receiving such notices; or
- b) on the third day after which such notice is deposited, if mailed by certified or prepaid post.