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Company: Pilgangoora Operations Pty Ltd

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Supplier: [insert contractor entity]

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# Master Framework Agreement – Professional Services

Contract Number: [Keywords]

Contract Title: [Insert]

# Formal Instrument of Agreement

<b>Company</b>	<b>Pilgangoora Operations Pty Ltd (Company)</b> Level 2, 146 Colin St, West Perth, WA, 6005 ACN 616 560 395 Tel: +61 8 6266 6266
<b>Contractor</b>	<b>[Insert name of the Contractor] (Contractor)</b> [address] ACN [insert] Tel: [insert]
<b>Date of this Contract</b>	<b>[insert date]</b>
<b>Contract</b>	<ol style="list-style-type: none"><li><b>1.</b> This Contract comprises:<ol style="list-style-type: none"><li>(i) the Formal Instrument of Agreement;</li><li>(ii) the Contract Details;</li><li>(iii) the Special Conditions (if any);</li><li>(iv) the General Conditions;</li><li>(v) the executed Service Orders (if any);</li><li>(vi) the Schedules; and</li><li>(vii) the Attachments.</li></ol></li><li><b>2.</b> To the extent of any ambiguity or inconsistency between the provisions of any of the documents that comprise this Contract, the documents shall take precedence in the above order, and any documents listed in the Schedules and Attachments shall take precedence in the order they are listed.</li><li><b>3.</b> This Contract constitutes the entire agreement between the parties and sets out a full statement of the contractual rights and liabilities of the parties in relation to its subject matter and no negotiations between them nor any document agreed or signed by them prior to the date of this Contract in relation to its subject matter is of any effect.</li></ol>

Executed as a deed on

2022.

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Executed by **Pilgangoora Operations Pty Ltd (ACN 616 560 395)** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

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Signature of Director

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Signature of Director/Secretary

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Name of Director (print)

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Name of Director/Secretary (print)

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Executed by **[insert Contractor's name]** (ACN **[insert]**) in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

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Signature of Director

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Signature of Director/secretary

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Name of Director (print)

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Name of Director/Secretary (print)

## Contract Details

Scope of Services	[insert brief description] <b>See Schedule 1 for a detailed description of the services.</b>		
Commencement Date (see GC 1.4)	The Commencement Date is [insert date]		
Term (see GC 1.4)	[insert term]		
Option to extend Term (see GC 1.5)	[insert any options to extend term]		
Contractor's Representative (see GC 10.1)	The Representative of the Contractor is: [insert details]		
Company's Representative: (see GC 10.2)	The Representative of the Company is: [insert details]		
Security (see GC 12.6)	Parent company guarantee required: [Yes/No]		
Insurance (see GC 16)	<b>Insurance</b>	<b>Required</b>	<b>Amount per occurrence</b>
	Workers' Compensation:	[Yes/No]	[\$50,000,000]
	Motor Vehicle Insurance:	[Yes/No]	[\$30,000,000]
	Public liability:	[Yes/No]	[\$50,000,000]
	Professional indemnity:	[Yes/No]	[\$10,000,000] [Or to be determined on a Service Order basis]
	Contractor Plant and Equipment:	[Yes/No]	Market value
	Travel, Medical and Evacuation Insurance:	[Yes/No]	[insert]
	Industrial Disease Insurance/ Industrial Special Risks Insurance:	[Yes/No]	[insert]
	Carrier's Liability Insurance:	[Yes/No]	[insert]
	Other: [specify]	[Yes/No]	[insert]
Address for Service of Notices (see GC 28)	Company Attention: [insert name] Address: [insert address] Email Address: <a href="mailto:PLSNotices@pilbaraminerals.com.au">PLSNotices@pilbaraminerals.com.au</a> And cc [insert Company Representative] Contractor Attention: [insert name] Address: [insert address] Email Address: [insert address]		

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## General Conditions

### 1. Engagement

- 1.1 The Contractor must provide the Services in accordance with the terms of this Contract, including any program agreed with or directed by the Company.
- 1.2 This Contract applies to all Services whether commenced before, on or after the date of this Contract.
- 1.3 This Contract does not prevent the Company from entering into arrangements or agreements with any third parties for the supply of the same or similar services to any of the Services.
- 1.4 Subject to GC 1.5, this Contract commences on the Commencement Date and continues until the expiry of the Term.
- 1.5 The Company may, at its option, extend the Term for the period specified in the Contract Details. The option may be exercised by notice in writing to the Contractor given prior to the expiry of the Term. The extended Term or Terms shall be on the same terms and conditions as this Contract.

### 2. Supply of Services

- 2.1 At any time during the Term of the Contract, the Company may issue to the Contractor a Service Order Request.
- 2.2 Within 2 Business Days of the Company giving the Contractor a Service Order Request, the Contractor must:
  - (a) notify the Company in writing as to whether or not it is willing to perform the services set out in the Services Order Request on the terms set out in the Services Order Request; and
  - (b) if the Contractor is willing to perform the services set out in the Services Order Request in accordance with its terms, provide its proposed Service Order price to carry out the services the subject of the Service Order Request, which price may not exceed the sum calculated by using the

lump sums, rates and prices in Schedule 3

together the "Response to Service Order Request".

- 2.3 The Contractor's price under a Service Order to carry out the services must not exceed the sum calculated by using the rates and prices in Schedule 3
- 2.4 Any terms or conditions provided by the Contractor which differ from the terms in the template at Attachment A or any other part of this Contract, will have no contractual effect and will not be binding on the parties, whether or not signed by the parties.
- 2.5 The Company may only issue a Service Order Request for the services identified in Schedule 1
- 2.6 The Contractor acknowledges that:
  - (a) the Company is not obliged during the Term to issue a Service Order Request for the services to the Contractor, or otherwise purchase any Services from the Contractor;
  - (b) the Company has not made any representation that it will purchase any services from the Contractor; and
  - (c) the Company may issue a Service Order Request to one or more contractors (apart from or in addition to the Contractor) for services the same or similar to the services and nothing in this Contract obliges the Company to:
    - (i) invite the Contractor to respond to or request the Contractor to prepare a Response to Service Order Request; or
    - (ii) negotiate any Service Order Request with the Contractor.
- 2.7 If the Contractor notifies the Company that it is willing to perform the services set out in a Service Order Request the Company may, but is not obliged to, accept the

Response to Service Order Request provided by the Contractor under GC 2.2(b) and provide the Contractor with a Service Order. Within 5 Business Days of receiving a Service Order from the Company, the Contractor must execute the Service Order and return it to the Company. The Service Order becomes contractually binding upon execution by both parties. The Contractor must perform the Services specified in a Service Order in accordance with the terms of the Service Order and this Contract.

- 2.8 The Contractor shall only commence the Services the subject of a Service Order once the Service Order has been executed by both parties. For the avoidance of doubt, any Services commenced by the Contractor prior to execution of the applicable Service Order by both parties shall be entirely at the Contractor's own cost and risk.
- 2.9 The Company may cancel a Service Order at any time, for any reason, but, subject to GC 2.10, the Company must pay for any part of the Services performed prior to the notice of cancellation unless the Contractor is in breach of the Contract prior to or at the time of such cancellation.
- 2.10 If the Company cancels a Service Order in conjunction with terminating this Contract in accordance with GC 25:
  - (i) GC 2.9 does not apply; and
  - (b) the rights and obligations of the parties are as set out in GC 25.

### 3. Provision of Services

- 3.1 The Contractor must provide, at its own cost, all management, supervision, labour, equipment and materials necessary to provide the Services, unless otherwise specified in Schedule 1
- 3.2 The Contractor must comply with all applicable Laws and the requirements of any Government Authority and ensure that it possesses all relevant authorisations,

- permits and Licences to provide the Services.
- 3.3 The Contractor is responsible for:
- (a) the occupational health and safety at all times of all workers engaged or caused to be engaged by it (including its employees, employees of the Company or the Company's subcontractors, and the Contractor's subcontractors and their respective employees, who are working or attending at any working environment under the Contractor's control) in connection with the Contract or any part of the Services; and
  - (b) ensuring that the health and safety of other persons is not put at risk from work carried out as any part of the work under the Contract or part of the Services.
- 3.4 Without limiting GC 3.2 or GC 3.3, in performing the Services the Contractor must comply with:
- (a) all applicable occupational health, safety and environmental Laws, guidelines and codes of practice including the Safety Legislation;
  - (b) all occupational health, safety and environmental guidelines, rules and procedures provided to the Contractor by the Company;
  - (c) any induction requirements in relation to the Site notified by the Company; and
  - (d) any quality assurance management system required by the Company from time to time.
- 3.5 The Contractor must, in a form approved by the Company, provide the Company with regular reports, or more frequently on request, in relation to the Services, including in relation to any occupational, health and safety issues arising and must prepare any other documents the Contractor is required to prepare or maintain under any Laws concerning occupational health, safety and the environment.
- 3.6 The Company may, at any time, require the Contractor to provide evidence of compliance with its obligations under GCs 3.2, 3.3 and 3.5.
- 3.7 The Contractor must immediately notify the Company on becoming aware of any Industrial Matter and must meet with the Company, as soon as practicable after that notification, for the purpose of discussing and agreeing on any necessary or appropriate action to be taken to resolve the Industrial Matter.
- 3.8 The Contractor must at all times during the provision of the Services ensure that its employees, subcontractors and agents conduct themselves in an orderly, lawful and respectful manner.
- 3.9 The Contractor must and must ensure that its employees, subcontractors and agents:
- (a) comply with the Company's Policies and Procedures, Site Rules and any other details relating to Site access provided by the Company to the Contractor from time to time; and
  - (b) promptly obey all directions and instructions given by the person appointed to a Statutory Position relating to the health and safety of persons or property, or to the proper compliance with the Safety Legislation. To the extent of any inconsistency, this GC 3.9(b) prevails over all other provisions of this Contract
- 3.10 As between the Company and the Contractor, any valuable minerals, fossils, articles or objects of antiquity or of anthropological or archaeological interest, treasure trove, coins and articles of value found on the Site will be and remain the property of the Company. Immediately upon the discovery of these things the Contractor must take precautions to prevent their loss, removal or damage and give the Company written notice of the discovery.
- 3.11 The Contractor shall deliver to the Company an indigenous employment and business opportunities plan to the reasonable satisfaction of the Company which identifies opportunities for indigenous people including the Company's native title party.
- 3.12 The Contractor must not take any actions based on instructions from any other person in relation to the Services, or the Project without the prior written consent of the Company.
- 3.13 The Contractor must not engage in any activity, transaction or arrangement that causes or may cause a conflict of interest to arise or continue, unless the Company has given its prior written approval for the Contractor to engage in that activity, transaction or arrangement and must notify the Company of any activity, transaction or arrangement that causes or may cause a conflict of interest to arise. If the Contractor notifies the Company of an actual or potential conflict of interest under this GC, the Company will direct the Contractor as to how to proceed, and the Contractor must comply with that direction.
- 3.13 The Contractor:
- (a) acknowledges that the Company will rely on the Services and Deliverables to make decisions in relation to the Project; and
  - (b) must carefully examine any documents, data and other information provided by or on behalf of the Company in connection with the Services or the Project to the extent necessary to properly perform the Contractor's obligations in accordance with this Contract.
- 4. Conditions as to quality and description of the Services**
- 4.1 The Services must match the description (including



performance criteria, if any) specified in the relevant Service Order or Schedule 1

- 4.2 If the Contractor provided the Company with a demonstration of any Services before entering into this Contract or a Service Order, the relevant Services must correspond in nature and quality with the Services demonstrated.
- 4.3 If the Contractor showed the Company a result achieved by any Services before the Company entered into this Contract or a Service Order, the relevant Services must correspond in quality with the services that achieved that result.
- 4.4 The Services must be performed by appropriately qualified, competent, skilled, experienced and professional personnel and must be rendered with due care and skill.
- 4.5 The Services must comply with all applicable legislation and all applicable Standards and Good Industry Practices.
- 4.6 Any items which the Contractor uses or supplies in conjunction with the Services (including any Design and Design Documents) must be of merchantable quality, comply with all applicable occupational health, safety and environmental Laws and any applicable Standards whether or not specified in the Contract.
- 4.7 The Services (including any items supplied in conjunction with the Services, including any Deliverables, Design and Design Documents) must be fit for the purpose for which services of the same kind are commonly supplied and for any other purpose which the Company has made known to the Contractor or which is reasonably ascertainable from this Contract.
- 4.8 If the Services include design services, the Contractor warrants that the works to be constructed from the Design and Design Documents will, if they are constructed in accordance with the Design and Design Documents, operate and function in the manner envisaged by, and in

accordance with, this Contract.

## **5. Delivery**

- 5.1 The Contractor will deliver the Services in accordance with the requirements specified in the applicable Service Order and Schedule 1 - Services. Subject to GC 2.8, where any Service Order specifies a Start Date, the Contractor shall commence providing the relevant Services on the Start Date.
- 5.2 Where any Service Order specifies a Finish Date, the Contractor must perform and complete the relevant Services under that Service Order by the Finish Date and in accordance with any timetable set out in the Service Order.
- 5.3 If, in the opinion of the Company, there is or is likely to be a delay in the progress of any Services attributable to the Contractor and there is a reasonable likelihood that completion of the relevant Services will not be achieved by the applicable Finish Date:
  - (a) the Company may direct the Contractor to:
    - (i) reschedule or relocate the Contractor's resources; or
    - (ii) reprogram and adjust activities, sequences and provision of the relevant Services generally; or
  - (b) the Company may at any time after giving the Contractor notice under GC 25.2, as an alternative to its right to terminate under GC 25.2:
    - (i) engage any third party to assist the Contractor as the Company deems appropriate; or
    - (ii) omit any part of the Services in accordance with GC 13 as the Company deems appropriate and undertake that part of the Services itself or engage a third party to do so.

5.4 The Contractor must give to the Company or any third party engaged by the Company under GCs 5.3(b)(i) or 5.3(b)(ii) all assistance as may be necessary for it to provide the tasks which the Contractor ought to have provided.

5.5 The relevant Service Order Price will be reduced by the additional costs, losses, damages and expenses incurred by the Company as a consequence of acting in accordance with 5.3(b) as certified by the Company.

5.6 If the balance of the relevant Service Order Price to be paid to the Contractor is less than the amount certified by the Company in accordance with GC 5.5 then the difference will be a debt due and payable to the Company on demand and may be deducted from any payments otherwise due from the Company to the Contractor and the Company may also have recourse to the security (if any) provided under this Contract.

5.7 The Contractor acknowledges that it is not entitled to claim any additional cost or expense or any adjustment to the relevant Service Order Price or to claim any extension to the applicable Service Order Finish Date or to make any claim under this Contract, any applicable Law, at common law, in equity or otherwise in relation to any direction under GC 5.3 or any assistance provided by it under GC 5.4.

5.8 Without limiting any other provision of this Contract, if the Services include design services, the Contractor must produce Design Documents required for the proper performance of the Services and accommodate in the Design Documents whatever requirements the Company considers necessary or appropriate for the satisfactory execution and completion of the Services.

## **6. Inspection and acceptance**

6.1 The Contractor must provide to the Company, at the Company's request, progress reports on the performance of the Services. A progress report must be detailed

enough to allow the Company to ascertain whether the Services are in conformity with this Contract.

6.2 At any time during the provision of the Services the Company may inspect or witness tests on the Services or their results.

6.3 If upon inspection the Company finds any Services or their results to be defective (including any defect, error or omission in any Design, Design Document or Deliverable), the Company may:

(a) reject the defective Services by notifying the Contractor that the Company is rejecting them; or

(b) make good the defective Services.

6.4 The Company may reject any Services which are not in conformity with this Contract even if the Company has accepted or paid for those Services.

6.5 The Contractor must reimburse the Company for any expenses the Company incurs in making good defective Services.

6.6 The Contractor must refund to the Company, when requested, any payments made by the Company in respect of Services which the Company rejects.

6.7 The Contractor must prepare the Design Documents, Deliverables and other products of the Services and must provide them to the Company for its review at the times or at the stages set out in the Contract or at the times or stages otherwise requested by the Company.

6.8 If the Company notifies the Contractor that the whole or any part of the Design, the Design Documents, the Deliverables or any other product of the Services is unsatisfactory, the Company may reject the unsatisfactory part and the Contractor must, at its cost:

(a) amend the affected Design, Design Documents, Deliverables or other product of the Services; and

(b) promptly submit the amended Design, Design Documents, Deliverables or other products of the Services to the Company for its review and approval and this GC 6.8 will re-apply.

6.9 The Contractor acknowledges and agrees that any review, approval, consultation or comments by or from the Company or the Company's Representative, or on their behalf, or any failure to review, approve, consult or comment by the Company or the Company's Representative on the Design, the Design Documents or other products of the Services or any other act or omission by the Company or the Company's Representative in respect of any Design, Design Documents or other products of the Services will not reduce or otherwise:

(a) affect the Contractor's obligations in GC 4 or any of its other liabilities or obligations under this Contract or otherwise according to Law; or

(b) affect the Company's rights against the Contractor whether under this Contract or otherwise according to law; and

(c) impose any responsibility or liability on the Company or constitute evidence of the due performance of the Services.

## 7. Performance of the Services

7.1 The Contractor must, in performing the Services:

(a) use its best endeavours not to interfere with any of the Company's activities, or the activities of any other person, on the Company's premises;

(b) comply with, and ensure that its employees, agents, contractors and subcontractors comply with the Contractor's obligations under GCs 3.2, 3.3 and 3.5;

(c) ensure that the Company's premises are left secure, clean, orderly and fit for immediate use; and

(d) keep accurate records in relation to the performance of the Services including in relation to;

(i) Service Order Price, and the cost of all Variations, together with copies of supporting evidence, including all purchase orders, delivery dockets, invoices, remittance slips, timesheets and wage records; and

(ii) the development of all Design, Design Documents and Deliverables,

which records must be retained by the Contractor for at least 7 years after the date of completion of the Services.

7.2 The Contractor must coordinate and interface all Design Documents and other products of the Services with the designs, drawings and specifications produced by any other consultants or contractors involved in designing the works the subject of the Design.

7.3 The Contractor acknowledges and agrees that if the Design Documents and other products of the Services are not, in the Company's opinion, coordinated, the Company may take such steps as it deems necessary to correct the relevant part of the Design Documents and other products of the Services so that they are coordinated.

7.4 If the Company is required to take steps pursuant to GC 7.3, the cost to the Company of doing so will be a debt due from the Contractor to the Company and the Contractor will not be entitled to any claim against the Company arising out of any steps taken by the Company pursuant to GC 7.3.

## 8. Interface Activities

8.1 The Contractor acknowledges and agrees that the Services to be

provided to the Company under this Contract, are or may be provided to areas of the Site where the Company or other parties are conducting activities (**Interface Activities**).

- 8.2 The Contractor must not adversely affect any Interface Activities.
- 8.3 The Contractor must assist the Company and any other parties in managing the interface of the provision of the Services with the Interface Activities.
- 8.4 The Contractor must liaise with any other parties performing Interface Activities to avoid any delays in the provision of the Interface Activities or the Services.
- 8.5 The Contractor acknowledges and agrees that:
- (a) such liaison or assistance does not detract from or otherwise affect the Contractor's warranties, obligations or liabilities under or in connection with this Contract; and
  - (b) it is not entitled to claim any additional cost or expense or any adjustment to the Service Order Price or to claim any extension to the applicable Service Order Finish Date or to make any claim under this Contract, any applicable Law, at common law, in equity or otherwise in relation to such liaison or assistance.

## 9. Company's obligations

- 9.1 The Company agrees to pay the Contractor the Service Order Price for the Services in accordance with GC 12.
- 9.2 The Company will provide the Contractor with possession of and access to the Site or other areas to the limited extent necessary for the Contractor to provide the Services. The Contractor acknowledges that it may not be given exclusive possession of, or access to, the Site.

## 10. Representatives

- 10.1 The person nominated by the Contractor in the Contract Details will be the Contractor's Representative.

The Contractor's Representative has authority to issue notices to and receive notices from the Company. The Contractor may change its Representative at any time by notice to the Company. The Contractor is responsible for all acts and omissions of its Representative.

- 10.2 The person nominated by the Company in the Contract Details is the Company's Representative. The Company's Representative has authority to issue directions, notices and certificates to and receive notices from the Contractor. The Company may change its Representative at any time by notice to the Contractor. The Company is responsible for all acts and omissions of its Representative.

## 11. Contractor's organisation

- 11.1 If requested in writing to do so by the Company, the Contractor must provide and comply with an organisation chart showing the organisational structure to be established by the Contractor for providing the Services, including the roles and identities of the Key Personnel. The Contractor must promptly notify the Company of any proposed revision or alteration of that organisation chart.
- 11.2 Key Personnel must be engaged throughout the entire provision of Services in the positions set out in the applicable Service Order.
- 11.3 The Contractor must not remove or replace any Key Personnel without the prior written approval of the Company, which approval must not be unreasonably withheld. Any substitute personnel must be at least equally experienced and qualified for the duties of the position as the person for whom they are substituted. The Contractor must provide an uninterrupted transition between the Key Personnel and their replacements.
- 11.4 The Company is entitled to direct the removal of any person engaged in the provision of the Services if, in the Company's reasonable opinion, that person's

provision or conduct is or has been unsatisfactory.

- 11.5 The Contractor must then promptly remove, or arrange to be removed, the person specified in GC 11.4 and appoint a suitable replacement at its sole expense.

## 12. Payment claims, payment and security

- 12.1 The Contractor must, in respect of each Service Order, submit to the Company's Representative at the times identified in the relevant Service Order (or if there is no time stipulated, on the last day of each month) a payment claim which identifies clearly the amount owing to the Contractor under the Service Order and which states the relevant Service Order number..
- 12.2 The amount payable by the Company to the Contractor in relation to each payment claim is calculated as follows:
- (a) where Schedule 3 provides that the Service Order Price is based on rates, by applying the rates to the Services properly supplied by the Contractor in accordance with the Service Order;
  - (b) where Schedule 3 provides that the Service Order Price is based on a lump sum or lump sums and rates, the aggregate of:
    - (i) a proportion of the lump sum or lump sums calculated by valuing the Services completed to the date of the payment claim (as a proportion of the Service Order Price); and
    - (ii) an amount calculated by applying the rates to the Services properly supplied by the Contractor in accordance with the Service Order;
  - (c) if the Service Order provides that milestone payments apply, in accordance with the milestone payments set out in the Service Order;

- (d) otherwise, by valuing the Services completed to the date of the payment claim (as a proportion of the Service Order Price);
- (e) by adding or subtracting any other amounts due from one party to the other under the Contract; and
- (f) by deducting any amount which the Company is entitled to deduct, retain or withhold.
- 12.3 The Company's Representative must respond to each of the Contractor's claims for payment within 10 Business Days of receipt of the Contractor's claim for payment by issuing to the Contractor a payment schedule identifying the payment claim to which it relates setting out the amount which it considers is due to the Contractor and if this amount is less than the amount claimed in the Contractor's claim for payment, the reasons for the difference.
- 12.4 The Contractor must submit its tax invoice in respect of each payment schedule, referencing the Service Order and payment claim to which it relates for the amount stated to be due in the payment schedule, within one Business Day of receipt of the relevant payment schedule.
- 12.5 The Company must pay the Contractor the amount payable in relation to each payment claim within 20 Business Days from the date the payment claim submitted in accordance with GC 12.1 **Error! Reference source not found.** **Error! Reference source not found.**, is received by the Company.
- 12.6 If the Contractor is a subsidiary of another corporation, the Contractor must, if requested by the Company, arrange for its ultimate parent company or any other group company as the Company may approve in its absolute discretion to provide a parent or group company guarantee in the form set out in Attachment D
- 12.7 The Contractor must provide to the Company such financial or other information the Company may require to satisfy itself that the parent or group company is an appropriate entity with sufficient means to satisfy the parent or group company guarantee.
- 12.8 The Company may withhold, retain or set off from any payment due to the Contractor under this Contract sufficient amounts to protect the Company against any costs, charges, expenses and damages for which the Contractor is liable to the Company for under or in connection with this Contract. This right to withhold, retain or set off does not limit the Company's right to recover those amounts in any other way.
- 12.9 The Company has the right to conduct an audit of the basis of the Contractor's invoices using the Contractor's records. This right continues for 12 months after the Company pays the relevant invoice. If the Company exercises this right, the Contractor must make available all relevant records and documentation.
- 13. Variations**
- 13.1 The Contractor must not vary the provision of Services except as directed by the Company's Representative.
- 13.2 The Company's Representative may by written notice expressed as a "Variation Notice" direct the Contractor to alter, amend, omit, add to or otherwise vary the provision of Services and the Contractor must carry out and be bound by any such Variations.
- 13.3 Within 2 Business Days of receipt of the notice referred to in GC 13.2, and before carrying out the Variation, the Contractor must provide the Company with a detailed breakdown of the increase or decrease in the Service Order Price as a result of the Variation.
- 13.4 No Variation issued in accordance with this Contract will vitiate or invalidate this Contract.
- 13.5 A Variation may involve the omission of any part or parts of the Services to be provided to the Company and the Contractor agrees that the Company may engage others to provide that part or parts so omitted. The Contractor acknowledges that any one or more omissions will not constitute a basis to allege that the Company has repudiated this Contract notwithstanding the extent or timing of the omission.
- 13.6 The rate or price for each Variation must be determined on the basis of the rates and prices set out in Schedule 3 (including the Schedule of Rates), or if there are no applicable rates and prices set out in Schedule 3 (including the Schedule of Rates), then a fair and reasonable valuation of the Variation must be made by the Company.
- 13.7 The Contractor is not entitled to any payment (pursuant to this Contract or otherwise at common law, equity, statute or code) in relation to any Variation unless:
- the Contractor has been directed to carry out the Variation pursuant to GC 13.2; and
  - the increase or decrease in the Service Order Price has been determined in accordance with GCs 13.3 and 13.6.
- 14. Independent contractor etc.**
- 14.1 The parties acknowledge that the Contractor is the Company's contractor and not the Company's employee or agent.
- 15. Warranties**
- 15.1 The Contractor warrants on a continuing basis that:
- it is duly incorporated and has obtained all necessary approvals to execute and perform its obligations under this Contract;
  - its obligations under this Contract are valid and binding and are enforceable against it in accordance with the terms of the Contract;
  - it is not in breach of any Law or obligation affecting it or its assets in

a way which may result in a material adverse effect on the business or financial condition of the Contractor;

- (d) there is no pending or threatened proceeding affecting the Contractor or any of its assets that would affect the validity or enforceability of this Contract, the ability of the Contractor to fulfil its commitments under this Contract in any material respect, or that could result in any material adverse change in the business or financial condition of the Contractor;
- (e) there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable;
- (f) it has the requisite knowledge, skill, ability and experience to perform the Services and that it will provide the Services with all the professional skill, competence, diligence and care to be expected of appropriately qualified and experienced contractors with experience in providing services of a similar size, type, nature and complexity to the Services;
- (g) the Services will be provided in a timely and professional manner in accordance with this Contract and in accordance with Good Industry Practices;
- (h) the Services will be free from material defects and deficiencies of any kind, be free from any encumbrance or lien and will conform to the requirements set out in Schedule 1, the applicable Service Order and the other requirements of this Contract;
- (i) it has, and will be deemed to have done everything that would be expected of a prudent, competent and

experienced contractor in:

- (i) assessing the risks which the Contractor is assuming under this Contract; and
  - (ii) ensuring that all Service Order Prices contains allowances to protect the Contractor against any of these risks eventuating,
- and the Contractor will not make a claim for an increase in a Service Order Price if any of those risks eventuate;
- (j) it has thoroughly investigated and made its own independent assessment of the conditions of the Site to the extent that it is relevant to the provision of the Services;
  - (k) it owns or has the right to use (or will on creation have the right to use) all Intellectual Property Rights necessary to provide its obligations under this Contract;
  - (l) it has read and understood the Company's Policies and Procedures, as well the Site Rules and other details relating to Site access contained in Schedule 2 and Attachment C and that it will comply with any conditions contained therein;
  - (m) it will employ techniques and standards generally employed in the industry for similar work;
  - (n) it will not utilise or incorporate any unproven design, method, process, device or technology without the prior written consent of the Company; and
  - (o) it has carefully conferred with the Company to ensure that it has ascertained and fully understands the Company's requirements and objectives for the Services and Deliverables.

15.2 To the extent applicable to the provision of the Services, the Contractor warrants that any equipment which is required to be supplied by the Contractor as part of the Services will:

- (a) be sufficient (and held in sufficient quantities at all times);
- (b) be new and unused;
- (c) be fit for the purpose and of a quality in accordance with Good Industry Practices;
- (d) be free from material defects, deficiencies, omissions, non-conformities, failures or malfunctions of any kind;
- (e) be supplied with manufacturers' warranties (if available) and to the extent such warranties cannot be transferred to the Company at the end of this Contract, the Contractor must hold the benefit of such warranties on trust for the Company and must, if requested by the Company, enforce them on behalf of the Company;
- (f) be free from any encumbrance or Security Interest; and
- (g) conform to any requirements in the applicable Service Order.

15.3 The Company does not warrant, guarantee or make any representation about the accuracy or adequacy of any information, data or documents made available to the Contractor as to the existing conditions at the Site. Such information, data or documents do not form part of this Contract.

## 16. Insurance

16.1 Prior to the provision of the Services, the Contractor shall procure and maintain and ensure that its subcontractors procure and maintain the following insurances and any insurances specifically set out in the Contract Details with reputable insurers and on policy terms acceptable to the Company:

- (a) **Workers' compensation insurance** (including occupational disease where required by law) and employer's indemnity insurance which complies with the relevant laws covering all claims and liabilities under any statute and at common law (where applicable) for the death of or injury to any person employed by the Contractor or any of its subcontractors in connection with this Contract.

This insurance policy shall be endorsed to include a principal's indemnity extension and waiver of subrogation for act, benefits and common law, indemnifying the Company against any liability which it may incur in respect of the Contractor's employees, arising by virtue of the applicable worker's compensation legislation or under common law.

- (b) **Motor vehicle insurance** covering all mechanically propelled vehicles that are registered or capable of being registered for road use and are at any time used in connection with the provision of the Services, including:

- (i) insurance that is compulsory under applicable laws governing the use of motor vehicles and liability for personal injury or death; and
- (ii) comprehensive and third party insurance that is not covered under the compulsory insurance referred to in paragraph (i) above.

Cover shall not be less than the amount as specified in the Contract Details with respect to any one accident or series of accidents arising out of the one event.

- (c) **Public liability insurance** for an amount of not less than the amount as

specified in the Contract Details to cover the Contractor's legal liability with respect to any one occurrence resulting in:

- (i) death of or bodily injury (including illness) to any third party; and
- (ii) damage to property not belonging to, held in trust by nor in the care, custody or control of the Contractor;

arising out of, or in the course of, or in connection with, or caused by, the provision or purported provision of the Services.

The insurance policy shall be endorsed to contain a principal's indemnity extension for the Company's legal liability arising from the performance of this Contract.

- (d) **Professional Indemnity Insurance:**

the Contractor must effect and maintain for at least seven years after the expiration of the Term, professional indemnity insurance to a minimum value as nominated in the Contract Details. The professional indemnity policy must:

- (i) include an automatic reinstatement of the policy limit; and
- (ii) include an 'unlimited' retroactive date.

- (e) Insurance covering all loss and damage to the Contractor's tools, plant and equipment used in the provision of the Services, for the replacement value of such tools, plant and equipment.

Such insurance policy shall be endorsed to contain a principal's indemnity extension and waiver of subrogation for the Company's legal liability arising from the

performance of this Contract.

- (f) Any other insurance which is required by law for the time being in force in the State of Western Australia.

16.2 The Contractor shall ensure that every subcontractor engaged by the Contractor obtains and maintains insurance in the same manner as the Contractor.

16.3 The Contractor shall, within 7 (seven) days after the Commencement Date, lodge with the Company, certificates of currency to evidence the existence of the policies required to be arranged by the Contractor and its subcontractors in respect of such insurance.

16.4 The Contractor must ensure that, except where prohibited by any applicable law, each insurance policy it or any subcontractor is required to procure under this Contract is deemed primary to any insurance effected by the Company, so that the Company's insurance will operate only in excess of the Contractor's insurance, and is endorsed accordingly.

16.5 The insurances arranged by the Contractor and its subcontractors shall be subject to approval by the Company as to the adequacy and terms of insurance protection required and their continued existence and the Contractor shall provide all such documentation, information and assistance as may be required by the Company in this regard.

16.6 The sole responsibility for ensuring that the insurances to be arranged by the Contractor and any subcontractor hereunder are actually effected and at all times remain current, shall at all times remain with the Contractor. No approval by the Company as to the adequacy in terms of insurance protection nor sighting by the Company of certificates of currency or copies of policies, shall be taken as a representation by the Company that such insurance is adequate or be raised or pleaded in bar to any action against the Contractor

for default in performing any of the requirements under this GC 16.

- 16.7 The Contractor shall at all times be responsible for complying with and abiding by the terms and conditions of the insurances arranged by it and for the payment of all excesses or deductibles under the terms of such insurances.
- 16.8 The Contractor shall immediately advise the Company of any change or cancellation of the insurance referred to in this Contract.
- 16.9 Notwithstanding anything to the contrary in this Contract, if at any time during the Term of this Contract, the Contractor has not satisfied the Company that the required insurances are in place and current, the Company:
- (a) may refuse the Contractor entry to any of the Company's premises; and
  - (b) is not obliged to pay and may withhold payment of (without any interest accruing), any amount owed by it to the Contractor under this Contract.
- 16.10 Furthermore, if the Contractor fails to keep the required insurances in place and current, the Company may, but shall not be obliged to, effect and keep in force any such insurance and pay such premiums as may be necessary for that purpose and may recover as a debt due from the Contractor the amount paid.
- 16.11 The effecting of insurance as required under this Contract shall not in any way limit the Contractor's obligations, responsibilities or liability to the Company:
- (a) under any indemnity given by it to the Company in this Contract; or
  - (b) otherwise at law.
- 16.12 The Contractor must notify the Company:
- (a) if it becomes aware that any of the conditions to the validity of the

insurances are not, or no longer, satisfied;

- (b) if it has made or is making a claim under any of the insurances which may materially affect the cover provided by the insurances; or
- (c) if it becomes aware that the insurance cover has been, or is about to be, cancelled.

#### **17. Transfer of ownership**

- 17.1 To the extent applicable to the provision of the Services, the ownership of any equipment, goods or materials intended for incorporation or use in providing the Services transfers to the Company on the earlier of:
- (a) delivery to the Site;
  - (b) incorporation or use in providing the Services; and
  - (c) payment by the Company of the relevant invoice which includes such equipment, goods or materials (as the case may be).

#### **18. Liability and indemnities**

- 18.1 The Contractor will be liable for and must indemnify the Company against any liability, loss or damage of any kind whatsoever arising out of its or its subcontractor's, employee's or personnel's acts or omissions whether or not the acts or omissions are in tort (including negligence), breach of contract or otherwise in relation to this Contract, except to the extent that such liability or loss or damage directly arises from the Company's own negligent acts or omissions.
- 18.2 Where the Contractor comprises two or more persons, each of them is jointly and severally liable for all of the Contractor's warranties, obligations and liabilities under or in connection with this Contract.
- 18.3 Each indemnity in this Contract is a continuing obligation separate and independent from the Contractor's other obligations and survives termination of this Contract.

18.4 Subject to GC 18.5, and to the maximum extent permitted by Law, neither party will be liable to the other party in any circumstances for any loss of use, loss of revenue, loss of profit, loss of product or production, business interruption, loss of business opportunity, loss of savings, loss or loss of use of capital or goodwill, arising out of or in connection with this Contract in each case whether or not foreseeable at the date of execution of this Contract or at any time.

18.5 GC 18.4 does not apply in relation to:

- (a) any liability in respect of death or injury to persons or damage to property;
  - (b) loss or liability to the extent that the Contractor is indemnified for the liability under any policy of insurance that it is required to maintain under this Contract or would have been indemnified if it had complied with its obligations under this Contract and the insurance policies;
  - (c) breach of GCs 3.2, 3.3, 3.4, 19.6 and 20;
  - (d) loss which is incurred by the Company as a consequence of a breach of GC 5 and such loss cannot be reasonably avoided or mitigated by the Company;
  - (e) liability for fraud, illegal acts or wilful misconduct in breach of this Contract which has substantial harmful consequences for the other party (including an intentional unlawful abandonment of this Contract); or
  - (f) conduct which is so grossly careless that it amounts to a reckless disregard for the harmful, foreseeable and avoidable consequences which may result from it.
- 18.6 The Contractor agrees that the operation of Part 1F of the *Civil Liability Act 2002* (WA) is excluded in relation to all and any rights, obligations and liabilities under this Contract 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.

- 18.7 Notwithstanding any other provision of this Contract, the Contractor is not required to indemnify the Company for any liability to pay a fine for an offence under the Safety Legislation.

## 19. Intellectual property

- 19.1 The Company retains the Intellectual Property Rights in the Company Background IP.
- 19.2 The Company gives the Contractor a licence to reproduce and use the Company Background IP as necessary for the sole purpose of complying with its obligations under this Contract. The Contractor must not reproduce, use or otherwise deal with the Company Background IP, or allow any other person to do the same, for any other purpose. The Company has the right to revoke this licence at any time by notice in writing to the Contractor.
- 19.3 The Contractor retains the Intellectual Property Rights in the Contractor Background IP.
- 19.4 The Contractor gives the Company a non-exclusive, perpetual and royalty free licence to reproduce, use, modify and sublicense the Contractor Background IP to the extent necessary to enable the Company to exercise its rights in respect of the Services to be provided by the Contractor under this Contract.
- 19.5 The Contractor agrees and acknowledges that all Project IP will be vested in and owned by the Company.
- 19.6 The Contractor warrants that provision of the Services in accordance with this Contract will not infringe the Intellectual Property Rights of any third party.
- 19.7 The Contractor shall indemnify the Company against any liability, loss or damage suffered or incurred as a consequence of a claim by a third party that their Intellectual Property Rights have been infringed by the

Contractor Background IP or the Project IP.

- 19.8 The Contractor agrees to notify the Company as soon as it becomes aware of any suspected, threatened or actual infringement of any Intellectual Property Rights in the Company Background IP, Contractor Background IP or Project IP.
- 19.9 The Contractor agrees to provide all reasonable assistance the Company may request to protect the Intellectual Property Rights in the Company Background IP and Project IP.

## 20. Confidential information

- 20.1 The Contractor undertakes that it will not and its personnel will not, either during the Term or at any time thereafter (except to the extent necessary to comply with its obligations under this Contract), disclose to any person any information of or relating to the Company that it has obtained as a result of this Contract or the negotiations preceding this Contract including the terms of this Contract, all information and documentation supplied by the Company or information to which the Contractor has access to in the performance of this Contract.
- 20.2 The Contractor must not publish alone or in conjunction with any other party or organisation any information, drawing or photograph concerning this Contract except with the Company's written consent and subject to such conditions as the Company may prescribe.
- 20.3 Nothing in this Contract prohibits disclosure of information:
- (a) which is in the public domain otherwise than as a result of a breach of this GC 20;
  - (b) which is received from a third party provided that it was not acquired directly or indirectly by that third party as a result of a breach of this GC 20;
  - (c) which is required to be disclosed by Law or Government Authority

having authority over a party; or

- (d) for the purposes of providing legal advice,

provided in the case of paragraph (d) that the recipient agrees to treat the information confidential in the same manner as the Contractor.

## 21. Privacy

- 21.1 The Contractor warrants on a continuing basis that it will comply with any Privacy Laws in carrying out its obligations under this Contract and the Contractor must indemnify the Company against any liability, damages, loss, cost or expense it may suffer arising out of or in connection with a breach of this warranty.

## 22. Taxes

- 22.1 Should any Taxes be levied on, in respect of, or in relation to, the provision of the Services, these will be to the Contractor's account. The Contractor will be responsible for payment of those Taxes and will immediately provide the Company with documentary evidence of payment if payment is made by the Contractor on the Company's behalf.
- 22.2 Except where expressly stated otherwise, all amounts referred to in this Contract are exclusive of GST. Where any supply occurs under or in connection with this Contract or the Services, the party making the supply (**Supplier**) is entitled to increase the amount payable for the supply by the amount of any applicable GST.
- 22.3 Where under this Contract the Contractor is entitled to any adjustment to the Service Order Price, and such adjustment is based on the reasonable or actual cost to the Contractor of providing any Services, any input tax credits available to the Contractor or its representative member, in relation to providing such Services will be deemed to reduce the cost of such Services.
- 22.4 A party will not be obliged to pay any amount in respect of GST on a supply to the other party unless and until a tax invoice that complies with



the GST Law has been issued in respect of that supply. Each party agrees to do all things, including providing invoices or other documentation, that may be necessary or desirable to enable or assist the other party to claim input tax credits to the maximum extent possible, or itself claim all input tax credits that might be available to it, in order to reduce the amount recoverable from the other party under this Contract.

22.5 The Contractor acknowledges and agrees that if a Law requires it to deduct an amount in respect of withholding tax from a payment under this Contract such that the Contractor would not actually receive on the due date the full amount provided for under this Contract, then on the due date the Company must:

- (a) deduct the amount for the withholding tax;
- (b) pay an amount equal to the amount deducted to the relevant Government Authority in accordance with applicable Law and give the original receipt to the Contractor; and
- (c) pay the Contractor an amount equal to the difference between the payment and the amount deducted.

### 23. Force Majeure

23.1 If, as a result of an Event of Force Majeure, a party becomes unable, wholly or in part, to perform any of its obligations under this Contract or is delayed in performing those obligations:

- (a) the affected party must immediately give notice to the other party setting out full details of the Event of Force Majeure and the reasons for the Event of Force Majeure preventing that party from, or delaying that party from, performing the affected obligations under this Contract;
- (b) the affected obligations identified in the notice referred to in GC 23.1(a) will be suspended but only so far as, and for so long as, the performance

of those obligations is affected by the Event of Force Majeure; and

- (c) the affected party must use its best endeavours to overcome or remove the effects of the Event of Force Majeure as quickly as possible.

23.2 Upon completion of the Event of Force Majeure, the affected party must as soon as reasonably practicable recommence the performance of the affected obligations.

23.3 The Contractor has no entitlement to and the Company has no liability for:

- (a) any costs, losses, expenses, damages or the payment of any part of the applicable Service Order Price during an Event of Force Majeure; and
- (b) any delay costs in any way incurred by the Contractor due to an Event of Force Majeure.

23.4 An Event of Force Majeure does not relieve a party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event.

23.5 If an Event of Force Majeure continues for more than 60 days, either party may by giving written notice to the other party, immediately terminate this Contract.

### 24. Suspension

24.1 The Company has the right, at any time and for any reason, to direct the Contractor to suspend performance of the Contractor's obligations under this Contract by giving notice to the Contractor.

24.2 On receipt of a notice of suspension in accordance with GC 24.1, the Contractor must suspend performance of the relevant obligations until such time as the Company directs it to resume performance of those obligations by notice in writing. At such time, the Contractor must promptly recommence the performance of those

obligations in accordance with this Contract.

24.3 A suspension under this clause 24 will not entitle the Contractor to claim any additional fee or any adjustment to the Service Order Price.

### 25. Termination

25.1 The Company may terminate this Contract at any time and in its sole discretion by giving the Contractor 5 Business Days prior notice.

25.2 The Company may, by notice to the Contractor, immediately terminate this Contract if the Contractor is in breach of its obligations under this Contract, and such breach is not remedied to the Company's satisfaction within 5 Business Days of the receipt of a notice from the Company.

25.3 Either party may terminate this Contract at any time by notice to the other party, without prejudice to any rights at law or otherwise, if either party commits an Act of Insolvency.

25.4 The Contractor may only terminate this Contract by notice if the Company has failed to make a payment in breach of GC 12, and the Contractor has provided the Company with a notice requiring payment within 20 Business Days of the expiry of the period in GC 12.3, except with respect to any payment or portion that the Company disputes under GC 26.

25.5 If the Contractor receives a notice of termination from the Company, or the Contractor terminates by notice to the Company, the Contractor must:

- (a) stop work (except to the extent specified in the notice from the Company);
- (b) take such action as necessary or as the Company directs, for the transfer, protection and preservation of the Company's property; and
- (c) use best endeavours to minimise the costs of termination to Company.

25.6 If this Contract is terminated in accordance with GCs 25.1 or

25.4, the Company will only be liable for the payment for the Services provided to the date of termination and for any direct costs necessarily and reasonably incurred by the Contractor as a result of termination subject to the Company's rights of set off.

25.7 If this Contract is terminated by the Company under GCs 25.2 or 25.3, the Company will only be liable for payment for the Services provided to the date of termination subject to its right of set off. The Company may employ other persons to provide or complete the provision of the Services. Any cost incurred by the Company in employing other persons to complete the provision or to provide the Services under this GC 25.7 which exceeds the Service Order Price will be a debt due from the Contractor to the Company.

## 26. Dispute Resolution

26.1 If a dispute arises, the parties must, prior to the initiation of any legal proceedings, use their best efforts in good faith to reach a reasonable and equitable resolution of the dispute.

26.2 If a dispute arises, the dispute must be referred to the Representatives appointed by the Contractor and the Company for resolution by written notice specifying that it is a notice given under this GC 26 giving full particulars of the nature and extent of the dispute.

26.3 If the dispute is not resolved within 10 Business Days of a referral in accordance with GC 26.2, or any longer period agreed by the parties in writing, the dispute must be referred to the Chief Executives (or their delegates) of each party for resolution.

26.4 If the dispute is not resolved by the Chief Executives within 20 Business Days of the referral, or any longer period agreed by the parties in writing, the matter will be and is hereby referred to confidential arbitration.

26.5 The seat of the arbitration will be Perth, Western Australia and the arbitration is to take place in Perth before one arbitrator. The arbitrator will

be nominated by the President of the Resolution Institute, Australia and their successors upon the application of either party. The arbitration will be conducted in accordance with the Resolution Institute Arbitration Rules (as amended by the Resolution Institute from time to time).

26.6 To the extent permitted by Law, the parties agree that:

(a) the powers conferred and restrictions imposed on a court by Part 1F of the *Civil Liability Act 2002* (WA) are not conferred or imposed on the arbitrators appointed under this GC 26; and

(b) any such arbitrators will have no power to make an order or award in respect of a dispute by applying or considering the provisions of Part 1F of the *Civil Liability Act 2002* (WA) (or any equivalent statutory provisions in any other state or territory) which might, in the absence of this GC 26, have applied to any dispute referred to arbitration.

26.7 Nothing in this GC 26 prevents a party seeking urgent injunctive relief or similar interim relief from a court.

26.8 Despite the existence of a dispute, the parties must continue to perform their respective obligations under this Contract.

26.9 This GC 26 survives the completion, expiry or termination of this Contract.

## 27. Assignment and subcontracting

27.1 The Contractor may not assign or novate its rights and obligations under this Contract without the Company's prior written consent.

27.2 The Company has the right to assign, transfer, novate or otherwise dispose of (**Transfer**) or to mortgage, encumber or charge any or all of its rights and obligations under this Contract, without the consent of the Contractor. Upon such Transfer under this GC 27.2 being effected, the Company shall be

released from all further obligations and liability under this Contract to the extent of such Transfer.

27.3 The Contractor must not subcontract any of its obligations under this Contract other than to the subcontractors set out in the applicable Service Order without the Company's prior written consent.

27.4 Subcontracting does not detract from or otherwise affect the Contractor's warranties, obligations or liabilities under or in connection with this Contract. The Contractor is liable to the Company for the acts and omissions of its subcontractors, employees and agents, as if they were acts or omissions of the Contractor.

27.5 The Company may assign, novate, mortgage, charge or otherwise grant security over its right, title and interest in, to, under or in connection with this Contract in favour of any Financier to secure, among other things, any funding arrangements (including project finance or working capital or hedging), without the consent or approval of the Contractor.

## 28. Notices

28.1 Any notice, approval, consent or other communication in relation to this Contract must be:

(a) in writing;

(b) marked to the attention of the relevant Representative; and

(c) either:

(i) left at the address set out in the Contract Details;

(ii) sent by prepaid ordinary post (airmail if appropriate) to the address set out in the Contract Details; or

(iii) emailed to the email address set out in the Contract Details.

However, if the addressee has notified a change of postal address or email address then the

communication must be to that address or number.

28.2 A notice, approval, consent or other communication takes effect from the time it is received unless a later time is specified in it.

28.3 A letter or email is deemed to be received:

(a) in the case of a posted letter, on the fifth day after posting (seventh in the case of a letter sent by airmail); and

(b) in the case of an email, on the date of its dispatch, unless it is sent after 5pm (WST) or not on a Business Day in which case it is deemed to have been received at 9am on the next Business Day, or unless the sender receives an automated message that the email has not been delivered.

### 29. Modern Slavery Prevention

29.1 The Contractor represents and warrants on a continuing basis that neither the Contractor nor any of its directors, officers, employees, representatives, agents, contractors or subcontractors will engage in Modern Slavery.

29.2 The Contractor must provide, within a reasonable time, all information reasonably requested by the Company for the purposes of the *Modern Slavery Act 2018* (Cth). The Contractor represents and warrants that any information it supplies to the Company in accordance with this clause 29 is true and accurate and may be relied upon by the Company for the purposes of the *Modern Slavery Act 2018* (Cth).

### 30. Financing Assistance

30.1 The Contractor must provide such documents and other technical assistance as the Company may reasonably request in connection with the financing of the Project.

30.2 If requested by the Company, the Contractor agrees to enter into a direct deed with the Financier and the Company on terms which are consistent with accepted market practice in Australia for project financing of a resource based project

(including in relation to performance, security, notice, termination, step-in, variations and assignment).

30.3 Notwithstanding any other provision of this Contract, the Contractor:

(a) consents to the assignment or novation by the Financier to a third party following enforcement of any Security Interests and agrees to enter into a document to effect such assignment or novation; and

(b) agrees that enforcement of any Security Interests held by the Financier will not of itself constitute a breach of this Contract or the Company's obligations under this Contract or give rise to a right of the Contractor to terminate this Contract.

### 31. General

31.1 The Contractor agrees that the Company's Related Bodies Corporate may, by written notice to the Contractor, elect to take the benefit of this Contract as if they were named as parties to it.

31.2 None of the Company's rights under this Contract will be waived by the Company except in writing signed by a duly authorised representative of the Company.

31.3 This Contract may not be varied except in writing signed by a duly authorised representative of each of the parties.

31.4 The Company may exercise a right, remedy or power in any way the Company considers appropriate.

31.5 If the Company does not exercise a right, remedy or power at any time, this does not mean that the Company cannot exercise it later.

31.6 The rights, remedies and powers of the parties under this Contract are in addition to any rights, remedies and powers provided by law.

31.7 This Contract may consist of a number of copies each signed by one or more parties to this Contract. When taken

together, the signed copies are treated as making up the one document.

31.8 This Contract constitutes the entire agreement between the parties and sets out a full statement of the contractual rights and liabilities of the parties in relation to the Services and no negotiations between them nor any document agreed or signed by them prior to the date of this Contract in relation to the Services is of any contractual effect. Any terms or conditions provided by the Contractor to the Company are expressly excluded.

31.9 If the whole or any part of a clause of this Contract is held to be void, unenforceable or illegal by any court of competent jurisdiction it must be read down to such extent as may be necessary to ensure that it is not illegal, invalid or unenforceable and as may be reasonable in all the circumstances so as to give it a valid operation and if the provision or part thereof cannot be so read down, it must be severed without affecting the validity and enforceability of the remaining provisions of this Contract.

31.10 Any discretion, consent, approval, remedy or other right to do (or not do) anything which the Company has under this Contract or at law may be exercised in the Company's absolute discretion unless expressly stated otherwise.

### 32. Governing law

32.1 This Contract is governed by the laws of Western Australia.

32.2 The parties agree to submit to the exclusive jurisdiction of the courts of Western Australia. Each party waives any right it has to object to an action being brought in those courts including by claiming that action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

### 33. Definitions and Interpretation

33.1 In this Contract, unless the contrary intention appears:

**Act of Insolvency** means in respect of a party:

- (a) the board of the party passes a resolution under section 436A of the *Corporations Act 2001* (Cth);
- (b) the party is placed into administration pursuant to Part 5.3A of the *Corporations Act 2001* (Cth);
- (c) a deed of company arrangement is entered in respect of the party;
- (d) an application is made to a court for the winding up of the party;
- (e) the party resolves that it be wound up voluntarily;
- (f) a winding up order is made in respect of the party;
- (g) a receiver or receiver and manager is appointed to any substantial assets of the party;
- (h) a court orders that there be a meeting of creditors or members of the party for any purpose related to Part 5.1 of the *Corporations Act 2001* (Cth);
- (i) a mortgagee takes possession of any substantial assets of the party; or
- (j) the party informs the other party or any creditor of the party, in writing, that it is insolvent.

**Business Day** means a day when the banks in Perth are open for business.

**Commencement Date** means the date specified in the Contract Details.

**Company Background IP** means Intellectual Property Rights owned by or licensed to the Company (including know-how and technical information) which exists prior to the date of this Contract but does not include Contractor Background IP or Project IP.

**Company's Policies and Procedures** means the policies and procedures listed in Attachment C, as may be amended, replaced or added to, by the Company from time to time.

**Contractor Background IP** means Intellectual Property Rights owned by or licensed to the Contractor (including know-how and technical information) which exists prior to the date of this Contract but does not include Company Background IP or Project IP.

**Contract** means this contract for the provision of Services comprising the documents set out

in the Formal Instrument of Agreement.

**Contract Details** means the section of this Contract headed "Contract Details".

**Design** means the design evidenced by the Design Documents and includes any materials and methods of using, fixing or working required or contemplated by the Design Documents.

**Design Documents** means correspondence, plans, drawings (including sections and elevations), designs, samples, sketches, illustrations, models, specifications, calculations, information and other documents, information and data, in any written or other format which are necessary to carry out and complete the design or which are required to be produced as part of the Services.

**Deliverables** means the documents, data, models, studies and all other information and deliverables to be created, prepared and provided by the Contractor in connection with this Contract and includes the Design Documents (if any) and the items listed under 'Documents and Deliverables' in each Service Order.

**Event of Force Majeure** means an event or circumstance which is beyond the control and without the fault or negligence of the party affected and which by the exercise of reasonable diligence the party affected was unable to prevent, provided that event or circumstance is limited to the following:

- (a) riot, war, acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power, requisition or compulsory acquisition by any governmental or competent authority;
- (b) earthquakes, flood, lightning or other physical natural disaster, but excluding weather conditions regardless of severity; and
- (c) strikes at national level or industrial disputes at a national level, but excluding any industrial dispute which is specific to the Site or the Contractor or the performance of this Contract.

**Financier** means, collectively, all of the entities (including multilaterals and export credit agencies if applicable) which provide or may

provide financing in connection with the Project or otherwise and any trustee or agent acting on those entities' behalf.

**Finish Date** means, in relation to a Service Order, the date for completing the relevant Services or the time within which the relevant Services must be provided, as set out in the Service Order.

**Formal Instrument of Agreement** means the formal instrument of agreement to this Contract.

**General Conditions or GC** means these general conditions comprising GCs 1 to 33.

**Good Industry Practices** means the most stringent of the practices which are generally engaged in or observed by all industries with respect to services similar to the Services.

**Government Authority** means any national, state, local, regional, territorial or municipal government, ministry, governmental department, commission, board, bureau, agency, instrumentality, executive, legislative, judicial or administrative body, having jurisdiction over the Services, the Site or the Project.

**GST** has the meaning given to that term in the GST Law.

**GST Law** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Industrial Matter** means industrial action of any sort, whether threatened or actual, involving the employees of the Contractor working at or in connection with the Site.

**Intellectual Property Rights** means patents, patent applications, drawings, discoveries, inventions, improvements, trade secrets, technical data, formulae, computer programs, data bases, know-how, logos, designs, design rights, copyright and similar industrial or intellectual property rights.

**Key Personnel** means the personnel engaged in accordance with GC 11 and specified in the applicable Service Order.

**Law** means any statute, ordinance, code, law, decree, circular, rule or regulation by any Government Authority.

**Licences** means all licences, qualifications, registrations and other statutory requirements

necessary for the provision of the Services under this Contract.

**Modern Slavery** has the same meaning as it has in the *Modern Slavery Act 2018* (Cth).

**parties** means the Contractor and the Company.

**party** means the Contractor or the Company.

**Personal Information** means personal information, as that term is defined in the *Privacy Act 1988* (Cth), that is provided to, or obtained or accessed by, the Contractor in the course of performing its obligations under this Contract.

**Privacy Laws** means:

- (a) the *Privacy Act 1988* (Cth);
- (b) any Laws (to the extent that such legislation applies to the Company or the Contractor or any other recipient of Personal Information) from time to time in force in any:
  - (i) Australian jurisdiction (which includes the Commonwealth of Australia and any State or Territory of Australia); or
  - (ii) non-Australian jurisdiction (to the extent that the Company, any Personal Information or the Contractor is subject to the laws of that jurisdiction),

affecting privacy, Personal Information or the collection, handling, storage, processing, use or disclosure of personal data; and

- (c) any ancillary rules, guidelines, orders, directions, directives, codes of conduct or other instruments made, issued or registered under any of the legislation referred to in paragraphs (a) and (b) above, as amended from time to time.

**Project** means the Company's Pilgangoora Tantalum-Lithium Project.

**Project IP** means Intellectual Property Rights discovered or coming into existence as a result of, for the purposes of or in connection with the provision of Services in accordance with this Contract, including any Design and Design Documents, but does not include Contractor Background IP or Company Background IP.

**Related Bodies Corporate** has the meaning it is given in the *Corporations Act 2001* (Cth).

**Representative** means the authorised representative nominated by each party in the Contract Details or any other person appointed by the relevant party and notified to the other party from time to time in accordance with GC 10.

**Safety Legislation** means:

- (a) the *Work Health and Safety Act 2020* (WA) and regulations made thereunder such as the *Work Health and Safety (Mines) Regulations 2022* (WA) (collectively "mine safety legislation"), to the extent the mine safety legislation applies to the Site or the Services; and
- (b) to the extent the mine safety legislation does not apply to the Site or the Services, the *Work Health and Safety Act 2020* (WA) and any regulations made thereunder, such as the *Work Health and Safety (General) Regulations 2022* (WA).

**Schedule of Rates** means the schedule of rates set out in Schedule 3

**Security Interest** means any mortgage, pledge, encumbrance, lien, charge or any security or preferential interest or arrangement of any kind, including anything which gives a creditor priority to other creditors with respect to any asset, any assignment by way of security, hypothecation, option, lease, trust or assignment, retention of title, and any agreement to create or give an arrangement to effect any of the above.

**Service Order** means a document issued by the Company substantially in the form of Attachment B, which includes details of Services required to be performed by the Contractor including the information agreed or to be provided by the Contractor in response to the relevant Service Order Request (if any).

**Service Order Price** means:

- (a) where Schedule 3 states that the Service Order sum is based on rates, the sum ascertained by multiplying the rates in Schedule 3 by the quantities properly supplied in accordance with the Service Order; or
- (b) where Schedule 3 states that the Service Order sum is based on a lump sum or lump sums and

rates, the aggregate of the lump sums in Schedule 3 and the sum ascertained by multiplying the rates in Schedule 3 by the quantities properly supplied in accordance with the Service Order.

**Service Order Request** means a service request issued by the Company to the Contractor under clause 2.1.1 substantially in the form set out in Attachment A, setting out the details of the services required, the Start Date, the Finish Date, and, if required by the Company, a request to provide a price to carry out the services.

**Services** means the services to be provided by the Contractor under a Service Order in accordance with this Contract or all of the services to be provided by the Contractor under each and every Service Order issued under the Contract, as the context requires.

**Site** has the meaning given to it in Schedule 2

**Site Rules** means the Site rules set out in Schedule 2 and Attachment C as may be amended, replaced or added to, by the Company from time to time.

**Special Conditions** means the conditions set out in a schedule to this Contract titled 'Special Conditions'.

**Standards** means all industry standards and government regulations applicable to the provision of the Services.

**Start Date** means the date the Contractor shall commence performance of the Services, as set out in a Service Order.

**Statutory Position** means the person appointed by the Company as a site senior executive or exploration manager under the *Work Health and Safety (Mines) Regulations 2022* (WA) for the Site.

**Term** means the term specified in the Contract Details, as may be extended in accordance with GC 1.5.

**Taxes** means any and all present and future sales, use, personal, property, real property, value added, goods and services, turnover, stamp, documentary, interest equalisation, business, occupation, excise, income, corporation, profits, gains, gross receipts, or other taxes, fees, withholdings, imposts, levies, duties or other charges of any nature whatsoever or whensoever imposed (other than taxes on net income) by any government,

governmental, semi-governmental or other relevant authority, together with any penalties, fines or interest thereon or similar additions, imposed, levied or assessed or otherwise payable.

**Variation** means any modification, addition, omission, or other variation to, in or from the provision of the Services in accordance with GC 13.

33.2 In this Contract, unless the contrary appears:

- (a) a reference to this Contract or another instrument includes any variation or replacement of either of them;
- (b) a reference to a statute includes regulations and any other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) the word person includes a firm, a body corporate, an unincorporated association or an authority;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (f) if a period of time is specified and dates from a given day or the day of an actual event, it is to be calculated exclusive of that day;
- (g) a reference to a Schedule or Attachment is a reference to a Schedule or Attachment to this Contract;
- (h) the words "including" and "include" are a reference to "including, but not limited to";
- (i) the sign '\$' or 'dollars' is a reference to Australian currency; and
- (j) no provision of this Contract shall be interpreted against the interests of a party because that party was responsible for preparing

the Contract or that provision.

33.3 Headings are inserted for convenience only and do not affect the interpretation of this Contract.

## Schedule 1 - Services

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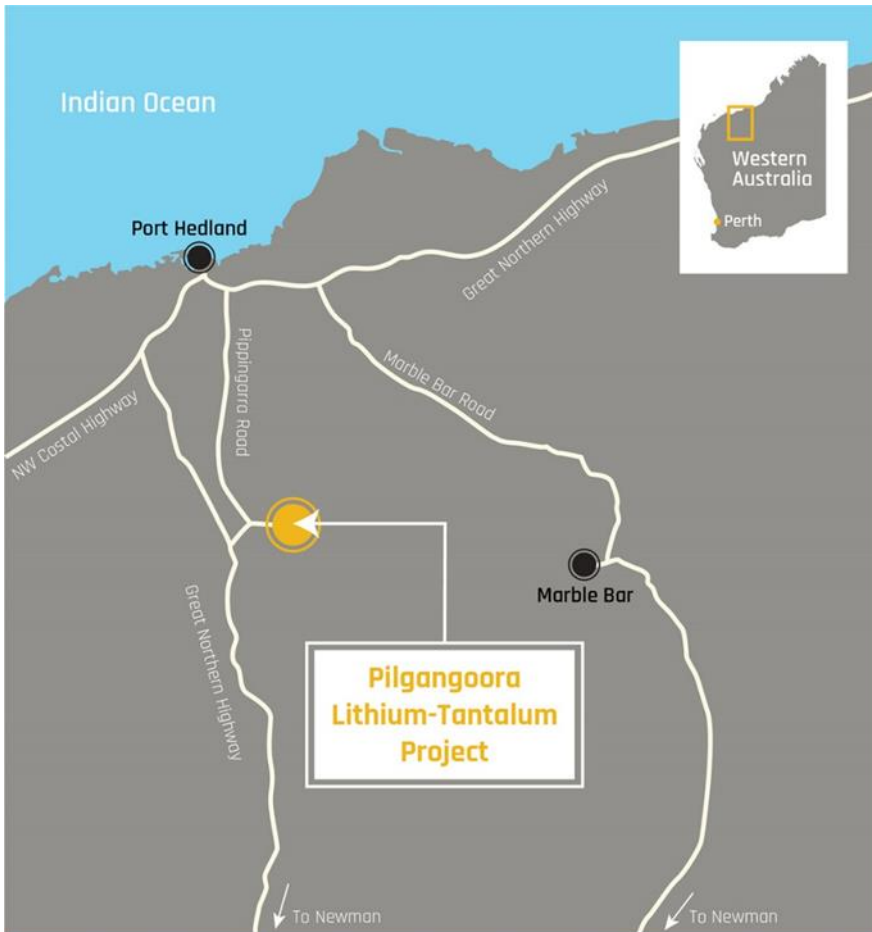
The Contractor shall provide [insert description of Services] on an ad hoc basis, as and when requested by the Company (the '**Services**'). The Services shall be carried out in accordance with this Contract and a Service Order describing the Services in accordance with the template in Attachment B which is executed by both parties.

## Schedule 2 - Site

### BACKGROUND

The Company (a wholly-owned subsidiary of Pilbara Minerals Limited) owns and operates the Pilgangoora Lithium-Tantalum Project (**Pilgan Project**), with a current resource of 226Mt and existing JORC compliant reserves of 108Mt. The resource is geographically situated approximately 120km South South-East of the major port of Port Hedland in Western Australia's Pilbara Region.

**Figure 1 – Pilgan Project**



The Site means the Company's premises at the Pilgan Project.

OR

#### 1. Description of the Site

**[insert Site details including address and include or refer to drawing numbers or maps of the Site]**

#### 2. Other sites

**[insert details of other sites, if any, which about the Site and of which the Contractor needs information in order to provide the Services. For example, the Site may be the Port and the Contractor will require details of the remainder of the Site]**



### **3. Access to the Site**

***[insert details of access and any conditions which may impact on access of which the Contractor should be aware]***

### **4. Site Rules**

The Company's Site Rules are attached as part of Attachment C . The Contractor acknowledges that it has read and understood and agrees to comply with the Company's Site Rules.

## Schedule 3 - Schedule of Rates for Services

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### 1. GENERAL

The purpose of this Schedule 3 is to set out in the Schedule of Rates in accordance with the Contract.

This Schedule does not determine the nature or extent of the Services and must be read in conjunction with the rest of the Contract.

The currency for accounting and payment of the Service Order Price detailed herein is Australian Dollars (AUD).

### 2. SERVICE ORDER PRICE

All rates and prices are fixed and firm for the duration of the Contract and no fluctuations will be permitted for any changes in any form of the Contractor's costs, escalation or inclusions or any other reason, except as specifically provided in this Contract.

The Service Order Price is fully inclusive cost in respect of the Services prescribed in the Service Order and performance of all the obligations set out in the Contract and will constitute full and complete compensation due to the Contractor for the Services and all things necessary to complete the Services.

### 3. SCHEDULE OF RATES

The rates included in Table 3.1 are deemed to be fully inclusive rates and are applicable for the duration of the Contract and will include all applicable costs arising from corporate overhead and profit together with all project management, technical support, administration, clerical and secretarial services, head office charges and expenses, and establishment charges.

The rates will include but not be limited to salaries, wages, bonuses, allowances, payroll tax, superannuation guarantee levy, sick leave, annual leave, long service leave, public holidays, medical benefits, all statutory charges, insurances, training, subsistence, consumables, documentation requirements and the like.

Only the actual worked hours will be reimbursed by the Company. The rates are inclusive of overtime and apply to day shifts and all days worked including holidays.

**Table 3.1 Summary of Prices**

Item	Classification / Position Title	Unit of Measure (UOM)	Price \$ (exc GST)
1			
2			
3			
4			
5			
6			

## Schedule 4 - Special Conditions

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The General Conditions are amended as follows:

**[Delete Schedule 4 if no special conditions]**

## Attachment A - Template Service Order Request

CONTRACTOR INFORMATION			
<b>Service Order Request No.</b> (obtain from Contract Administrator):	[ ]	<b>Date issued to Contractor:</b>	[ ]
<b>Contract No:</b>	[ ] ('the Contract')	<b>Response to Service Order Request Date:</b>	[ ]
<b>Contract title:</b>	[ ]		
<b>Contractor:</b>	[ ]		
DETAILED SCOPE OF SERVICES			
<p><b>Details of Services to be undertaken:</b>                      [Include or attach Scope of Services if necessary]</p> <p><b>Drawing and Data Requirements:</b>                      [Insert requirement:]</p> <p>The Contractor shall submit drawings and data to the extent and within the period of time specified in the Contractor Documents Requirements List (CDRL) [INSERT DOCUMENT NUMBER].</p> <p>The text in all engineering and design, data, drawings, technical information, reports and computations shall be in the English language. Abbreviations shall only be permitted as approved by the Company.]</p>			
DETAILS (to be completed by the Company)			
<b>Start Date for Services:</b>	[Insert date]	<b>Finish Date for Services:</b>	[Insert date]
<b>Professional Indemnity Insurance Required</b>	[YES / NO]	<b>Amount of Professional Indemnity Insurance Required</b>	Amount : \$ [ ]
<b>Approved Subcontractor/s:</b>	[Insert details or N/A]	<b>Key Personnel:</b>	[Insert names or N/A]
THE CONTRACTOR SHALL PROVIDE THE COMPANY WITH THE FOLLOWING			
<b>Contractor's price to carry out the work:</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Detailed breakdown of price (based on the rates/prices in schedule 3):</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<b>Lump sum</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
DOCUMENTS AND DELIVERABLES			
[Requirements to be defined by Company in the Service Order Request]			

## DATES FOR PAYMENT CLAIMS

[Insert either the last day of each calendar month or milestone payments]

Contract requirements/ Contractor's obligations

Without limiting the terms of the Contract:

1. All defined terms in the Contract shall have the same meaning in this Service Order Request unless otherwise stated.
2. The Contractor's price to carry out the services may not exceed the sum calculated by using the lump sums, rates and prices in Schedule 3 of the Contract.
3. A Service Order will set out the final price for the services.
4. Any terms or conditions provided by the Contractor which differ from the terms in the Contract will have no contractual effect and will not be binding on the parties.

## Attachment B - Template Service Order

CONTRACTOR INFORMATION			
<b>Service Order (SO) No.</b> (obtain from Contract Administrator):		<b>Date issued to Contractor:</b>	
<b>Contract No:</b>	('the <b>Contract</b> ')		
<b>Contract title:</b>			
<b>Contractor:</b>			
DETAILED SCOPE OF SERVICES			
<p><b>Details of Services to be undertaken:</b></p> <p>[Include or attach Scope of Services if necessary]</p> <p><b>Drawing and Data Requirements:</b></p> <p>[Insert requirement:</p> <p>The Contractor shall submit drawings and data to the extent and within the period of time specified in the Contractor Documents Requirements List (CDRL) [INSERT DOCUMENT NUMBER].</p> <p>The text in all engineering and design, data, drawings, technical information, reports and computations shall be in the English language. Abbreviations shall only be permitted as approved by the Company.]</p>			
DETAILS (to be completed by the Company)			
<b>Start Date for Services</b>		<b>Finish Date for Services</b>	
<b>Professional Indemnity Insurance Required</b>	[YES / NO]	<b>Amount of Professional Indemnity Insurance Required</b>	[Insert value or N/A]
<b>Approved Subcontractor/s:</b>	[Insert details or N/A]	<b>Key Personnel:</b>	[Insert names or N/A]
PRICE			
[Insert price for Services and, if relevant, breakdown into lump sums and rates in accordance with Schedule 3]	<b>Service Order Price</b>	Lump sum	<input type="checkbox"/>
		Rates	<input type="checkbox"/>
		Lump Sum and rates	<input type="checkbox"/>
DOCUMENTS AND DELIVERABLES			
[Requirements defined by Company in the Services Order Request]			
DATES FOR PAYMENT CLAIMS			
[Insert either the last day of each calendar month or milestone payments]			

Contract requirements/ Contractor's obligations:

Without limiting the terms of the Contract:

1. All defined terms in the Contract shall have the same meaning in this Service Order unless otherwise stated.
2. The Services shall be performed in accordance with the Contract, including but not limited to this Service Order.
3. Any terms or conditions provided by the Contractor which differ from the terms in the Contract will have no contractual effect and will not be binding on the parties.

**[Insert applicable execution clause in accordance with Company policies]**

## Attachment C - Company's Policies and Procedures

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At the date of this Contract, the Company's Policies and Procedures are as follows:

[Insert details of all relevant policies and procedures]

Item	Doc Control	Policy	Last updated
1	POL-ABC	Anti-Bribery & Corruption Policy	June 2021
2	POL-COD	Code of Conduct	May 2021
3	POL-COM	Community and Stakeholder Relations Policy	Nov 2020
4	POL-DIV	Inclusion and Diversity Policy	June 2021
5	POL-ENV	Environmental Policy	Nov 2021
6	POL-MSL	Modern Slavery Policy	May 2021
7	POL-SMD	Social Media Policy	June 2020
8	POL-WHS	Health and Safety Policy	June 2020
9	POL-WSB	Whistle-blower Policy	May 2021

[Insert description of how the Contractor will receive copies of the Company's policies and procedures – they MUST be provided copies of all relevant policies and procedures (i.e. the Company may provide copies as further Annexures to this contract or via email sent to Contractor's Representative or any other applicable method)]

The Company may amend or replace the policies above or introduce new policies from time to time, and those amended, replacement or new policies will be treated as part of the Company's Policies and Procedures for the purposes of this Contract.

The Contractor hereby acknowledges that it has read and understood and agrees to comply with the Company's Policies and Procedures.



## Attachment D - Form of Parent Company Guarantee

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### PARENT COMPANY GUARANTEE

**[On the letterhead of the Parent Company]**

Date: **[insert]**

To: **[insert]**

**[insert address]**

Dear **[insert]**

**[insert]** Contract – Parent Guarantee

You entered into a contract dated **[insert date]** with **[insert]** ("**Contractor**"), titled **[insert]** for the provision of certain services ("**Services**") to be undertaken by the Contractor ("**Contract**").

Pursuant to the terms of the Contract, the Contractor has agreed to procure the provision of an unconditional guarantee from us in the terms hereof. At the request of the Contractor, we have agreed to guarantee performance of the Contract by the Contractor as set out in this Parent Company Guarantee ("**Guarantee**").

In consideration of you entering into the Contract with the Contractor, we irrevocably and unconditionally guarantee to you as a primary obligation and not as surety due performance by the Contractor of each and all of its obligations and liabilities under and in accordance with the Contract save that nothing herein is to be construed as imposing greater obligations or liabilities on us than are imposed on the Contractor in the Contract. We will indemnify you against all liabilities, losses, damages, costs and expenses suffered or incurred by you by reason of any act, failure, default or omission on the part of the Contractor in performing and observing its obligations under and in accordance with the Contract.

Our obligations under this Guarantee are to remain in full force and effect and are not to be affected or discharged in any way by:

- (a) any suspension of the provision of the Services, variation to or amendment of the Contract (including without limitation extension of time for performance) or any concession or waiver by you in respect of the Contractor's obligations under the Contract;
- (b) any provision of the Contract being or becoming illegal, invalid, void, voidable or unenforceable;
- (c) the termination of the Contract or of the engagement of the Contractor under the Contract for any reason;
- (d) any forbearance or waiver of any right of action or remedy you may have against the Contractor or negligence by you in enforcing any right of action or remedy;
- (e) any bond, undertaking, security or other guarantee held or obtained by you for any of the obligations of the Contractor under the Contract or any release or waiver thereof;
- (f) any release of any person under the terms of any composition or arrangement;
- (g) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any person;
- (h) any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (i) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;

- (j) any unenforceability, illegality, invalidity or non-provability or any other document or security; or
- (k) any insolvency or similar proceedings; and
- (l) any other matter or thing which in the absence of this provision would or might have that effect.

This Guarantee extends to any variation of or amendment to the Contract and to any agreement supplemental thereto agreed between you and the Contractor and, for the avoidance of doubt, we hereby authorise you and the Contractor to make any amendment, variation or supplemental agreement.

This Guarantee is a continuing guarantee and accordingly covers all of the obligations and liabilities of the Contractor under the Contract and remain in full force and effect until all the said obligations and liabilities of the Contractor are carried out, completed and discharged in accordance with the Contract. This Guarantee is in addition to any other security which you may at any time hold and may be enforced without first having recourse to any security or taking any steps or proceedings against the Contractor.

We agree not to make any claim or threaten to make any claim on any ground whatsoever whether by proceedings or otherwise against the Contractor for the recovery of any sum paid by us in accordance with this Guarantee. Any claim is to be subordinate to any claims (contingent or otherwise) which you may have against the Contractor arising out of or in connection with the Contract until the time when these claims are satisfied by the Contractor or us as the case may be. To that intent we agree not to claim or have the benefit of any security which you hold or may hold for any monies or liabilities due or incurred by the Contractor in respect of any payment by us hereunder. We undertake to hold that sum in trust for you for so long as any sum is payable (contingently or otherwise) under this Guarantee.

Any notice required by this Guarantee is deemed to be duly given when delivered (in the case of personal delivery) or 96 hours after being despatched by prepaid registered post or recorded delivery (in the case of letter) or as otherwise advised by and between the parties hereto.

This Guarantee is governed by and construed according to the laws for the time being in force in Western Australia and we agree to submit to the exclusive jurisdiction of the courts of Western Australia.

This Guarantee is executed by us as a deed.

IN WITNESS of which we have duly executed this Guarantee on the date stated above.

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Executed by **[insert name of corporation]**  
 ACN **[insert ACN]** in accordance with s127 of  
 the Corporations Act 2001 and by:

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Signature of Director

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Signature of Director/Company Secretary

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Name of Director (print)

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Name of Director/Company Secretary  
(print)

Address for notices

**[Insert address]**