

Purchase Order – Terms and Conditions

1 Terms and Conditions of Order

- 1.1 Except as otherwise stated in this Order, each of these Terms and Conditions together with the details contained in this Order, will govern the obligations of each party with respect to the Items.
- 1.2 The details in this Order, together with these Terms and Conditions, constitute the entire agreement between the Company and the Contractor in relation to the Items and supersede all prior negotiations, communications and documents between the Company and the Contractor, other than any Forward Purchase Agreement, Goods Contract or Services Contract to which this Order relates.

2 Delivery of Items

The Contractor will deliver the Items to the Company by the Delivery Date as detailed in this Order for the Price. If no Delivery Date is specified, the Contractor must deliver the Items to the Company as soon as practicable. Unless otherwise stated in this Order, all Items will be delivered to the Delivery Point. The Contractor will immediately notify the Company of any delay in delivering any of the Items.

3 Variations

- 3.1 The Company may vary the quantity of Items, the Delivery Date or the delivery instructions (“Variations”) of this Order by notice to the Contractor and the Contractor agrees to carry out the Variations promptly provided that it is reasonably able to do so.
- 3.2 The Contractor must not vary the Price or any part of the Items without the Company’s prior written consent. The Company will not pay the Contractor for any goods or services that are not Items in this Order, part of a Variation or do not match the description or quantity of Items specified in this Order.

4 Payments

- 4.1 The Price is fixed and not subject to variation and includes all expenses incurred by the Contractor in relation to the Items and this Order, including delivery but excluding GST.
- 4.2 The Contractor will invoice the Company no earlier than delivery of the Items.
- 4.3 Unless otherwise agreed and subject to the Contractor complying with these Terms and Conditions, the Company will pay the Contractor within 40 days after the end of the month in which the Contractor’s approved invoice for the Items has been received by the Company. The Contractor’s invoice must state the Items delivered, this Order number, GST, be a valid tax invoice and be in Australian dollars. The Contractor will only be entitled to invoice for Items that have actually been delivered in accordance with these Terms and Conditions.
- 4.4 The Company may reject any invoice, or part of any invoice, where:
 - a) the Items were rejected; or
 - b) relevant supporting documentation is not provided by the Contractor.
- 4.5 Without prejudice to any of its other rights, the Company may deduct from any moneys payable to the Contractor on any account whatsoever, any money which may be or may become payable from the Contractor to the Company under this Order. Nothing in this clause affects the

Company's right to recover from the Contractor the whole of the debt or any balance that remains owing after any such deduction.

5 Contractor's warranties

The Contractor warrants that the Items:

- a) in the case of goods, are new and of merchantable quality, are suitably packaged and delivered without Defect; or
- b) in the case of services, are performed by suitably qualified and skilled persons; and
- c) in any case, are fit for their intended purpose, meet or exceed all relevant industry standards and comply with all applicable laws.

6 Acceptance and Defective Items

- 6.1 The Company must accept or reject the Items within 5 business days of delivery. The Company may reject all or any of the Items if it determines that the Items are Defective or otherwise do not comply with the requirements of this Order.
- 6.2 If the Company rejects any Items, it will notify the Contractor and the Contractor must either (at the Company's election) promptly rectify and make good the Defect, or collect the Items at the Contractor's own cost and at a time convenient to the Company.
- 6.3 If any part or aspect of the Items fails or is found to be Defective during the Warranty Period, the Contractor will without delay and at no further cost to the Company do all things necessary to remedy the Defect. This may be by way of repair, replacement or other means acceptable to the Company.
- 6.4 The Company may take any action necessary to remedy any Defect notified to the Contractor under clause 6.2 or that has occurred during the Warranty Period and that the Contractor has failed to remedy in accordance with this clause 6 and all costs incurred by the Company will be a debt due from the Contractor to the Company.
- 6.5 This clause 6 survives the termination of this Order.

7 Title and risk

- 7.1 Title to and property in the Items will pass from the Contractor to the Company upon the Company's acceptance of the Items under clause 6.
- 7.2 Risk in the Items remains with the Contractor until delivery into the Company's actual care, custody and control at the Delivery Point and reverts to the Contractor immediately if the Items are rejected by the Company under clause 6.2.

8 Intellectual property

The Contractor grants the Company a non-exclusive, irrevocable, transferable, royalty free licence to use all intellectual property in the Items that the Contractor owns or holds under licence, to the extent necessary to enable the Company to fully exploit each Item for its intended purpose.

9 Insurances

- 9.1 The Contractor must effect and maintain, with a reputable insurer, insurance covering:
 - a) workers' compensation as required by law;
 - b) public liability for an amount not less than \$10,000,000 for any one occurrence;

- c) in the case of goods, for the full replacement value against loss, damage or theft until risk in the goods has passed to the Company under clause 7.2; and
 - d) third party property damage caused by all vehicles that are registered, or capable of being registered, for road use and are at any time used in connection with the delivery of the Items.
- 9.2 The Contractor agrees that all costs incurred by the Company as a consequence of the Contractor not being insured to the appropriate extent, or from the Contractor not making a claim against its insurance for a claimable event, will become a debt due from the Contractor to the Company.
- 9.3 The Contractor must procure that any of its subcontractors responsible for delivery of the Items takes out and maintains similar insurances to those required under clause 9.1.
- 9.4 The Contractor will, if required by the Company, satisfy the Company that each of the insurances it is required to procure and maintain under clause 9.1 is current by providing the Company with certificates of currency in a form acceptable to the Company.

10 Indemnity

- 10.1 Except to the extent caused or contributed to by the Company or its employees, the Contractor will indemnify the Company and keep it indemnified from and against all losses, claims, procedures, damages, costs and expenses the Company may suffer or incur as a result of anything arising out of any tortious or wrongful acts or omissions by the Contractor or its employees, agents or contractors during the course of providing the Items.
- 10.2 This indemnity survives the termination of this Order.

11 Termination

- 11.1 The Company may cancel this Order (in whole or in part) at any time and without being required to give any reasons.
- 11.2 The Company may cancel this Order at any time without prior notice if the Contractor fails to remedy a breach of any of these Terms and Conditions within 7 days following a notice from the Company requiring the Contractor to remedy the breach.
- 11.3 If the Company cancels this Order under clause 11.1, the Company will only be liable for payment for Items delivered up to the date of cancellation.

12 Flights and Accommodation

- 12.1 The Company will arrange and free issue to the Contractor seats on flights between the Site (or the nearest town with a suitable airstrip) and Perth (or other location as agreed by the Company) for Company-approved personnel and Company-approved subcontractors of the Contractor (together the Personnel) flying in and out of Site, in order to fulfil their allocated and agreed roster (Flights).
- 12.2 Unless prior approval is given by the Company Representative, any flights taken up by Personnel, additional to the Flights required to fulfil the allocated and agreed roster, will be backcharged to the Contractor at the prevailing rate at the time (which shall be the cost of the seat on the flight to the Company from its provider) (Flight Cost).
- 12.3 The Company may also make seats on flights available to the Contractor's visitors, agents and other third parties from time to time (Third Party Flights) with prior approval from the Company. The Contractor must seek authorization from the Company Representative for such Third Party Flights to be free-issued to the Contractor and must seek such authorization prior to the travel to Site occurring.
- 12.4 Should the Company Representative authorize the free-issue of Third Party Flights, it will be for one instance of travel to and from the Site only, unless specified otherwise in the Company Representative's response.

- 12.5 Should the Company Representative not authorize the free-issue of the Third Party Flights, the Contractor agrees and acknowledges that the Contractor will be charged for the Third Party Flights at the Flight Cost.
- 12.6 The Contractor agrees and acknowledges that if it should allow a person to take up a Third Party Flight before the Company Representative has authorized a free-issue, the Contractor will be subsequently charged for the Third Party Flight should the Company Representative ultimately decide not to free-issue.
- 12.7 All instances of Flights or Third Party Flights, where the person for whom a seat is allocated fails to take it up pursuant to departure of the flight (No Show), will be back charged to the Contractor at the prevailing Flight Cost.
- 12.8 All cancellations to Flights or Third Party Flights made with less than 12 hours' notice will be back charged to the Contractor at the prevailing Flight Cost, unless the Company is able to mitigate the loss by it being taken up by another party. The Company must take reasonable steps to mitigate the loss.
- 12.9 The Company will free issue meals and accommodation at the Site for Personnel in accordance with their allocated and agreed roster (Meals and Accommodation).
- 12.10 The Company may also provide meals and accommodation to the Contractor's visitors, agents and other third parties from time to time (Third Party Meals and Accommodation). The Contractor must seek authorization from the Company Representative for such Third Party Meals and Accommodation to be free-issued to the Contractor and must seek such authorization prior to the travel to Site occurring.
- 12.11 Should the Company Representative authorize the free-issue of Third Party Meals and Accommodation, it will be for the duration of one instance of travel to and from the Site only, unless specified otherwise in the Company Representative's response.
- 12.12 Should the Company Representative not authorize the free-issue of Third Party Meals and Accommodation, the Contractor agrees and acknowledges that the Contractor will be charged for the Third Party Meals and Accommodation at the prevailing rate at the time (which shall be the cost of the meals and the accommodation to the Company from its provider) (Meals and Accommodation Cost).
- 12.13 The Contractor agrees and acknowledges that if it should allow a person to take up Third Party Meals and Accommodation before the Company Representative has authorized a free-issue, the Contractor will subsequently be charged for the Third Party Meals and Accommodation should the Company Representative ultimately decide not to free-issue.

13 General

- 13.1 Unless expressly provided to the contrary, any notices to be given under these Terms and Conditions must be in writing and may be given by hand delivering the notice, posting it to the address of the other party sending it to the last notified facsimile number of the other party or sending it electronically to the last notified email address of the other party. Any notice hand delivered will be deemed to have been received by the addressee on the date of its delivery. Any notice posted will be deemed to be received by the addressee 2 business days after the date it was posted. Any notice delivered by facsimile will be deemed to be received by the addressee at the time shown in a transmission report by the machine which indicates that the whole facsimile was sent. Any notice delivered by email will be deemed to be received when the sender receives an automated message confirming delivery, or 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered.
- 13.2 The Contractor must not assign, novate, subcontract or otherwise transfer its rights and/or obligations under this Order without the Company's prior written consent (such consent not to be unreasonably withheld).
- 13.3 The Contractor must not divulge to any person any information concerning this Order or any other matter or thing concerning the Company or its commercial affairs. The obligations of this clause 13.3 survive termination of this Order.

- 13.4 The Contractor is an independent contractor and in no way connected to the Company. The Contractor's personnel will not under any circumstances be considered the Company's employees for any purpose whatsoever.
- 13.5 The failure to exercise or delay in exercising any power or right by either party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right.
- 13.6 This Order will be governed by the laws of the State of Western Australia and the parties submit to the exclusive jurisdiction of the courts of Western Australia.

14 Definitions

In this Order:

Company means Karara Mining Limited (ABN 68 070 871 831).

Defect and Defective means any aspect of the Items which is not in accordance with the requirements of this Order, or any damage, deficiency, fault or inadequacy in design, performance, material workmanship or quality of the Items determined by the Company (acting reasonably), having regard to the requirements of this Contract and accepted industry practice.

Delivery Date means the date, as specified in this Order, on (or by which) Items must be delivered.

Delivery Point means the address shown at "Consign To".

Forward Purchase Agreement means a contract entitled "Forward Purchasing Agreement" entered into between the Company and the Contractor before the date of this Order.

Goods Contract means a contract entitled "Goods Contract" entered into between the Company and the Contractor before the date of this Order.

GST means the Goods and Services Tax as defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Items means the goods and/or services specified in this Order.

Order means the purchase order including these Terms and Conditions.

Contractor means the party named in this Order as the Contractor.

Services Contract means a contract entitled "Services Contract" entered into between the Company and the Contractor before the date of this Order.

Terms and Conditions means these terms and conditions.

Variation has the meaning given to that term in clause 3.1.

Warranty Period means the period of 12 months following the date the Company accepts each Item under clause 6.