



## **Karara Mine M1 – 941 Mining Services**

**Karara Mining Limited**  
ACN 070 871 831

**[Contractor]**  
ACN [●]

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**Date:**

**Parties**                    **Karara Mining Limited ACN 070 871 831** of Level 2, 216 St Georges Terrace, Perth, Western Australia (**Company**)

and

**[Contractor]** ACN **[●]** of **[address]** (**Contractor**)

## **Background**

- A.        The Company holds the Site under the Mining Titles and the Mine established on the Site.
- B.        The Company wishes to engage the Contractor to provide the Mine Services.
- C.        The Company will provide and operate the Processing Plant at the Site.
- D.        The Contractor has agreed to provide the Mine Services in accordance with this Agreement.

## **Operative Provisions**

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### **1.        Definitions And Interpretation**

#### **1.1       Definitions**

In this Agreement:

**Affected Party** has the meaning given in clause 14.3(a).

**Archaeological, Heritage and Native Title Legislation** means any law of the Commonwealth or Western Australia in respect of archaeological, heritage and native title matters or issues which affect the Site or its surrounds or relate to the operation of the Mine or the provision of the Mine Services.

**Asset Management Plan** means the plan described in clause 24 of Schedule 2.

**Australian Bank** has the meaning given in the Corporations Act.

**Authorisation** means any consent, authorisation, registration, filing, lodgement, notification, agreement, certificate, commission, lease, licence, permit, approval or exemption from, by or with a Government Agency (including the Mining Titles) required to undertake operations under this Agreement.

**Authority** or **Authorities** means any Federal or state government or authority or department which has legal right or authority in relation to the relevant matter.

**BCM** means bank cubic metre, which is one (1) cubic metre of undisturbed ground.

**Best Industry Practice** means contemporary recognised best mining methods and best practices which could reasonably be expected from experienced and competent mining contractors operating in Australia under conditions comparable to those applicable at the Site.

**CIP Action Plan** is the plan required to be produced within the Continuous Improvement Program by the Contractor under clause 10.10, the objective of which is to produce Continuous Improvement Value.

**Commencement Date** means the date given in Schedule 10

**Communication** has the meaning set out in clause 24.1.

**Confidential Information** means any information, object, document, data, programs, techniques, systems, processes or other confidential information (whether as an original or a copy) relating to the affairs, business, finances, trade secrets or operations of a Party, however stored or recorded, that is not in the public domain or generally known to third parties.

**Consultants** has the meaning given in clause 23.1(a).

**Continuous Improvement Program** or **CIP** is a program of incremental and continuous improvements in the provision of the Mine Services prepared for the benefit of the Company and the Contractor.

**Contract** means this Agreement.

**Contractor's Insurances** means the insurances which the Contractor must obtain and maintain during the Term, the required terms and conditions of which are set out in item 1 of Schedule 8.

**Contractor's Plant and Equipment** means all plant, equipment, machinery, appliances and things which, as at the Commencement Date, are used or proposed to be used by the Contractor in connection with the provision of the Mine Services, whether owned, leased or hired, as set out in Schedule 7, and includes any additional plant and equipment acquired after the Commencement Date with the prior approval of the Company's Representative for use in connection with the provision of the Mine Services.

**Contractor's Representative** has the meaning and the role described in clause 6.2.

**Contractor's Yard** means the Contractor's Yard referred to in clause 13.9.

**Cost** has the meaning given in clause 10.8(c).

**Defect** means any aspect of the Mine Services which is not in accordance with the requirements of this Agreement, or any damage, deficiency, fault or inadequacy in design, performance, material supplied by the Contractor, workmanship or quality of the Mine Services caused by the Contractor as determined by the Company (acting reasonably), having regard to the requirements of this Agreement and accepted Best Industry Practice.

**Demobilisation Plan** has the meaning given in clause 20.7(a).

**Documentation** means all drawings, plans, specifications, samples, models, patterns, certificates, instruments and indicia of title, licences, agreements, documents evidencing Authorisations, operating, maintenance and other manuals, books of account, records and other information or data of whatever nature and whether stored by means of paper writing, magnetic tape, computer disk or otherwise, which the Contractor (and its subcontractors) creates specifically for the purpose or in the course of providing Mine Services under this Agreement.

**Early Termination Amount** means the amount calculated in accordance with:

- (a) the price for the Mine Services provided to the Company prior to the effective date of termination and not included in any previous payment; and
- (b) the costs of the demobilization of the Contractor's Plant and Equipment

specified in Schedule 12.

**Environmental Management Plan** and **EMP** means the Parties' respective environmental management plans and associated procedures referred to in clause 3.6 and in accordance with item 19 of Schedule 2.

**Environmental Management System** and **EMS** means the Company's system referred to in clause 3.6.

**Event of Default** means, in respect of a Party, any of the following:

- (a) the Party becoming Insolvent;
- (b) the Party committing a material breach of its obligations under this Agreement which is capable of being remedied and failing to remedy the breach within ten (10) business days from its receipt of notice from the other Party specifying the breach and requiring the breach to be remedied; or
- (c) the Party committing a material breach of its obligations under this Agreement which breach is not capable of being remedied.

**Event of Force Majeure** has the meaning given in clause 16.1.

**Expanded Services** has the meaning given in clause 8.5(a).

**Extended Term** means any further period by which the Initial Term is extended under clauses 18.2 or 18.3.

**[Explosive Supply and Management Performance Criteria** means the performance criteria set out in item [●] of Schedule 10.]

**Fibrous Mineral** a fibrous mineral is defined as having a maximum width of one (1) micrometre or less and a length exceeding five (5) micrometres; thus having a length to width ratio of >3:1.

**Government Agency** means any government or governmental, semi-governmental, administrative, fiscal or judicial body, responsible Minister, department, office, commission, delegate, authority, instrumentality, tribunal, board, agency, entity or organ of government, whether Commonwealth, State, territorial or local, statutory or otherwise which or who, under a law, which has a right, power or obligation to impose a requirement or whose consent is required with respect to the Mine Services or the Contractor's performance of its other obligations under this Agreement.

**GST** means the goods and services tax as governed by *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Guarantor** means the Contractor's guarantor pursuant to the Parent Company Guarantee.

**Hazardous Materials** has the meaning given in clause 3.8(a).

**Indemnified Persons** has the meaning given in clause 15.1(a).

**Initial Term** means the period of five (5) years from the Commencement Date.

**Insolvent** means, in respect of a Party, that it:

- (a) is (or states that it is) insolvent (as defined in the Corporations Act);

- (b) has a Controller (as defined in the Corporations Act) appointed to any part of its property;
- (c) is in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration or wound up or has had a receiver or a receiver and manager appointed to any part of its property;
- (d) is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other Party to this Agreement);
- (e) is taken (under section 459(F)(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) is the subject of an event described in section 459(C)(2)(b) or section 585 of the Corporations Act (or it makes a statement from which the other Party to this Agreement reasonably deduces it is so subject); or
- (g) is otherwise unable to pay its debts when they fall due.

**Issue** means any dispute or difference arising under or in connection with this Agreement or in providing the Mine Services on which the Parties have failed to agree and which a Party wishes to raise as an issue for the purposes of the Issue Resolution Process.

**Issue Notice** has the meaning given in clause 17.2(b).

**Issue Resolution Process** means the process for resolving Issues under clause 17.

**Latent Conditions** means physical conditions on the Site or its surroundings, including artificial things and reactive ground, but excluding weather conditions and the consequences of weather conditions, which differ materially from those physical conditions which could reasonably have been anticipated by a careful, competent, well advised and experienced contractor before the date of this Agreement if such contractor had:

- (a) examined all information made available in the Pre-Contract Information or other information relevant to the risks and contingencies involved in undertaking this Agreement and obtainable by the making of reasonable enquiries; and
- (b) inspected the Site and its surroundings and the physical conditions, geology and geotechnical characteristics of the Mine and its surroundings (including water, atmospheric and likely sub-surface conditions or characteristics), which conditions cannot be overcome by the Contractor in the ordinary course of providing the Mine Services by the application of Best Industry Practice and proper construction procedure.

**LOM Mine Plan** means the long term life of Mine plan prepared by the Company annexed as Exhibit 1, and amended in accordance with Schedule 10, which describes the sequencing of mining Ore from the Mine during the Term, and which incorporates the key parameters for mining, including mining sequence plans, landform designs, access and haulage roads, as amended by the Company in accordance with this Agreement, and which provides for extraction of Ore to meet the Production Requirements Range.

**Major Plant and Equipment Item or Item** means any item of Contractor's Plant and Equipment with a capital value exceeding \$[●], or such higher amount as the

Company's Representative may prescribe.

**Medium Term Mine Plan** means the Medium Term Mine Plan referred to in item 3 of Schedule 10 that sets out on a quarterly basis the volumes of Ore and Waste required to be mined and delivered by the Contractor to the Processing Plant or Stockpile to achieve the Production Requirements Range, as amended from time to time by the Company and from which the Company develops its Short Term Mine Plan.

**Mine** means the area on the Site specifically for the use of the provision of the Mine Services, including the Pits, the dumps, the Stockpiles and the haul roads, as detailed more specifically by the figures of Schedule 1.

**Mine Plans** means the various mine plans as detailed in clause 8 and Schedule 10 of this Agreement.

**Mine Services** means the mining services [and explosive supply and management services] described in Schedule 2 and Schedule 3, and where the context permits, includes the performance and observance of the Contractor's other obligations under this Agreement.

**Mining Titles** means those Authorisations which give the Company the right to conduct mining operations on the Site, including:

- (a) mining tenements granted under the *Mining Act 1978* (WA) relating to mining on the Site and carrying away the mined material, including any mining leases; and
- (b) the real property instruments under which the Company enjoys access to the Site.

**Monthly Claim** means a statement in a form approved by the Company's Representative showing the value of the Mine Services and other monies claimed by the Contractor for a month as calculated by the Contractor from information available to the Contractor and complying with the requirements of clause 10.2(a).

**MPU** means Mobile Processing Unit, which is a purpose-built vehicle used in mining operations to manufacture or blend bulk explosives at the location of blasting and which delivers the explosive directly into the blast hole via a pump or auger.

**NAF** means non-acid forming.

**Necessary Insurances** means, for the Company, the Company's Insurances and, for the Contractor, the Contractor's Insurances.

**Nominated Stockpile Level** means a quantity of Ore that is suitable and sufficient to feed the Site's Primary Ore Crusher on a continuous 24 hour a day feed basis for a minimum of two (2) consecutive days or such other quantity as nominated from time to time by the Company's Representative (acting reasonably).

**Operative Provisions** means the terms and conditions of this Agreement, contained within clauses 1 to 26.

**Ore** means the mineral mined and delivered to the Processing Plant from the Mine which is designated as Ore by the Company in its sole discretion.

**PAF** means possible acid forming.

**Parent Company Guarantee** is the form of guarantee and indemnity to be procured by the Contractor substantially in the form set out in Schedule 16.

**Payment Certificate** has the meaning given in clause 10.2.

**Performance Bond** is the form of security to be provided by the Contractor to the Company substantially in the form as set out in clause 15.7 and Schedule 17.

**Mining Performance Criteria** means the performance criteria set out in item 5 of Schedule 10.

**Performance Criteria** means the Mining Performance Criteria and/or [Explosive Supply and Management Performance Criteria] as the case warrants.

**Pit** means the open pit area within the Mine that the Contractor will undertake drill & blast and excavate, load & haul portions of the Mine Services, as generally indicated in Schedule 1.

**Pre-Contract Information** comprises the documents listed in Schedule 19.

**Primary Ore Crusher** means the main crusher at the Mine, making up part of the Processing Plant and situated at the ROM Pad at the Mine, into which the Contractor will deliver mined or stockpiled Ore for processing by the Company.

**Company's Facilities** means the facilities listed in Schedule 6 to be provided by the Company to the Contractor free of charge (unless otherwise specified in this Agreement) for use in conjunction with the Mine Services, and including all fixtures, fittings and other improvements of the Company presently situated on or about the Site or used in conjunction with the Site.

**Company's Insurances** means the insurances which the Company must obtain and maintain during the Term, the required terms and conditions of which are set out in item 2 of Schedule 8.

**Company's Mine Design** means the plan provided by the Company to the Contractor in accordance with clause 4.2.

**Company's Representative** has the meaning and the role described in clause 6.1.

**Processing Plant** means all buildings, plant and infrastructure established for the processing of Ore at the Site and includes the Primary Ore Crusher and secondary Ore crushing systems, Ore conveyors and concentrator.

**Product** means any processed Ore the Company may direct the Contractor to rehandle and road haul or load onto trains, or both, from time to time.

**Production Requirements Range** has the meaning stipulated in item 2 of Schedule 10.

**Project Intellectual Property** means all Documentation and literary, artistic works and other copyright works, inventions, discoveries, improvement to existing inventions or processes and novel designs, whether or not registrable as designs or patents throughout the world, created in providing the Mine Services which specifically relate to the Site, including any development or improvement to equipment, technology, methods, processes or techniques made by the Contractor during or arising out of the provision of the Mine Services by the Contractor.

**Project Management Group** means the group referred to and described in clause 6.3 and detailed in the roles and responsibilities matrix in Schedule 5.

**Proprietary Rights** has the meaning given in clause 13.9.

**Quarry Manager** means the person appointed by the Company as the quarry



manager in respect of the Mine under the *Workplace Health and Safety Act 2020* (WA).

**Quarter** means a period of three (3) consecutive months from 1 January, 1 April, 1 July or 1 October in each year during the Term with appropriate adjustment:

- (a) where the Commencement Date does not fall on the first day of any such period, to the first Quarter in the Term; and
- (b) where the day on which this Agreement expires or terminates is not the last day of any such period, to the last Quarter in the Term.

**Recipient** has the meaning given in clause 10.8(b).

**Relevant Obligations** has the meaning given in clause 16.2.

**Replacement Value** means the fair and reasonable written down estimated cost of replacing each applicable item as at the date of assessment with a similar item which has an equivalent function and service potential (but which is not necessarily an exact reproduction of the existing item) less an allowance for accrued physical wear and tear and any economic or functional obsolescence and taking into account any deleterious condition of the item if that condition results from any damage caused by the owner of the relevant Proprietary Rights or has arisen as a consequence of a breach of this Agreement.

**Rise and Fall Adjustment** means the adjustment to the Schedule of Rates in accordance with Schedule 13.

**ROM** means run of mine.

**Safety Management Plan** means the plan referred to in clause 3.4

**Schedule of Rates** means the schedule of rates set out in Schedule 12.

**Separable Portion** means any item (or group of items) of the Mine Services described in Schedule 2 which the Company may divide into a separate portion or portions in accordance with clause 3.3

**Separate Contractors** means contractors (other than the Contractor) engaged by the Company for carrying out any works or services (including the Mine Services of whatever nature at or in the vicinity of the Site (including any contractors carrying out the excluded mine services described in Schedule 2 but specifically excluding all of the Company's employees).

**Service Fee** means the service fee calculated as set out in Schedule 12 and is a monthly charge that includes the cost of fixed management, minor plant ownership, supervisory, services and clerical personnel, off-site personnel, tools, minor equipment and shared vehicles, computing, communications equipment and infrastructure maintenance.

**Short Term Mine Plan** means the Short Term Mine Plan referred to in item 3 of Schedule 10 that sets out on a monthly basis the volumes of Ore and Waste required to be mined and delivered by the Contractor to achieve the Production Requirements Range, as amended from time to time by the Company.

**Site** means the whole of the lands as detailed in part 1 of Schedule 1 and includes any additional parcels or areas of land used from time to time in conjunction with that land.

**Site Senior Executive** means the person appointed by the Company as the site senior executive in respect of the Mine under the *Workplace Health and Safety Act*

2020 (WA).

**Steering Committee** means the group referred to and described in clause 6.3 and detailed in the roles and responsibilities matrix in Schedule 5.

**Stockpile** means any area in which Ore or other material is dumped and which may at a later time be recovered.

**Subcontractor** means any person engaged by the Contractor for the vicarious performance of any Mine Services, with approval under clause 7.2(a).

**Supplier** has the meaning given in clause 10.8(b).

**Term** means the period commencing from the Commencement Date until the earlier of:

- (a) the expiry of the Initial Term or, if there is an Extended Term, the expiry of the Extended Term; and
- (b) the expiry or termination of this Agreement.

**Termination Event** means the occurrence of any one or more of the events deemed to be a Termination Event under this Agreement including without limitation the events stipulated by clauses 3. 2, 3.4, 3.6, 12.1, 12.2, 15.4, 16.5 and 16.6.

**Termination Stockpile Level** means a quantity of Ore that is suitable and sufficient to feed the Site's Primary Ore Crusher on a continuous 24 hour a day feed basis for a minimum of seven (7) consecutive days or such other quantity as nominated from time to time by the Company's Representative (acting reasonably).

**Valid Tax Invoice** or **Tax Invoice** means an invoice which complies with GST law relating to the production and form of tax invoices for GST purposes.

**Variation** occurs if:

- (a) the Company requires a material change to the scope, timing or scheduling of the Mine Services, including omitting part of the Mine Services; or
- (b) the Company requires a material change to the Production Requirements Range, the Performance Criteria or any of the plans or schedules set out in Schedule 10, including a material change to the Mine design, method of mining or the run of mine Ore sequencing;
- (c) compliance with a law that is changed after the Commencement Date requires a material change to the Mine Services;
- (d) during provision of the Mine Services, the Contractor encounters Latent Conditions which require a change to the Mine Services or to the Production Requirements Range, or the Performance Criteria or any of the plans or schedules set out in Schedule 10; or
- (e) any event or circumstances are specified in this Agreement to constitute a Variation.

**Waste** means soil, rock and other material, other than Ore, which is required to be mined or removed from the land in or adjacent to the Mine as part of the Mine Services.

**Wilful Misconduct** means an intentional and conscious disregard of any material provision of this Agreement or any law, but does not include any error of judgment or mistake made by the person alleged to be culpable or by any director, employee,

agent or contractor of that person in the exercise, in good faith, of any function, power, authority or discretion conferred on that person under this Agreement or under any law.

**Year** means a period of twelve (12) consecutive months from 1 January in each year during the Term with appropriate adjustment:

- (a) where the Commencement Date does not fall on the first day of any such period, to the first Year in the Term; and
- (b) where the day on which this Agreement expires or terminates is not the last day of any such period, to the last Year in the Term.

## 1.2 Interpretation

In this Agreement headings do not affect the interpretation and, unless the context otherwise requires:

## 1.3 General Interpretation

In this Agreement, headings, sub-headings and captions do not affect construction or interpretation and, unless the context requires otherwise:

- (a) **Words and Phrases**
  - (i) a word in the singular includes the plural of that word and vice versa;
  - (ii) a word of any gender includes the corresponding words of each other gender;
  - (iii) **including** means "including, but not limited to";
  - (iv) **agree** means "agree in writing";
  - (v) **approved** means approved in writing by the Company (or the Company's Representative) or the Contractor (or the Contractor's Representative), as the case requires, acting reasonably;
  - (vi) where any word or phrase is given a defined meaning in this Agreement, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
  - (vii) a reference to a thing (including an amount) is a reference to the whole and each part of it (but nothing in this clause 1.3(a)(vii) implies that performance of part of an obligation is the performance of the whole) and a reference to a group of persons is a reference to all of them collectively, to any 2 or more of them collectively and to each of them individually;
  - (viii) words, phrases or expressions which are not defined herein and which have a generally accepted meaning in the business of mining and mine development and management have that meaning in this Agreement; and
  - (ix) a reference to a **Party** or **Parties** is a reference to a party or the parties to this Agreement;
  - (x) a provision which states that a Party will, will or must do an act or thing, or will not, will not or must not do an act or thing, or that

a fact or circumstance will, will or must exist, is a covenant by that Party to do that act or thing, or not to do that act or thing, or to procure that the fact or circumstance exists, as the case requires; and

- (xi) no rule of construction applies to the disadvantage of one Party on the basis that it put forward this Agreement or any part of it.

(b) **Documents and Parts of Documents**

- (i) a reference to any document, instrument or agreement, including this Agreement, includes a reference to that document, instrument or agreement as amended, novated, supplemented, varied or replaced from time to time, and includes any schedules, attachments and annexes thereto;
- (ii) a reference to a part, clause, article, section, schedule, appendix, attachment or annexure is (unless the context requires otherwise) a reference to a part, clause, article, section, schedule, appendix, attachment or annexure to this Agreement; and
- (iii) a reference to a series of consecutive parts, clauses, articles, sections, schedules, appendices, attachments or annexes is to be read as inclusive of all of them.

(c) **Acts and Laws**

- (i) a general reference to "law", the "law" or a "law" includes the common law, the principles and doctrines of equity and any written law or decree, judgment or order, in each case of any applicable jurisdiction whatever (and the expressions "lawful" and "unlawful" are to be construed accordingly);
- (ii) **written law** means any Act of Parliament in any Australian jurisdiction (including the Commonwealth) for the time being in force and all proclamations, regulations, by-laws, orders, notices, rules of court, town planning schemes, resolutions or other instruments made under any or by the authority of any such Act of Parliament or written law and having legislative effect;
- (iii) a reference to the Corporations Act is a reference to the *Corporations Act 2001* (Cth) and a reference to the Corporations Regulations is a reference to the regulations made under that Act;
- (iv) a general reference to Acts is a general reference to Acts, Imperial Acts and State Acts as defined by section 38 of the *Acts Interpretation Act 1901* (Cth); and
- (v) a reference to any Act includes any regulations under that Act, and a reference to an Act, statute, code, regulation, order, ordinance, by-law or other legislation or subordinated or delegated legislation or provision thereof includes any modification, substitution or re-enactment thereof;

(d) **Persons and Corporations**

- (i) a reference to a person includes a body politic, corporation, partnership, limited partnership, association or joint venture

(whether incorporated or not) whatsoever and wheresoever formed and howsoever described and also a Governmental Agency;

- (ii) **subsidiary, holding company** and **ultimate holding company** have the meanings given to them respectively in sections 46 and 9 and the *Corporations Act* and, where used in relation to companies any of which are not subject to the Corporations Act, must be construed as if those companies were all subject to the Corporations Act;
- (iii) **related body corporate** has the meaning given to it in section 50 of the Corporations Act and, where used in relation to companies any of which are not subject to the Corporations Act, must be construed as if those companies were all subject to the Corporations Act and **related company** has the same meaning;
- (iv) **controlled entity**, in relation to a company, means an entity that is controlled by that company as determined under section 50AA the Corporations Act and, where used in relation to companies any of which are not subject to the Corporations Act, must be construed as if those companies were all subject to the Corporations Act;
- (v) a reference to a party to any deed, agreement or other instrument (including this one) includes that party's successors and permitted assigns (including assigns taking by way of novation, whether or not the assignor is thereby released in whole or in part from any obligation) and, in the case of a party who is a natural person, that party's legal personal representatives;
- (vi) where any person to whom reference is made ceases to exist or is reconstituted, renamed or replaced, or its functions or powers are transferred to another person, that reference must (unless the context requires otherwise) be taken to be to the person so established or constituted in its place or succeeding to its powers or functions; and
- (vii) an agreement, representation or warranty in favour of two (2) or more persons is for the benefit of them jointly and severally;

(e) **Time, Money and Measurement**

- (i) a reference to an amount of money is a reference to the amount in the lawful currency of Australia;
- (ii) a reference to time is a reference to the local time in Perth in Western Australia;
- (iii) a reference to a day is a reference to a period of time commencing at midnight and ending the following midnight;
- (iv) a reference to a **business day** means, in respect of any place, a day which is not a Saturday, Sunday or official public or bank holiday in that place and, more particularly, where the place is within Western Australia, means a day on which banks are generally open for business in Western Australia and which is not:

- A. a Saturday;
    - B. a Sunday; or
    - C. a gazetted public holiday, in Western Australia.
  - (v) where a period of time is specified to run from or after a given day or the day of an act or event, it is to be calculated exclusive of that day; and where a period of time is specified as commencing on a given day or the day of an act or event, it must be calculated inclusive of that day;
  - (vi) where any matter or thing is required to be attended to or done on a day (in this clause 1.3(e)(vi) the **due date**) which is not a business day in the relevant place, and that matter or thing cannot reasonably be done without access to services which are only available in that place on business days (including banking, legal and accounting services and the services of Governmental Agencies), it must be attended to or done on the first day thereafter which is a business day in that place, except that if the application of this rule would result in a payment being deferred until the succeeding calendar month, that payment must instead be made on the business day immediately preceding the due date; and
  - (vii) measurements of physical quantities are in Australian legal units of measurement within the meaning of the *National Measurement Act 1960* (Cth) and, where any conversion is required from other units to Australian legal units of measurement, the **Conversion Factors** in schedule 34 of the regulations under that Act are to be used or, if those regulations contain no appropriate conversion factor, the conversion factor from Australian Standard AS/NZS 1376-1996 are to be used.
- (f) **Ambiguities and Inconsistencies**
- (i) In the case of any inconsistency, ambiguity or discrepancy in the documents which comprise this Agreement, the order of priority of the documents, for the purpose of interpretation, will be in the following sequence:
    - A. the Operative Provisions as contained in clauses 1 to 26 inclusive of the Agreement; and
    - B. the Schedules.
  - (ii) In the case of any inconsistency, ambiguity or discrepancy between any provisions or requirements of the Schedules which comprise this Agreement, the order of priority of those provisions, for the purpose of interpretation, will be based on that which imposes the highest standard or obligation as determined by the Company's Representative, acting reasonably, and the Contractor will accept and observe the direction of the Company's Representative as to priority.

## 1.4 Good Faith

- (a) Where this Agreement provides for:

- (i) something to be done or omitted to be done; or
- (ii) the existence of a condition to be established based on the judgment, determination or opinion of a Party; or
- (iii) either Party having a discretion to accept or to agree with the other Party on any matter,
- (iv) the Party doing or omitting to do the thing, forming the judgment, determination or opinion or exercising the discretion must:
  - A. act honestly and in good faith;
  - B. act within a reasonable period of time;
  - C. act without discrimination;
  - D. not act arbitrarily or capriciously; and
  - E. not base its decision to do or not to do the thing, judgment, determination, opinion or the exercise of its discretion to accept or agree on trivial, irrelevant or immaterial factors.
- (b) This clause 1.4 does not apply to:
  - (i) doing or omitting to do anything or any judgment, determination, opinion or discretion which is expressed to be in the absolute discretion of the Party;
  - (ii) the exercise of any right or remedy by a Party consequent upon a breach of this Agreement by the other Party;
  - (iii) clause 14.4; or
  - (iv) clause 20.1.

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## 2. Warranties And Acknowledgments

- (a) Each Party warrants that it has the power to execute, deliver and perform its obligations under this Agreement and all necessary corporate and other action has been taken to authorise that execution, delivery and performance.
- (b) The Contractor warrants it has the necessary expertise, experience and capability including sufficient and competent managers, engineers, supervisors, foremen, tradespersons and other personnel to provide the Mine Services efficiently and expeditiously and to operate the Mine in accordance with this Agreement.
- (c) The Contractor warrants and agrees that it must perform the Mine Services in accordance with all applicable law and:
  - (i) in a competent, proper and workmanlike manner;
  - (ii) exercising a reasonable standard of skill, diligence and care; and
  - (iii) to a standard equal to or better than Best Industry Practice.
- (d) The Contractor acknowledges that prior to the date of this Agreement it:

- (i) was given adequate access to the Site and its near surroundings;
  - (ii) was given sufficient time to review thoroughly the Pre-Contract Information;
  - (iii) carried out its own investigations of the Site and its near surroundings; and
  - (iv) considered and took into account all relevant information in the public domain concerning the biophysical conditions, meteorological conditions, geology and geotechnical characteristics of the Mine, the Site and its near surroundings (including water, atmospheric and sub-surface conditions or characteristics);
- (e) The Contractor warrants that it has anticipated all Mine Services work risks, contract risks and contingencies that could reasonably have been anticipated by a careful, competent, well advised and experienced contractor who was seriously considering entering into this Agreement and had taken full advantage of the opportunities and information described in clause 2(d).
  - (f) Notwithstanding any other provision of this Agreement, the Parties acknowledge that the Contractor's offer is based on the Pre-Contract Information. In the event the actual conditions encountered on Site differ from those identified in the Pre-Contract information, the Contractor shall be entitled to give notice of a Variation pursuant to clause 11.
  - (g) The Contractor warrants that it has assessed the potential impact of the excluded activities listed in Schedule 2 item 26 (**Excluded Mine Services**) on its Mine Services work operations and has made adequate provision in the Service Fee and the Schedule of Rates to accommodate all of the impacts that these non-Contractor activities may have or impose on its conduct of work under this Agreement.
  - (h) Each Party acknowledges the Agreement Milestones set out in item 6 of Schedule 10 and that it is fundamental to this Agreement that they each be achieved in a timely manner.
  - (i) Each person who signs this Agreement under a power of attorney warrants that he or she has power under that instrument to do so and that he or she has no notice of any revocation of that power.

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### 3. Contractor's Primary Service Obligations

#### 3.1 Contractor's Primary Obligation

*[Drafting note to Bidders: The Mine is currently operated by a third party contractor pursuant to an existing mining services agreement. This contract will be updated by the parties to include transitional arrangements to manage the hand-over of operational control of the Mine from the existing third party contractor to the Bidder.]*

The Contractor's primary service obligation is to provide the Mine Services including extracting Ore and Waste, hauling, Stockpiling and producing Ore from the Mining Titles, and loading trains with Product, in a safe, efficiently and economical manner during the Term:



- (a) in accordance with the Agreement, all applicable laws and the Company's safety requirements;
- (b) in a timely manner and consistent with Best Industry Practice;
- (c) in a manner consistent with the environmental commitments contained in the Company's project environmental approvals documents;
- (d) in order to meet the Production Requirements Range;
- (e) in order to meet the Performance Criteria;
- (f) to take reasonable precautions that no non crushable or tramp material is presented or loaded into the ROM Stockpile or the Company's Primary Ore Crusher;
- (g) in accordance with the plans and schedules set out in the Agreement and all Authorisations; and
- (h) in a manner that does not cause the Company to be in breach of any law, any condition of a Mining Title or any Authorisation.

### **3.2 Performance Of Mine Services**

On and from the period commencing 1 month after the Commencement Date, if the Contractor fails to achieve the Performance Criteria, a Termination Event is deemed to have occurred and to continue until the breach is remedied or this Agreement is terminated, whichever is the sooner.

### **3.3 Separable Portions**

Despite anything to the contrary contained elsewhere in this Agreement, the Company may at any time by Variation in accordance with clause 11 exclude a part of the Mine Services or divide all or any of the Mine Services work into Separable Portions and:

- (a) the Company may designate specific commencement dates to apply with respect to some or all of the Separable Portions and the Contractor must commence work on the commencement date designated for any Separable Portion;
- (b) the Company may designate specific dates, with reasonable notice of not less than 30 days, for ceasing the excluded parts of the Mine Services and the Contractor will cease work on the excluded parts on the designated dates;
- (c) the Company may in its absolute discretion decide not to designate any commencement date for one or more of the Separable Portions; and
- (d) in designating any commencement date for work on any Separable Portion the Company will ensure that the Contractor is given reasonable notice of the relevant commencement date so that the Contractor can mobilise and otherwise be ready and able to commence work on the designated date. For the purposes of this clause reasonable notice will take into consideration the scope included in the Separable Portion and the Contractor's notified availability of suitable Plant and Equipment and personnel and will be a greater of the period mutually agreed between the Parties, or:
  - (i) nine (9) weeks will always be deemed to constitute "reasonable

notice" with respect to any portion of the work that requires any material ramp up or mobilisation time, procurement or other preparatory work before work can commence (**Major Mobilisation Work**) although a period of less than nine (9) weeks may constitute "reasonable notice" if the Major Mobilisation Work can be reasonably performed by the Contractor in a shorter period; and

- (ii) four (4) weeks will always be deemed to constitute "reasonable notice" with respect to any portion of the work that requires minimal ramp up or mobilisation time, procurement or other preparatory work before work can commence (**Minor Mobilisation Work**) although a period of less than four (4) weeks may constitute "reasonable notice" if the Minor Mobilisation Work can be reasonably performed by the Contractor in a shorter period.

### 3.4 Safety Requirements

- (a) All operations will be conducted in compliance with the *Workplace Health and Safety Act 2020* (WA).
- (b) The Contractor is responsible at all times for the occupational health and safety of all personnel engaged by it (including its employees and its Subcontractors and their respective employees working or attending at any work place under the Contractor's control) in connection with the operation of the Mine.
- (c) The Contractor must provide the Safety Management Plan to the Company's Representative for approval no later than eight (8) weeks prior to the Commencement Date of this Agreement and must maintain, administer and comply with the Safety Management Plan as so approved and any other safety management plan required by this Agreement or by any applicable law. The Safety Management Plan must at least meet the Company's requirements for such a plan as detailed in Schedule 2, as updated, amended and reviewed if the Company's safety requirements change.
- (d) The Contractor must ensure that the Mine Services are carried out in a safe manner in compliance in all respects with all applicable law.
- (e) The Contractor must, and must ensure that all Contractor's personnel or Sub contractors promptly obey all directions and instructions given by the Site Senior Executive or Quarry Manager relating to the safety of persons or property, or to the proper compliance with any law which it is the duty of the Site Senior Executive to enforce. The decision of the Site Senior Executive is final and any such directions or instructions he or she may give must be obeyed in the manner he or she directs. If there is any inconsistency between this clause 3.4(e) and any other provisions of this Agreement, this clause 3.4(e) prevails.
- (f) If any breach of this clause exposes the Company to liability for breach of statutory duty or negligence or any other sanction or penalty (**Company's Exposure**), a Termination Event is deemed to have occurred and to continue until the breach is remedied or this Agreement is terminated, whichever is the sooner.

### 3.5 Safety And Cleanliness Of Contractor's Plant and Equipment

- (a) The Contractor must ensure that all Contractor's Plant and Equipment

used in providing the Mine Services are maintained in a clean, safe and working order and in compliance with all applicable law.

- (b) Due to the environmentally sensitive nature of the Site and its surrounds all mobile plant and machinery must be thoroughly washed and cleaned prior to being mobilised to Site. The Company's Representative will inspect the plant and machinery prior to its entry to the Site and the Company's Representative may direct any plant or machinery to be further washed or cleaned if the state of cleanliness is unsatisfactory.
- (c) If the Company's Representative considers that any Contractor's Plant and Equipment is unsafe for use in providing the Mine Services, or not in working order, or not in compliance with all applicable law, the Company's Representative may direct the Contractor to:
  - (i) cease using that Contractor's Plant and Equipment until it has been brought into a safe and working order and in compliance with all applicable law; or
  - (ii) replace, at the Contractor's cost, that Contractor's Plant and Equipment with Contractor's Plant and Equipment which is in a safe and working order and in compliance with all applicable law; and

and the Contractor will remain responsible for delivering the Mine Services in accordance with the Agreement (including any rate of progress) notwithstanding the direction issued by the Company's Representative.

- (d) If the Contractor fails to comply with a direction to cease using that Contractor's Plant and Equipment, the Company may perform or have performed the obligation on the Contractor's behalf and the costs and expenses incurred by the Company are recoverable from the Contractor as a debt due to the Company repayable on demand.

### **3.6 Environmental Obligations**

- (a) The Contractor must prepare and implement an Environmental Management Plan to ensure it will at all times achieve standards of environmental care and management, in the provision of the Mine Services, that are consistent with ISO 14001 and the environmental requirements contained in the Company's Environmental Management System (EMS), Environmental Management Plan and associated procedures (EMP) and with the requirements of any Government Agency and legislation.
- (b) The Contractor must provide to the Company's Representative all requested Management Plans relating to the management of the Site in accordance with the Company's EMS and EMP, that are required as part of the Mine Services or by law no later than eight (8) weeks prior to the Commencement Date of this Agreement and must obtain the Company's Representative's approval for, maintain, administer and comply with those Plans at all times. The Environmental Management Plan must at least meet the Company's requirements under its EMS and EMP and will be updated, amended and reviewed if the Company's Environmental EMS and EMP are changed.
- (c) The Contractor must provide the Mine Services and perform its other obligations under this Agreement in a manner so as to avoid causing unlawful environmental harm or unlawful pollution of the Site and its

surroundings. In this clause 3.6, **pollution** includes contamination, pollution, release of hazardous or toxic substances or emissions (including noise and dust emission) or other like matters.

- (d) The Contractor must take all reasonable precautions to prevent the spillage of fuel, oil lubricants or other petroleum products. Any Contractor's Plant and Equipment leaking oil or fuel will not be permitted to work on the Site. The Contractor must immediately bring to the attention of the Company any fuel or oil spillage and its response to such spillage as per the Contractor's Environmental Management Plan.
- (e) The Contractor must at its cost clean up and rectify any unlawful harm or unlawful pollution of the Site and its surroundings caused in the provision of the Mine Services or the performance of its other obligations under this Agreement.
- (f) Where the Contractor infringes any environmental or consent Authorisation for the Site and causes an infringement notice and fine or other impost to be levied on the Company, the Contractor must pay the Company the amount of the fine or impost within fourteen (14) days.
- (g) If any breach of this clause exposes the Company to liability for breach of statutory duty, negligence or any other sanction or penalty (**Company's Exposure**), a Termination Event is deemed to have occurred and to continue until the Company's Exposure is eliminated.

### **3.7 Expenditure Budgets, Forecasts And Reports**

The Contractor and the Company shall meet within two (2) months of the execution of the Agreement to establish reporting requirements with respect to the Mine Services and this Agreement including without limitation any required budgets, forecasts and reports.

### **3.8 Hazardous Materials**

- (a) For the purposes of this clause 3.8, **Hazardous Materials** means any substance, class of substance or mixture that by reason of its chemical and physical characteristics or its quantity, concentration or handling, is a threat to the environment or human health. In determining whether a product or substance should be so classified, reference may be made to the principles and procedures set out in Worksafe Australia's "Guidance Notes for Determining & Classifying a Hazardous Substance".
- (b) The Contractor must not bring, handle, store or use any Hazardous Materials or equipment on the Site without the prior written consent of the Company's Representative. Such consent does not relieve the Contractor from any obligations or duties relating to bringing onto the Site or the handling, storage or use of Hazardous Materials or equipment whether under this Agreement or any applicable law or otherwise, including the obligation to obtain any relevant licence.
- (c) Where consent has been granted by the Company's Representative, the Contractor must exercise the utmost care in the use and handling of all Hazardous Materials or equipment and only allow competent, trained and qualified personnel to handle such Hazardous Materials or equipment.
- (d) The Contractor must establish a suitable materials register, in accordance with its Safety Management Plan, for the Site which must include comprehensive Safety Data Sheets (SDS) for all materials used or stored on the Site, particularly Hazardous Materials. The Company reserves the

right to inspect and copy the material register at any time. The materials register at Site must be updated before any new material or substance is brought on to the Site.

- (e) The Contractor must clearly label and identify any Hazardous Materials brought onto the Site. Hazardous Materials must be stored in appropriate facilities separate from other materials.
- (f) Blasting restrictions and restrictions on the use of explosives outside of normal working hours may apply as determined by the Company's Representative.

### **3.9 In-Pit Dewatering**

- (a) Subject to clause 4.3 the Contractor will be responsible for dewatering activities as more specifically described in Schedule 2 of this Agreement.

### **3.10 Utilities**

- (a) The Contractor must take care to protect from damage any overhead utility lines, underground pipes, conduits or cables on or in the vicinity of the Site. If damage occurs, the Contractor must report such damage to the Company's Representative immediately and thereafter take all necessary steps to rectify the same at the Company's Representative's direction and at the Contractor's expense, unless the Company's Representative in its sole discretion directs others to rectify the same in which case the costs of rectification are payable by the Contractor.
- (b) The Contractor must keep the Site clean and tidy to the satisfaction of the Company's Representative. The Contractor must dispose of all rubbish, water, excavated materials and all other waste at disposal areas as directed by the Company's Representative. If the Contractor fails to comply with this clause then the Company may take such steps as it considers necessary to satisfy the Contractor's obligations including arranging for cleanup work to be performed by other contractors (**Clean-up Work**). Any costs incurred by the Company in relation to Clean-up Work may be recovered by the Company from the Contractor as a debt due and owing and the Company may deduct those costs from any payments due to the Contractor.
- (c) A landfill may be made available by the Company at the Company's discretion. The Company has no obligation to do so. If made available the landfill will be used by all of the Company's contractors. Opening time constraints will be imposed on the landfill to minimize traffic to this facility. Use of the land fill will be subject to full compliance with the rules of operation for these facilities, as directed by the Company. Hazardous and controlled waste generated in the course of providing the Mine Services, if any, must not be put into the landfill and must be removed from Site to a licensed facility at the Contractor's cost.
- (d) The Contractor must co-operate with the Company and all fire fighting agencies in the prevention and suppression of fires and must comply with the Company's fire protection standards (if any) as directed by the Company's Representative from time to time.

### **3.11 Ore and Product Loss And Dilution**

- (a) The Contractor must conduct its operation in such a way that Ore is not lost or diluted during loading, hauling and dumping or any other activity - for example:

- (i) by Ore being misplaced and irretrievably lost when dumped on a Waste Stockpile or backfill location; or
- (ii) by Ore being diluted by Waste; or
- (iii) by Ore and Waste mined together; or
- (iv) by Waste dumped on the Ore Stockpile or the Primary Ore Crusher.

(b) If Ore is misplaced and irretrievably lost, including through misdirection or dilution, the Contractor must pay the Company for the quantity of Ore lost. The payment to the Company will be:

- (i) the quantity of Ore lost, measured in accordance with this Agreement and charged at a rate of \$[●] per tonne; plus
- (ii) a reasonable sum by way of reimbursement or credits on account of any Ore excavation, loading, haulage and dumping costs paid or payable by the Company with respect to the lost Ore.

The parties agree that the amount to be paid under this clause represents a reasonable and good faith estimate of the anticipated or actual loss likely to be suffered by the Company in connection with Ore being misplaced or irretrievably lost and is not a penalty.

(c) To minimise the possibility of Ore being misplaced or lost, or diluted by Waste or of Waste being mined or milled as Ore:

- (i) the Company may assign grade control officers to oversee the excavation of blocks of Ore and/or to be present in the Pits and directing the excavator or front end loader operator who must comply with their directions;
- (ii) prior to drilling the Contractor must submit for review to the Company's Representative its blast plans including blast-hole layouts, the direction of fire, proposed fragmentation, powder factor and the materials used for blasting;
- (iii) the Contractor shall not excavate in any area that has not been adequately classified or marked up to indicate Ore and Waste materials; and
- (iv) the Company's Representative may prevent the Contractor from mining in an area until the area has been fully grade controlled to its satisfaction.

(d) The Contractor must conduct its operation in such a way that Product is not lost including Product being misplaced and irretrievably lost when dumped on a stockpile containing non-like material (including Product of different grades and types) or backfill location.

(e) If Product is misplaced and irretrievably lost due to any cause, default or negligence of the Contractor, the Contractor must pay the Company for the insitu weight of Product lost. The payment to the Company will be the insitu weight of Product lost and charged at a rate of \$[●] per tonne. The parties agree that the amount to be paid under this clause represents a

reasonable and good faith estimate of the anticipated or actual loss likely to be suffered by the Company in connection with Product being misplaced or irretrievably lost and is not a penalty.

### **3.12 Bench Marks, Drill Limits And Survey Stations**

If any bench marks, drill limits or survey stations installed by the Company are moved, damaged or destroyed by the Contractor or its employees or Subcontractors, the Contractor will promptly notify the Company's Representative. The Company may replace any bench mark, drill limit or survey station so moved, damaged or destroyed and the costs incurred by the Company in so doing will be borne by the Contractor.

### **3.13 Defects**

- (a) If during the Term the Mine Services provided by the Contractor to the Company contain any Defects then the Company may issue a written notice to the Contractor stating the Defects in the Mine Services and a reasonable time in which the Contractor must rectify those Defects ("**Rectification Notice**").
- (b) Upon receipt of a Rectification Notice, the Contractor shall promptly rectify and make good any such Defects at its cost within the time period stipulated in the Rectification Notice ("**Rectification Works**").
- (c) If Rectification Works are not completed within the time period stipulated in a Rectification Notice then the Company may have the Defects rectified and made good by a contractor or employee of the Company's choice and the costs incurred by the Company in rectifying and making good the Defects shall be paid by the Contractor to the Company on demand.
- (d) Nothing in this clause 3.13 limits any other rights or remedies the Company may have in relation to any Defects in the Mine Services and this clause 3.13 shall survive termination of this Agreement.

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## **4. Company's Obligations**

### **4.1 Authorisations Relating To Company's Ownership Or Use Of The Site**

The Company must, at all times during this Agreement at its cost:

- (a) secure and maintain the grant of all mining leases and other mining tenements required for performance of the Mine Services, pay all rentals payable under these leases and tenements and comply with the conditions of these leases and tenements;
- (b) pay all environmental licence fees and management systems fees payable in respect of the Mine;
- (c) provide all bonds, guarantees and charges payable in relation to the obligations set out in this clause 4;
- (d) comply with its obligations under the applicable law, the Mining Titles and the Authorisations; and
- (e) pay all local authority rates (including water charges), levies and charges in respect of the Mine and pay all industry levies in relation to the Mine.

## **4.2 Mine Design**

The Company must develop and provide to the Contractor before the Commencement Date a Mine design that is consistent with the Company's obtained project environmental, safety and heritage approvals and the design which must include details of:

- (a) working limits;
- (b) general dump design parameters and limits;
- (c) geological model;
- (d) final and interim pit wall designs;
- (e) mining areas;
- (f) mining operating conditions imposed by any Authority;
- (g) all Governmental requirements; and
- (h) batter angles and benches.

The Company reserves the right (by notice to the Contractor's Representative) to initiate changes to the Mine design. Any such changes must be implemented by the Contractor. If the impact of any such design changes requires any necessary material changes to the Service Fee and Schedule of Rates to reflect any consequential change in unit mining costs then these changes will be treated as a Variation.

## **4.3 Mine Dewatering And Wall Depressurisation**

The Company will be responsible for the design and installation of permanent dewatering bores to limit groundwater inflow into the workings and for the design and installation of sub-horizontal depressurisation bores drilled into interim and final batters in order to relieve the hydrostatic pressure from behind these walls.

## **4.4 Fibrous Minerals**

The Contractor will, at all times, monitor all drilling, exposed faces and muckpiles (before and during excavation) for the presence of Fibrous Minerals. If Fibrous Minerals are identified within the Mine the Contractor will immediately inform the Company and then safely handle and dispose of the Fibrous Minerals in accordance with any guidelines, policies and procedures developed by the Company. The additional cost of this activity, on occasions that it occurs, will be backcharged by the Contractor to the Company with suitable prior written notice to and approval of the Company.

## **4.5 Environmental Monitoring**

In relation to the Mine Services, the Contractor must carry out all environmental testing and monitoring required by the Authorisations and any other environmental testing and monitoring which the Company requires, and must provide to the Company on request full copies of the results of environmental testing and monitoring which it has obtained during the previous month. Noise and vibration monitoring by the Contractor must be conducted in accordance with any noise and vibration management requirements as advised by the Company from time to time.

## **4.6 Rehabilitation**

The Contractor must consult with the Company's Representative prior to



rehabilitating disturbed ground. All decommissioning and rehabilitation works carried out by the Contractor must be carried out in accordance with this Agreement.

#### **4.7 Electricity Supply**

- (a) The Company will use its best endeavours to arrange, at its cost, for the permanent supply of electricity to the Contractor at the Mine during the Term in accordance with Schedule 6, clause 1.2. The Contractor must use electricity efficiently and responsibly and manage its consumption carefully.
- (b) The Company is responsible for paying all charges levied on the consumption of electricity used by the Contractor during the Term. The Contractor must perform the Mine Services under the Contract in a manner consistent with, and not do anything to prejudice, the agreement(s) under which electricity is supplied.
- (c) Where the Company provides services, such as electricity, continuity of supply is not guaranteed.
- (d) The Contractor must provide a monthly forecast of its expected electricity consumption to the Company for budgeting purposes.
- (e) The Contractor acknowledges that the provision of electricity by the Company in this agreement is for the purposes of operating offices, workshops and associated infrastructure and that any other use must be approved, prior to use, by the Company.

#### **4.8 Water Supply**

- (a) The Company will use its best endeavours to arrange, at its cost, for the permanent supply of raw and potable water to the Site and to the Contractor at the Mine during the Term.
- (b) The Company is responsible for paying all charges levied on the consumption of water used by the Contractor during the Term.
- (c) The Contractor must perform the Mine Services under this Agreement in a manner consistent with, and not do anything to prejudice, the agreement(s) under which water is supplied.
- (d) The Contractor must comply with the Company's procedures and plans for the management of water on Site, including as detailed in the EMS and EMP.
- (e) The Contractor must use all reasonable endeavours to conserve and use water efficiently and to maximise the recycling of water.
- (f) The Company may direct a Variation requiring the Contractor to take steps in relation to water management, but where these steps result in the Contractor incurring additional costs, the Variation must include those additional costs, including any agreed or reasonable profit margin.
- (g) The Contractor must monitor and record all of its use of water and must provide the Company's representative with a summary of its water consumption on a monthly basis throughout the Term.
- (h) The Contractor must provide a monthly forecast of its expected water consumption to the Company for budgeting purposes.

#### **4.9 Communications**

- (a) The Company will arrange, at its cost, for the installation of a hard-line telephone and internet connection on the Site (**Take-off Point**) and the location of the Take-off Point will be determined by the Company as shown in item 3 of Schedule 1. The Contractor shall be responsible at its cost for arranging its own telephone and internet connections to the network and for all costs of such connection and use and the Company shall have no responsibility other than as expressly stated by this clause.
- (b) The Contractor must arrange, at its cost, for the installation of its own connecting lines to the Take-off Point subject to any reasonable directions concerning installation given by the Company's Representative.
- (c) Any costs associated with the usage of telephone and internet communication services from the Take-off Point will be the Contractor's responsibility.

#### **4.10 Accommodation And Meals**

- (a) The Company undertakes to make available and free issue, within a reasonable distance to the Site, accommodation and meals for the personnel of the Contractor and its Subcontractors engaged on the Mine in performing the Mine Services and as listed in the Contractor's labour schedule (as approved by the Company's Representative from time to time).
- (b) Accommodation and meals may also be made available to the Contractor's duly authorised visitors, subject to availability, and with the prior approval of the Company's Representative.
- (c) The Contractor must pay for accommodation and meals for those personnel, Subcontractors and visitors that exceed those in the Contractor's labour schedule, or that fail to take up their allocated accommodation and meals, at a cost of \$[●] per person per day (which may be revised by the Company from time to time if the actual costs of providing the accommodation and meals change).
- (d) The type and standard of accommodation will be determined by the Company. The Company will make reasonable endeavours to arrange or allocate the provision of dedicated rooms, not used or shared by any other person, for accommodation of Contractor's personnel but the Contractor acknowledges that this may be impracticable and that the Company shall not be obliged to do so. The Contractor must not charge personnel of the Contractor for any accommodation and messing costs that are borne by the Company. As between the Contractor and the Company, the Contractor must bear any fringe benefits tax, GST or other tax that may accrue in respect of the provision of these services by the Company.
- (e) Breakfast and dinner will be provided at the mess and lunch (i.e. mid shift meal) produce will be provided as a make your own crib take-away at breakfast.
- (f) The Contractor must ensure that its personnel, its Subcontractors and its visitors, if occupying the village at the Site, observe all applicable rules and regulations issued by the Company's Representative from time to time and provided to the Contractor. The Company has control of the Mine accommodation village and reserves the right to refuse entry or withdraw accommodation and messing facilities from any person for non-observance of the village rules or for any other reason as determined by the Company, in which case the Contractor must arrange for the person to leave the Site immediately.

- (g) The Company reserves the right to charge the Contractor for the repair of any damage done to the village facilities or contents by personnel of the Contractor or any Subcontractor or the Contractor's visitors.
- (h) Upon the Company delivering an invoice to the Contractor for any costs payable under this clause 4.10, the amount owing on that invoice is a debt due to the Company by the Contractor and may, at the option of the Company, be deducted under the offset provisions of this Agreement.

**4.11 Not used**

**4.12 Related Taxes**

As between the Company and the Contractor, the Contractor is responsible for payment of fringe benefits tax or any other tax which might accrue due to supply by the Company of accommodation, air fares, meals or any other services free of charge to the personnel of the Contractor and its Subcontractors.

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**5. Access To Site**

**5.1 Access To Mine And Site Security**

- (a) The Company must, subject to this Agreement, provide suitable access to the Site and make the Mine available to the Contractor in such manner as is sufficient for the Contractor to commence Mine Services when required under this Agreement.
- (b) As from the Commencement Date, the Contractor must control access to, and arrange for proper security for the Mine. The Contractor must provide safe access to the Mine at all times during the provision of the Mine Services for the Company, the Company's Representative and any other person authorised by the Company's Representative (including Separate Contractors).
- (c) The Contractor will comply with all reasonable directions given by the Company's Representative from time to time in relation to the security of the Site and the Mine.
- (d) In the event that the Contractor:
  - (i) is unable to mobilise any necessary Item of Major Plant and Equipment or any necessary Contractor's personnel to the Mine by reason of exceptionally inclement weather (and for no other reason);
  - (ii) is thereby prevented from fulfilling its performance obligations for the period of such inability;
  - (iii) provides written notice to the Company of such inability as soon as reasonably practicable but no later than one (1) business day after the date that such inability arose;
  - (iv) takes all reasonable steps to mitigate any resulting delay in performance of its obligations including any steps reasonably requested to be taken by the Company,

then:

  - (v) the Contractor will be entitled to suspend and defer its

performance obligations during the period that the Contractor is unable to mobilise any Item or personnel to the Mine provided that the Contractor shall mobilise the Item and personnel to the Mine as soon as reasonably practicable; and

- (vi) the Company shall issue a Catch-Up Direction for the Contractor to take all steps necessary to ensure that the Performance Criteria and the rates of progress required under this Agreement are met as soon as possible and the Contractor must comply with the Catch-up Direction and provide any additional labour, plant or resources that are necessary to comply at its own cost.

## **5.2 Prohibited Use Of The Mine**

The Contractor must not, without the Company's Representative's written consent:

- (a) use or allow the Mine to be used for any purpose other than for the provision of the Mine Services;
- (b) undertake or permit any structural improvements to the Mine or other capital changes in relation to the Mine; or
- (c) do or allow any act or omission on the Site which may result in any breach or revocation of the Mining Titles or any other Authorisations.

## **5.3 Separate Contractors**

- (a) The Contractor acknowledges that Separate Contractors may be present on the Site during the provision of the Mine Services by the Contractor.
- (b) The Contractor must co-operate with any Separate Contractors and co-ordinate its work with the Separate Contractors' work to minimise any interference with or delays to any Separate Contractors' work.
- (c) The Contractor must comply with all written directions from the Company's Representative regarding Separate Contractors and their work, and allow any Separate Contractors engaged by the Company to use the amenities, facilities and Mine Services which are available for use on the Site.
- (d) The Contractor is entitled to reasonable compensation for delays or material disruptions caused by the work of the Separate Contractors or compliance with its obligations under this clause 5.3, for example, by payment based on any standby rate listed in the Schedule of Rates. For the purposes of this clause, "delays" and "material disruptions" do not include:
  - (i) delays of less than 2 hours;
  - (ii) disruptions of a kind that are reasonably expected to occur in the normal course of providing mining services on sites where other contractors are also operating;
  - (iii) delays or disruptions that do not have a material cost impact on the Contractor (after taking into account the Contractor's ability to take mitigating action to minimise any cost impacts);
  - (iv) delays or disruptions to the extent that the Contractor had reasonable prior notice of the relevant event or circumstances and had a reasonable opportunity to eliminate or minimise the delay or disruption costs;

(v) delays or disruptions to the extent that the Contractor should have been able to foresee the relevant event or circumstances and take action to eliminate or minimise the delay or disruption costs; or

(vi) delays or disruptions that are the cause of force majeure impacting the Company or a Separate Contractor,

and the Contractor is not entitled to any compensation to the extent that the relevant delay or disruption has been caused or contributed to by any act or omission on the part of the Contractor or its servants, agents, subcontractors or visitors.

#### **5.4 Archaeological, Heritage And Native Title Agreements**

(a) The Contractor acknowledges that the Company has entered, or may enter, into agreements with various third parties (including local Aboriginal communities) in respect of archaeological, heritage and native title issues applicable to the Site and its surrounds and the operation of the Mine as required by Archaeological, Heritage and Native Title Legislation.

(b) The Contractor must not liaise (including any form of communication) with any of the parties referred to in clause 5.4(a) without the Company's Representative's prior approval.

(c) The Contractor must not damage, destroy, move, relocate or alter an item on the Site or its surrounds which is of an archaeological, heritage or native title nature or disturb any designated area identified in the Mining Plan without the Company's Representative's prior approval.

(d) If the Contractor discovers any item on the Site or its surrounds which may be of an archaeological, heritage or native title nature, the Contractor must promptly give notice to the Company's Representative and seek the Company's Representative's prior written instructions in dealing with such item.

#### **5.5 Gems, Fossils, Crystals And Semi-Precious Stones**

The Contractor undertakes to report promptly to the Company the discovery of any gems, fossils, crystals, semi-precious stones or minerals found on the Site, which it acknowledges are the property of the Company, and to arrange for the proper security and protection of any such discovered items.

#### **5.6 Wildlife**

(a) Wildlife must not be interfered with, molested, trapped or killed.

(b) All wildlife injuries or deaths that the Contractor or any of its servants, agents or Subcontractors become aware of on Site (whether deliberate or accidental) must be recorded by the Contractor and notified and handled in accordance with the Company's various management plans for the management of fauna. The Contractor must comply with these plans at all times.

#### **5.7 Pets**

No pets are allowed on Site.

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### **6. Representation And Meetings**

## **6.1 Company's Representative**

- (a) The Company appoints the Company's Representative as its agent to monitor the performance of the Contractor and ensure compliance of the Contractor with its obligations under this Agreement.
- (b) The Company's Representative may, by notice to the Contractor's Representative, delegate all or any of its functions under this Agreement. The Company may by notice to the Contractor remove the Company's Representative and appoint another person in their place.
- (c) The Company's Representative is the Company's main constituent member of the Project Management Group and their attendance, or that of their delegate, at the monthly Project Management Group meeting is compulsory.

## **6.2 Contractor's Representative**

- (a) The Contractor appoints the Contractor's Representative as its agent for the performance of its obligations under this Agreement.
- (b) The Contractor's Representative will be based at the Site and must have a Company approved back-to-back replacement when rostered to be away from the Site or on leave and the Contractor's Representative may, by notice to the Company's Representative, delegate all or any of its functions under this Agreement. The Contractor may by notice to the Company remove the Contractor's Representative and appoint another person in their place with the prior approval of the Company's Representative.
- (c) The Contractor's Representative is the Contractor's main constituent member of the Project Management Group and their attendance, or that of their approved delegate, at the monthly Project Management Group meeting is compulsory.

## **6.3 Project Management Group And Steering Committee**

- (a) The Company and the Contractor will together form the Project Management Group and the Steering Committee.
- (b) The function of the Project Management Group is to oversee and manage the operation of the Agreement, report and monitor the Contractor's performance and to try and resolve any question or matter arising under this Agreement.
- (c) The function of the Steering Committee is to discuss and seek to resolve any question or matter arising under this Agreement that the Project Management Group are unable to resolve and to provide overall project direction.

## **6.4 Site Meetings**

- (a) The Company will convene meetings of the Project Management Group on Site to discuss progress of delivery of the Mine Services at least monthly in accordance with clauses 6.1(c) and 6.2(c), at such regular time, day of the week and place as may be agreed by the Contractor and the Company.
- (b) The monthly Site meetings must be attended by the Company's Representative and the Contractor's Representative, or their delegates,

and may be attended by such other persons as either of them may invite. The Company will also convene any other meetings of the Project Management Group at any place reasonably required by the Company.

- (c) The Steering Committee will endeavour to meet regularly at least once per Quarter, but will at least communicate and meet as required on a practical basis.

## **6.5 Meeting Procedure**

- (a) The Company will prepare the agenda for each meeting of the Project Management Group, which must always include as an item a report by the Contractor's Representative on safety and progress against the mining plans and schedules for which the Contractor is responsible under this Agreement.
- (b) The Company will also keep minutes of each meeting and circulate them to all participants within one (1) week of a meeting.

## **6.6 Consultants And Advisers**

The Company and the Company's Representative may, for the assistance of the Project Management Group or otherwise, at the cost of the Company, seek such advice and assistance from independent consultants and advisers as the Company considers necessary.

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# **7. Personnel and Subcontracting**

## **7.1 Personnel**

- (a) The Contractor must ensure that all Mine Services are at all times executed by, and under the supervision of appropriately qualified, trained, experienced and skilled personnel.
- (b) The Company's Representative may direct the Contractor to remove from the Site, or from any activity connected with the Mine Services, any person employed by the Contractor or any Subcontractor in connection with the Mine Services who, in the reasonable opinion of the Company's Representative, is guilty of misconduct, is incompetent or negligent or who works in an unsafe manner. The Company's representative is not required to give particulars of its reasons for directing that a person be removed from Site or removed from any Site activity.
- (c) The Contractor will comply with all reasonable directions given by the Company's Representative from time to time in relation to the activities of its employees and Subcontractors on Site.
- (d) The Contractor will provide the Company with a copy of a detailed organisation chart which show positions, job descriptions and reporting relationships for supervisory personnel (**Key Personnel**) associated with the Mine Services. Key Personnel (and any persons appointed to replace them) must be qualified, trained and skilled in all respects to perform the tasks assigned to them in accordance with this Agreement.
- (e) The Contractor will not, subject to the request or approval of the Company's Representative, remove any Key Personnel, except due to sickness, misconduct, resignation or termination of employment and will use reasonable endeavours to retain Key Personnel.

- (f) The Contractor must ensure that no employee is allowed to work on Site unless they have:
  - (i) undergone a pre-employment medical examination and has been passed fit for the work that is to be allocated;
  - (ii) passed a drug and alcohol test;
  - (iii) agreed to submit to any random drug or alcohol tests that are requested by the Company from time to time; and
  - (iv) signed a valid industrial instrument that complies with any appropriate and necessary Authority and complies with relevant legislation.
- (g) The Contractor will, whenever requested to do so by the Company's Representative, provide the Company with a list showing the names and addresses and work classifications of all persons who have been or will be engaged in the performance of Mine Services work.
- (h) The Contractor will require every person entering the Site for the purposes of Mine Services work to be identified in a manner satisfactory to the Company's Representative (acting reasonably) and will at all times prevent unauthorised persons from entering the Mine. The Company may at any time give the Contractor a direction not to allow a particular person to enter the Site and the Contractor must comply with that direction.

## **7.2 Subcontracting**

- (a) The Contractor may, with the prior approval of the Company's Representative, enter into subcontracts for the vicarious performance of any discrete part (but not the whole) of the Mine Services.
- (b) The Contractor must procure that each Subcontractor perform the Mine Services that have been subcontracted to it in accordance with this Agreement.
- (c) The Contractor's responsibilities or obligations under this Agreement are not lessened or otherwise affected by subcontracting the performance of those obligations or the Company giving, or failing to give, its approval under clause 7.2(a).
- (d) The Contractor must ensure that all subcontracts for the Mine Services adequately address all industrial relations, safety, quality, environmental and scheduling issues relevant to the Mine Services (including compliance with the applicable law).
- (e) The Contractor must also ensure that all subcontracts it enters into are capable of being terminated without penalty if this Agreement is terminated or comes to an end for any reason.

## **7.3 Industrial Relations**

- (a) The Contractor must, and must ensure that its Subcontractors, comply with all applicable Commonwealth and Western Australia industrial laws.
- (b) The Contractor must regularly consult with the Company's Representative throughout the performance of the Mine Services on any industrial relations issues which may arise and in particular its negotiation of workplace and enterprise bargaining agreements or other industrial



agreements with its employees who are engaged in performing any part of the Mine Services or the Contractor's other obligations under this Agreement.

- (c) The Contractor must, if any industrial disputes occurs involving the Contractor's workforce on the Site (but not the Company's employees), take appropriate action so that the continuous operation of the Processing Plant is not prevented or jeopardised.
- (d) The Contractor must keep itself informed of all industrial laws and industrial relations issues and not engage with any union without the prior written notification and approval from the Company.

#### **7.4 Fitness For Work**

The Contractor must ensure that:

- (a) all its personnel and Subcontractors undergo induction training required for the Site in accordance with the Company's requirements before they are given access to the Site;
- (b) its Site supervisors assess and monitor its personnel for fitness for work in accordance with the law and the Company's requirements;
- (c) its Subcontractors assess their personnel for fitness for work in accordance with the law and the Company's requirements;
- (d) it addresses any identified problem that impairs the fitness for work of any person on the Site (e.g. fatigue, stress, alcohol or other drugs); and
- (e) it complies with the Company's requirement to carry out random and "for cause" drug and alcohol tests amongst the employees of the Contractor or any Subcontractor.

#### **7.5 Personnel Site Access**

- (a) The Contractor must ensure that its personnel, Subcontractors and visitors to the Site are aware of and comply with:
  - (i) a requirement of zero BAC (blood alcohol concentration) limit and the Australian Standard minimum drug level concentrations at the Site; and
  - (ii) the Site's random and "for cause" drug and alcohol testing program.
- (b) The Contractor must avoid any interference with any pastoral activities carried out on or in the vicinity of the Site. If the Contractor believes that any pastoral activities may or will interfere with the performance of the Mine Services, it must promptly notify the Company's Representative.
- (c) The Contractor must ensure that its personnel, Subcontractors and visitors to the Site seek permission before entering the property of land owners on and surrounding the Site, that gates are left as found, and that stock and water sources are not interfered with.
- (d) Private vehicles will not be permitted on Site without the prior written approval of the Company's Representative.

#### **7.6 No Poaching**

Neither Party may during the Term make an offer to employ an employee of the other Party or any other contractor of the Company, or otherwise procure or induce an employee of the other Party or such other contractor to terminate his or her employment with the other Party, except with the prior approval of the other Party or the other contractor, as the case requires.

## **7.7 Working Hours And Rosters**

- (a) The regular working schedule of each employee engaged in Mine Services work will be subject to the approval of the Company's Representative and a draft work schedule (**Draft Schedule**) showing hours of work and work shifts including any rest and recreation periods must be provided to the Company's Representative at least seven (7) days prior to the implementation of any proposed changes to an approved work schedule. However, the obligation to submit a Draft Schedule does not apply in cases of emergency or urgent work schedule changes, provided the changes have been approved by the Company's Representative (which will not be unreasonably withheld or delayed).
- (b) Work hours and rosters must comply with all statutory requirements under the Mines Safety and Inspection Act of Western Australia (1994) as well as all other applicable laws, regulations and codes of practice.

## **7.8 First Aid**

- (a) The Contractor will be responsible for the medical care of all of its personnel and its Subcontractors' employees. Without diminishing this obligation in any way, the Company will provide a first aid facility on Site and the Contractor will have access to it. The Company will also supply first aid training to the Contractor's personnel and an ambulance and paramedic who will be made available to assist any employees or who become ill or sustains an injury provided that:
  - (i) treatment of the illness or injury does not extend beyond the capabilities or experience of the Company's first aid attendant; and
  - (ii) if the employee requires the services of a physician or hospital, the Contractor will promptly pay all charges in respect thereof including the cost of transport, whether by means of air ambulance service or otherwise, directly to the provider of such services,
- (b) and the Contractor hereby indemnifies the Company, its employees, consultants and agents against any and all claims (including claims, demands, actions, damages, costs, charges and expenses or other liabilities whatsoever) that may be brought against, suffered, sustained or incurred by any of them arising directly or indirectly from any treatment given at the first aid facility to any employee or arising from any other act or omission of the Company's staff in regard to first aid or medical services provided in respect of any employee. The Contractor will ensure that:
  - (i) all of its supervisors, leading hands and key personnel hold current "Senior First Aid" certificates; and
  - (ii) that a minimum of two qualified "Senior First Aid" certificate holders are available and on duty for each of the Contractor's rostered working shifts.

## **7.9 Emergency Response Team**

The Contractor will make available as many of the Contractor's Site personnel (listed in Schedule 5) as may be reasonably necessary to participate as part of the Company's Site emergency response team and the Contractor acknowledges that this cost is included in the Contractor's rates. The Contractor agrees to provide proactive and cooperative support to the Company's Site emergency response team and will do all that is reasonably necessary to ensure that its employees who participate in the emergency response team attend on- Site training activities and off-Site activities when reasonably required by the Company's Representative.

#### **7.10 Conflicts Of Interest**

The Contractor will at all times use its best endeavours to ensure that no action is taken by itself, its servants, agents and Subcontractors which would or might result in or give rise to the existence of conditions prejudicial to or in conflict with the best interests of the Company. In particular, but without limiting the generality of the foregoing, the Contractor will take or cause to be taken all necessary and proper precautions to prevent its servants, agents and Subcontractors from receiving from or making, providing or offering to any person who could or might be in a position to influence any decisions of the Company or the Company's Representative with respect to the Mine Services or anything else arising out of this Agreement.

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### **8. Mine Plans**

#### **8.1 LOM Mine Plan**

- (a) The Company must provide the Contractor with the LOM Mine Plan. The LOM Mine Plan must provide for quantities of production of Ore and Waste within the Production Requirements Range. The initial LOM Mine Plan is annexed as Exhibit 1.
- (b) The Company may review and update or modify the LOM Mine Plan as provided in Exhibit 1 Schedule 10. Any such update or modification must not result in the requirement to produce Ore and Waste outside of the Production Requirements Range unless the Contractor agrees.

#### **8.2 Short Term Mine Plan**

- (a) Before the Commencement Date under this Agreement as specified in clause 6 of Schedule 10, and thereafter as provided in Schedule 10, the Company must provide the Contractor with a Short Term Mine Plan.
- (b) The Company may review and update or modify the Short Term Mine Plan as provided in Schedule 10. Any such update or modification must not result in the requirement to produce Ore and Waste outside of the Production Requirements Range, unless the Contractor agrees.

#### **8.3 Contractor's Mining Plans And Schedules**

- (a) The Contractor must, unless directed otherwise in writing by the Company's Representative, perform the Mine Services in accordance with the requirements of the LOM Mine Plan, the Short Term Mine Plan, the Production Requirements Range and the Performance Criteria.
- (b) The Contractor must undertake detailed planning for the Mine Services, within the requirements of the LOM Mine Plan and Short Term Mine Plan, and develop the detailed mining plans and schedules required of the Contractor under Schedule 10 (Contractor's Mining Plans and Schedules). The Contractor must provide any such Contractor's Mining Plans and Schedules to the Company promptly at the times set out in Schedule 10.

- (c) The Contractor will not during any month mine greater than ten percent (10%) more material than provided for in relation to that month in the Short Term Mine Plan (**10% Component**) without the written approval of the Company's Representative;
- (d) Without diminishing any of the Company's other rights under this Agreement, if the Contractor fails to meet the requirements set out in the Short Term Mine Plan for any month the Contractor will make up the shortfall as soon as is reasonably possible, but in any case, within the following two (2) months.
- (e) The Contractor acknowledges that the Company relies on the Contractor performing to the requirements of the LOM Mine Plan, the Medium and Short Term Mine Plans, the Production Requirements Range and the Performance Criteria so as to coordinate the Mine operations with the Company's operations.
- (f) The Contractor may review and vary the Contractor's Mining Plans and Schedules as provided in Schedule 10. Any such update or modification must not result in the requirement to produce Ore and Waste outside of the Production Requirements Range or be inconsistent with the Medium and Short Term Mine Plan, except with the prior written approval of the Company's Representative.
- (g) If at any time the Company considers that the Contractor is or may not be able to achieve the Medium and/or Short Term Mine Plan, the Production Requirements Range or the Performance Criteria, the Company may, in addition to any other rights it has under this Agreement, direct the Contractor to supply, without cost to the Company, additional suitable and sufficient labour (including Subcontractors), supervision and Plant and Equipment required to enable the Contractor to comply with its obligations under this Agreement.
- (h) The Contractor's obligation to supply such additional labour, supervision and Plant will cease only when the Contractor has brought the works which have actually been performed into line with the Medium and/or Short Term Mine Plan, the Production Requirements Range and the Performance Criteria.

#### 8.4 Slow Progress

- (a) If:
  - (i) the Contractor fails to meet the Performance Criteria under this Agreement; or
  - (ii) the Contractor fails to meet any required rate of progress under this Agreement; and

the Company (acting reasonably) is of the belief that any required rate of progress under this Agreement will not be achieved, the Company may issue a direction for the Contractor to take all steps necessary to ensure that the Performance Criteria and the rates of progress required under this Agreement are met as soon as possible (**Catch-up Direction**) and the Contractor must comply with the Catch-up Direction and must provide any additional labour, plant or resources that are necessary to comply at its own cost.

- (b) If the Contractor fails to submit a plan of action in response to any Catch-

up Direction to the satisfaction of the Company within seven (7) days of receiving the Catch-Up Direction then the Company may take such steps as it considers necessary to satisfy the Catch-up Direction including arranging for any work to be performed by other contractors (**Step-in Work**). Any additional costs incurred by the Company in relation to Step-in Work will be recovered by the Company from the Contractor as a debt due and owing and the Company may deduct those costs from any payments due to the Contractor.

- (c) If the Company carries out or otherwise arranges Step-in Work then the Company may do so without prejudice to any other rights or remedies the Company may have against the Contractor in relation to any breach or wrongful act or omission that gave rise to the issue of the Catch-up Direction.

## 8.5 Project Expansion

- (a) If the Company wishes during the Term to expand production from the Mine or extend the Mine Services or expand the Mine beyond the scope of this Agreement, the Company must, in consultation with the Contractor, determine the broad scope of the Mine Services which the Company anticipates it will require in connection with the expansion (**Expanded Services**) and thereafter give the Contractor a notice in writing setting out details of the expansion and the Expanded Services, including:
  - (i) the nature of the Expanded Services;
  - (ii) the Production Requirements Range related to the Expanded Services;
  - (iii) the LOM Mine Plan showing the proposed expansion;
  - (iv) the timing of the Expanded Services; and
  - (v) any other details reasonably required to enable the Contractor to provide a proposal to the Company for the provision of the Expanded Services.
- (b) The Contractor may request the Company to provide and the Company must provide any further information reasonably requested by the Contractor in connection with the Expanded Services.
- (c) Within the time specified by the Company, and in any case not less than four (4) weeks after first being notified by the Company, the Contractor may prepare and submit to the Company a pricing proposal (**Pricing Proposal**) for including the Expanded Services in this Agreement together with:
  - (i) details of the method of calculation of such pricing; and
  - (ii) the amendments required to this Agreement to give effect to the Pricing Proposal.
- (d) Within ten (10) days of receipt by the Company of the Pricing Proposal, the Parties must commence a review thereof in good faith, and within a further one (1) month the Company (acting reasonably) must advise the Contractor whether it accepts or rejects the Pricing Proposal. Failure by the Company to advise the Contractor in accordance with this paragraph is a deemed rejection of the Pricing Proposal.
- (e) If the Company notifies the Contractor that it accepts the Pricing Proposal,

the Parties must negotiate and agree all necessary amendments (if any) to this Agreement to take into account the Expanded Services and upon such agreement being reached the Pricing Proposal and the amendments required to this Agreement (if any) to give effect to the Pricing Proposal form part of this Agreement.

- (f) If the Company, acting reasonably, rejects the Pricing Proposal, the Company is free to carry out the Expanded Services itself or negotiate or enter into a contract with others for the provision of all or any part of the Expanded Services.

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## **9. Systems, Records, Reports and Budgets**

### **9.1 Quality Management System**

- (a) The Contractor must progressively plan, establish and maintain a quality management system which conforms to the requirements of the ISO 9000 series of documents and provide each of its Subcontractors and the Company's Representative with access to the quality management system of the Contractor to enable monitoring and quality auditing.
- (b) Any quality management system of the kind referred to in clause 9.1(a) may be used only as an aid to achieving compliance with this Agreement and to document such compliance and does not relieve the Contractor of any responsibilities or obligations under this Agreement.

### **9.2 Maintenance Of Records**

The Contractor must keep and maintain records including:

- (a) a Company approved internal control system (including policies, controls and procedures) for effective planning, performance and reporting;
- (b) records and Documentation;
- (c) books of account in accordance with accounting principles generally accepted in Australia; and
- (d) any other information as agreed by the Parties from time to time relating to the provision of the Mine Services and the Contractor's performance of its other obligations under this Agreement.

### **9.3 Reporting On Provision Of Mine Services**

- (a) The Contractor must provide to the Company reports for each day, week and month on matters relating to the performance of Mine Services under this Agreement with the content set out in Schedule 11, or as otherwise approved by the Company's Representative, which format will be decided by the Company, but must be in line with Best Industry Practice or generally-accepted parameters and capabilities of experienced mining contractors.
- (b) The Contractor must provide reports to the Company on any other matter which, in the Company's reasonable opinion, is of significance to the Mine Services.
- (c) All data contained in any report provided by the Contractor becomes the property of the Company when so provided, but the Company does not under this clause 9.3(c) obtain any right or interest in any systems, procedure or software used to capture, manipulate or present that data

unless these systems, procedures or software were developed specifically for the purposes of this Agreement.

#### **9.4 Inspection And Audit of Records**

- (a) The Contractor must make available to the Company or any person appointed by the Company for examination, audit, inspection, transcription and copying at all times all books of accounts and records, including survey records, maintained by the Contractor (including off Site records) relating to the Mine Services for the purposes of verifying:
  - (i) any invoice or report provided by the Contractor to the Company pursuant to this Agreement;
  - (ii) that charges or claims made by the Contractor under this Agreement have been properly made in accordance with this Agreement; or
  - (iii) that the Contractor is otherwise complying with this Agreement,**(Audit Information).**
- (b) The Audit Information can only be used for the purposes described in clause 9.4(a).
- (c) The Contractor must preserve the Audit Information for at least two (2) years after the end of the Term.
- (d) If any payment made by the Company to the Contractor differs from the amount due to the Contractor as shown by an audit or verification then an amount equal to the difference will, at the Company's option, be either deducted from moneys due or becoming due to the Contractor or be repaid by the Contractor to the Company within thirty (30) days from a demand for payment being made.
- (e) Upon the expiration of the Term or earlier termination of this Agreement, the Contractor must give the Company all Documentation maintained by it which is necessary for the orderly continuance of the provision of the Mine Services.

#### **9.5 Documents**

- (a) If requested to do so at any time by the Company's Representative, the Contractor must supply up to three (3) copies of any document that the Contractor is obliged to provide to the Company or the Company's Representative under this Agreement.
- (b) Where the Contractor submits documents to the Company or the Company's Representative under this Agreement then neither the Company nor the Company's Representative are obliged to check the documents for errors, omissions or compliance with the requirements of this Agreement.
- (c) Notwithstanding any other provision of this Agreement, the Company's Representative's approval of any document does not relieve the Contractor from responsibility for errors or omissions in the document.
- (d) Copies of documents supplied by the Contractor will be the property of the Company and must not be used by the Contractor otherwise than for purposes connected with this Agreement.

- (e) One complete copy of this Agreement and a copy of all documents, drawings and other written information supplied by one Party to the other under this Agreement must be kept by the Contractor at the Site and will be made available at all times for inspection and consideration by the Company and the Company's Representative.

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## **10. Payment**

### **10.1 Company's Payment Obligation**

- (a) Subject to the proper performance of the Mine Services, the Company must pay the Contractor the Service Fee and rates (as determined by the Schedule of Rates) calculated in accordance with Schedule 12.
- (b) The Contractor accepts the payment of the Service Fee and of the rates in accordance with this Agreement as full payment for the provision of the Mine Services and the performance of its other obligations under this Agreement.

### **10.2 Payment**

- (a) The Contractor must submit to the Company's Representative within seven (7) days after the end of each month a Monthly Claim for the previous month including:
  - (i) the quantity of Mine Services activities calculated in accordance with the method of measurement set out in Schedule 9 and Schedule 12. The Company will measure and supply the survey information in relation to which the Contractor is to prepare its Monthly Claim within four (4) days of the end of the month.
  - (ii) the Service Fee and rates payable calculated in accordance with Schedule 12;
  - (iii) the price for any changes to the scope of the Mine Services approved by the Company's Representative;
  - (iv) sufficient evidence acceptable to the Company's Representative, acting reasonably, to verify and substantiate amounts used for the purposes of calculating the Monthly Claim and, if requested to do so by the Company's Representative, the Contractor will provide a statutory declaration in the form provided in Schedule 4 declaring that its personnel and Subcontractors have been paid any amounts that are properly due; and
  - (v) details of the Contractor's calculations of the Monthly Claim. The Contractor shall provide this Monthly Claim in native file of excel.
- (b) Following receipt of a Monthly Claim, the Company's Representative must review it, and within seven (7) days of receipt either:
  - (i) agree with the amounts in the Monthly Claim, accept and sign the Monthly Claim and return a signed copy of it and a Payment Certificate to the Company and the Contractor; or
  - (ii) disagree with the amounts in the Monthly Claim, determine the amounts considered to be payable in respect of the Monthly Claim and issue a Payment Certificate to the Company and the Contractor setting out such determination.



- (c) A **Payment Certificate** must state the amount of Service Fees and rates payable, and include details of the Company's Representative's calculations of the stated amounts and a statement of reasons for any differences in calculation and the amounts payable compared to the subject Monthly Claim.
- (d) The Company may, at any time after receipt of a Monthly Claim, advise the Contractor in writing of any moneys which are due from the Contractor to the Company under this Agreement and show such moneys as a deduction from the amount payable in respect of any Monthly Claim.
- (e) Upon receipt of a Payment Certificate, the Contractor must give the Company a Valid Tax Invoice in respect of the items and amount shown in the Payment Certificate within two (2) business days of receipt of that document, less any monies referred to in clause 10.2(d) above.
- (f) Upon receipt of a Valid Tax Invoice, the Company must pay the amount in the Valid Tax Invoice to the Contractor or to an account with an Australian Bank notified by the Contractor to the Company on the Valid Tax Invoice within twenty-one (21) days upon the Company's receipt of the Valid Tax Invoice, and where payment by the Company is made within this twenty-one (21) days, the Contractor shall provide the Company with a discount of one-fifth of one percent (0.2%) of the amount in the Valid Tax Invoice. If applicable, this discount will be included in the next monthly Progress Claim
- (g) Any disputed amounts or amended amounts set out in a Payment Certificate will be paid to the Contractor or the Company (as the case may be) within fourteen (14) days of it being resolved that the Contractor or the Company (as the case may be) is entitled to such disputed or amended amount (including any amounts subject to dispute over whether or not they were erroneously included in the Payment Certificate).
- (h) The Contractor acknowledges that any claims made by the Contractor for events or activity that occurred more than three (3) months prior to the claim date will not be accepted by the Company and that the Contractor has no further rights to pursue any claim to them.
- (i) The Contractor acknowledges that the Company shall not be required to pay any claim made by the Contractor for Mine Services, operations, events or activities which are performed outside the lines and dimensions specified by the Mine Plans or designs issued by the Company (subject to any tolerance limits allowed by this Agreement) and the Contractor indemnifies the Company with respect to any third party claims that may arise as a result of such Mine Services, operations, events or activities.
- (j) The Contractor acknowledges and agrees that:
  - (i) the Service Fee includes the cost of fixed management, minor plant ownership, supervisory, services and clerical personnel, off-site personnel, tools, minor equipment and shared vehicles, computing, communications equipment and infrastructure maintenance ('**Service Line Items**');
  - (ii) certain of the Service Line Items are required to be present at or on the Site to enable provision of the Mine Services by the Contractor, including without limitation certain personnel, plant, tools, equipment, vehicles and equipment ('**Site Service**

Items’);

- (iii) in the event that the Company’s Representative determines, acting reasonably, that any of the Site Service Items is or are not actually available at or on the Site (except in the case of personnel where they are absent from Site as part of their normal rostered R&R schedule), then:
  - A. The Company’s Representative shall be entitled to reduce the claimed Service Fee by deducting the cost of those absent or unavailable Site Service Items from the Service Fee otherwise payable with respect to the month during which the Site Service Items are unavailable or absent; and
  - B. The deduction shall be calculated for the period estimated by the Company’s Representative, acting reasonably, to be the period of absence, or, if such period cannot be reasonably estimated, for the entire month.

### **10.3 Disagreement Over Measurements**

- (a) If the Contractor wishes to disagree with the Company’s measurement of any quantity for the purposes of payment, the Contractor will notify the Company in writing within seven (7) days and may engage an independent licensed surveyor, approved by the Company, to carry out a check survey. Unless otherwise agreed by the Company, check surveys will be conducted with the Company’s surveyor present.
- (b) The Contractor will make available to the Company the results and calculations of such check surveys within ten (10) days of the surveys being conducted, irrespective of whether the Contractor wishes to claim for an adjustment in quantities due to survey error. If the parties agree that a survey error has occurred then appropriate adjustments to the measured quantities will be made to reflect the correct measurements. If the parties cannot agree upon the correct measurement of any quantity then either Party may, by notice to the other, raise this as an Issue to be resolved in accordance with the Issue Resolution Process.
- (c) The Company reserves the right to adjust the quantities and Payment Certificate should a check survey show overpayment to the Contractor due to survey error.
- (d) If the Company’s survey is found to be in error by more than five percent (5%), the Company will reimburse the Contractor for the direct costs of the check survey.
- (e) The Contractor acknowledges that all delays or interruptions to the Mine Services caused by surveying, maintenance and control activities on the part of the Company are included in the Contractor’s rates.

### **10.4 Dayworks**

- (a) The Company may from time to time require work which is not included in the scope of Mine Services work specified in this Agreement to be carried out as dayworks.
- (b) The Company’s Representative will authorise dayworks prior to their commencement by issuing the Contractor a written dayworks instruction.

- (c) The Contractor will not commence any dayworks before the Company's Representative has approved an estimate of the time and cost of the dayworks supplied by the Contractor.
- (d) The Contractor is not entitled to any payment for dayworks which have not been authorised by the Company's Representative.
- (e) The Contractor will maintain and supply to the Company's Representative daily records, to the satisfaction of the Company's Representative (acting reasonably), setting out details of any work performed as dayworks and the records will show:
  - (i) the types of equipment used;
  - (ii) the labour employed (indicating classification);
  - (iii) the number of hours of use of each type of equipment;
  - (iv) the number of hours of labour employed; and
  - (v) the relevant dayworks rates in respect of each type of equipment or classification of labour (being the relevant rates specified in the Schedule of Rates in this Agreement),

and the Company is not required to make payment to the Contractor for dayworks claims not supported by the daily records specified above.
- (f) Unless otherwise agreed, the Contractor will by the end of the following day submit a claim for dayworks performed the previous day.
- (g) Any Mine Services which have a unit rate in the Schedules and are carried out as dayworks will be measured by survey and deducted from the quantities of work to be paid at unit rates.

#### **10.5 Not used**

#### **10.6 Set-off**

Notwithstanding any other provision of this Agreement or any Payment Certificate issued by the Company's Representative, the Company may set-off or deduct from any amounts due to the Contractor under this Agreement any moneys due from the Contractor to the Company on any account under this Agreement.

#### **10.7 Payment Adjustments**

Confirmation or payment (following the submission of a Valid Tax Invoice) by the Company of any amount does not prevent either Party from requiring a further adjustment to the amount confirmed or paid to ensure that actual amounts finally paid to the Contractor are the amounts required to be paid under this Agreement taking into account:

- (a) adjustments to the measured quantities of Ore and Waste in accordance with Schedule 9; and
- (b) any relevant actual information not available at the time that the calculation or payment of amounts was made.

#### **10.8 Taxes**

- (a) Unless otherwise expressly provided in this Agreement, the Contractor must pay all taxes including sales tax, payroll tax, fringe benefits tax, levies, imposts, duties and assessments together with any related interest, penalties, fines and other statutory charges due in connection with the provision of Mine Services and the Contractor's performance of its other obligations under this Agreement.
- (b) If any supply of goods or services made under this Agreement is subject to GST the Party to whom the supply is made (**Recipient**) must pay to the Party making the supply (**Supplier**), subject to the Supplier first issuing a Valid Tax Invoice to the Recipient, an additional amount on account of GST, such amount to be calculated by multiplying the consideration by the applicable rate of GST. This clause 10.8 does not apply to the extent that a supply is expressed to be GST inclusive.
- (c) If any Party is required to reimburse or indemnify the other Party for a cost, expense or liability (**Cost**) incurred by the other Party, the amount of that Cost for the purpose of this Agreement is the amount of the Cost incurred less the amount of any credit or refund of GST to which the Party incurring the Cost is entitled to claim in respect of the Cost.

## 10.9 Sharing Of Savings

- (a) If the Contractor's Representative becomes aware of any improvement or change in any practices, techniques, technology, plant, equipment or Mine design (other than an improvement or change which is incremental in nature and affects cost drivers impacting on the Contractor's performance under this Agreement, these being the subject of the Continuous Improvement Program) which has significantly reduced, is significantly reducing, or if implemented may significantly reduce, the cost to the Company of the Mine Services or give any other financial benefit to the Company in respect of the Mine Services, then the Contractor's Representative must give notice to the Company's Representative detailing the relevant improvement or change.
- (b) Upon receipt of such notice, the Company's Representative may discuss with the Contractor's Representative the improvement or change specified in the notice with the purpose of implementing the improvement or change.
- (c) Any financial benefits realised from any improvement or change proposed by either the Company or the Contractor must be shared equally between the Company and the Contractor by a method to be mutually agreed. If the Company and the Contractor are unable to agree upon a method then either party may refer the issue for expert determination and the expert will be directed to determine the method to be applied.
- (d) Nothing contained in this clause 10.9 derogates from either the Company's or the Contractor's rights to Project Intellectual Property or from the Contractor's obligations to provide the Mine Services safely and efficiently during the Term or to achieve the Production Requirements Range in accordance with the plans and schedules set out in Schedule 2 and Schedule 10 and all Authorisations.

## 10.10 Continuous Improvement Program (CIP)

The Contractor must develop a CIP Action Plan, the objective of which is to produce Continuous Improvement Value (**CIV**), being incremental and continuous improvements in the drivers of the total costs of providing the Mine Services. CIV will be realised as cost benefits from, for example:

- (a) better planning, design or other software;
- (b) better equipment or improved utilisation of equipment;
- (c) new technology (including a GPS machine guided system);
- (d) improved communications
- (e) increased production rates for equipment;
- (f) increased drilling rates;
- (g) reduced usage of explosives;
- (h) improved fragmentation;
- (i) reduced Ore dilution;
- (j) improved availability of equipment;
- (k) improved job management efficiency;
- (l) more efficient use of labour;
- (m) reduced use of fuel;
- (n) improved water use efficiency;
- (o) improved energy use efficiency;
- (p) reduced environmental clearing or disturbance;
- (q) improved tyre life;
- (r) improved GET and drilling consumable performance;
- (s) increased average time between breakdowns;
- (t) reduced average down time for breakdowns; and
- (u) improved equipment cycle times.

## **11. Variations And Review Of Rates**

### **11.1 Variations**

- (a) If either Party wishes to effect a Variation, it must give written notice of the details of the proposed Variation to the other, in which case the Company's Representative must within ten (10) days after he or she receives a notice from the Company under this clause 11.1(a), or after he or she receives a notice from the Contractor under this paragraph that the Company in its absolute discretion approves, give a direction to the Contractor of the changes to the Mine Services and of any consequent changes to the Service Fee or the Schedule of Rates or the Performance Criteria or the plans or schedules set out in Schedule 10 (if any) accepted by the Company, in its sole discretion.
- (b) In giving notice of the required Variation, the Company's Representative must not direct the Contractor to carry out Mine Services beyond the capacity of the Contractor's Plant and Equipment or the Company's

Facilities or the Processing Plant.

- (c) If the Parties are unable to agree on an adjustment to the Service Fee or the Schedule of Rates in respect of a change to the scope of the Mine Services or the Production Requirements Range or the Performance Criteria or the plans and schedules set out in Schedule 10 (if applicable), then either Party may refer the issue to expert determination and the expert shall be directed to determine the amount of the adjustment (if any). In making its determination, the expert must have regard to the cost of the work and the materials and the Contractor's Plant and Equipment to be added or omitted as a result of the Variation valued:
  - (i) on the basis of rates agreed between the Contractor and the Company or, where applicable, the Schedule of Rates; and
  - (ii) otherwise on the basis of any other appropriate data which reflects the Contractor's actual, direct, proven and reasonable cost for carrying out the Mine Services plus any applicable profit margin referred to in the Schedule of Rates or otherwise a reasonable profit margin.
- (d) If the Contractor receives a notice of Variation in accordance with this clause 11.1, the Contractor must perform its obligations under this Agreement in accordance with the changed scope and changed Production Requirements Range, Performance Criteria and plans and schedules set out in Schedule 10 (as applicable). If the changes require the omission of any of the Mine Services, the Company may have the omitted Mine Services carried out by itself or others or not, as it sees fit.
- (e) If the Contractor does not accept the adjustment to the Service Fee or the Schedule of Rates as a result of a change to the scope of the Mine Services or a change in the Production Requirements Range or the Performance Criteria or any of the plans and schedules set out in Schedule 10, the Contractor must give notice of such non-acceptance to the Company. If it commences works on the Variation prior to such a notice it will be deemed to have accepted the adjustment. Upon receipt of a non-acceptance notice, the Company may:
  - (i) direct the Contractor to proceed on the basis of dayworks until such time as the Variation is agreed; or
  - (ii) direct the Contractor to withhold performance until the Variation is agreed and initiate the Issue Resolution Process; andwhere the Company directs the Contractor in accordance with clause 11.1(e)(i) above, the Parties agree to attempt to resolve the issue within fourteen (14) days of the direction to proceed on dayworks, after which the matter will be referred to the Issue Resolution Process.
- (f) The Contractor must not vary the Mine Services except as the Company may, by notice to the Contractor, direct or approve under this clause 11.1. If the Contractor requests the Company to approve a Variation for the convenience of the Contractor (other than for Latent Conditions or a change in the law) the Company may, in its absolute discretion, do so by notice to the Contractor. The Contractor is not entitled to any payment or other claim in respect of such Variation.
- (g) In all Variation claims concerning Latent Conditions:
  - (i) the Contractor must demonstrate that it has taken all reasonable

measures to mitigate additional cost and the necessity for any extension of time arising out of the relevant Latent Conditions; and

- (ii) in making any valuation of the claim, the value of any additional work carried out, additional plant or equipment used or extra cost incurred during the period prior to the date that is seven (7) days before the Contractor gave its notice under clause 11.1(a) cannot be claimed.

## **11.2 Review Of Rates At Any Time**

- (a) Notwithstanding any other provision in this clause 11, the Project Management Group may, by mutual agreement of all members of the Project Management Group, at any time, review and revise the rates in the Schedule of Rates if, and only if, it is a result of any of the following matters:
  - (i) any extension of the Term;
  - (ii) any change or addition to the law relating to the Mine Services or the performance of the Contractor's other obligations under this Agreement;
  - (iii) any material change in the costs incurred by the Contractor in the performance of the Mine Services which could not reasonably have been anticipated by the Contractor at the time of the Contractor's tender;
  - (iv) any amendment or addition to the Mining Titles; and
  - (v) any direction given by a Government Agency.

## **11.3 Rise and Fall**

The Service Fee and rates payable under Schedule 12 are subject to Rise and Fall Adjustment in accordance with the provisions set out in Schedule 13.

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## **12. Authorisations and Compliance With Law**

### **12.1 Authorisations To Be Obtained By The Company**

During the Term the Company must obtain and maintain at its cost all the Authorisations which relate to the Company's ownership or right to occupation or use of the Site, including:

- (a) the Mining Titles;
- (b) mining proposals with respect to the Mining Titles approved under the *Mining Act 1978* (WA); and
- (c) approvals under Part IV and Part V of the *Environmental Protection Act 1986* (WA),

which the Company considers to be necessary or desirable.

### **12.2 Authorisations To Be Obtained By The Contractor**

Unless the Company otherwise requires, during the Term the Contractor must obtain and maintain at its cost all Authorisations required for a Contractor in the

performance of the Mine Services and the Contractor's other obligations under this Agreement, including:

- (a) Authorisations relating to the storage and transportation of dangerous goods; and
- (b) [TBC].

If the Contractor fails to obtain and maintain all the Authorisations required to be obtained and maintained by it, a Termination Event is deemed to have occurred and to continue until the breach is remedied or this Agreement is terminated, whichever is the sooner.

### **12.3 Conditional Authorisations**

Where any Authorisation required to be obtained by the Contractor under this Agreement is, or is proposed, to be issued or varied subject to terms and conditions which affects the Company's rights and obligations at law (whether adversely or beneficially), the Contractor must:

- (a) keep the Company's Representative fully informed;
- (b) consult fully with the Company's Representative; and
- (c) comply with the Company Representative's reasonable directions,

with respect to the Authorisation and the procedures relating to its issue or variation (including the lodgement of applications, objections or appeals to and negotiations with any relevant Government Agency).

### **12.4 Compliance With Law**

- (a) The Contractor must:
  - (i) comply with all applicable law when performing its obligations under this Agreement, including the Mining Titles, all planning permissions relating to the Site and the conditions of all Authorisations;
  - (ii) comply with all the relevant guidelines issued by Authorities and relevant Australian Standards in respect of the Site and the performance of the Mine Services and its other obligations under this Agreement; and
  - (iii) promptly give the Company's Representative copies of all relevant documents issued by Authorities.

### **12.5 Compliance With Directions**

- (a) The Contractor must comply with all directions reasonably given by the Company or the Company's Representative consistent with this Agreement when providing the Mine Services and performing its other obligations under this Agreement. The Company will at all times take into consideration the operational capabilities of the Contractor when giving directions.
- (b) If the Contractor considers that a direction given by the Company's Representative will constitute a Variation, the Contractor may give notice to the Company's Representative accordingly, in which case the Company's Representative will give notice to the Contractor under clause



11.1(a) as soon as practicable but in any event within ten (10) days (including notice as to the proposed change to the Service Fee and the Schedule of Rates).

## **12.6 Company's Representative Giving Directions**

Where the Company's Representative is required or permitted to give a direction under this Agreement, the Company's Representative must act honestly and reasonably and must so act within the time specified or, if no time is specified, within a reasonable time.

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## **13. Plant and Equipment and Consumables**

### **13.1 Provision Of Major Plant and Equipment**

(a) The Contractor must submit a request by notice for approval to the Company's Representative before acquiring, hiring, leasing, transferring or replacing any Major Plant and Equipment Item for use in connection with the Mine Services, whether as Contractor's Plant and Equipment or otherwise. All such requests for approval must contain:

- (i) details of the number, model and size of the Major Plant and Equipment Item, and
- (ii) if the Item is to be acquired, transferred or replaced, details of the ownership costs (including the depreciation values of that item), maintenance history and mechanical audit reports for that Major Plant and Equipment Item; and
- (iii) if the Item is to be hired or leased, identity of the owner/hirer, the hire or lease rate and the expected period of hire or leasing,

and all such Major Plant and Equipment must be inspected and approved before mobilisation to Site.

(b) Approval of the Contractor's request must be given by notice on a timely basis by the Company's Representative and must not be withheld unreasonably. Any approval may be given subject to conditions. The Company's Representative must by notice to the Contractor provide reasons for any non-approval of such request.

(c) The Contractor must provide a report in the month following each anniversary of the Commencement Date reporting on actual maintenance work carried out in respect of all Major Plant and Equipment Item used by the Contractor in providing the Mine Services and access to all inspection and testing reports (if requested) for the preceding twelve months maintained by the Contractor (including off Site records) relating to the Mine Services.

### **13.2 Contractor's Plant and Equipment - Register and Asset Management Plan**

(a) The Contractor must establish and maintain during the Term:

- (i) an asset register of all Contractor's Plant and Equipment which sets out in reasonable detail:
  - A. identification details for every item of Contractor's Plant and Equipment used in providing the Mine Services;

- B. whether the Contractor's Plant and Equipment is owned, leased or hired by the Contractor and, if leased or hired, who owns that plant and equipment and whether it is encumbered (and if so, reasonable details of the relevant arrangements); and
  - C. all other information necessary for or relevant to the safe and efficient operation, maintenance and repair of the Contractor's Plant and Equipment, including registered plant.
- (b) The Contractor must establish, maintain and adhere to an Asset Management Plan during the Term.

### **13.3 Company's Facilities**

- (a) The Company must provide the Company's Facilities for use by the Contractor free of charge (unless otherwise specified in this Agreement) for the performance of the Mine Services.
- (b) Except where maintenance of any item comprised in the Company's Facilities is designated as the Contractor's responsibility, the Company must carry out general maintenance of the Company's Facilities during the Term.

### **13.4 Replacement And Disposal Of The Company's Facilities**

The Contractor acknowledges that:

- (a) an item of the Company's Facilities may require replacement during the Term because it has exceeded its useful life, or is no longer required for the Mine Services;
- (b) the Contractor must not replace, sell or otherwise dispose any item of the Company's Facilities (including salvaging the parts of any of the Company's Facilities) without the prior approval of the Company's Representative; and
- (c) the sale of or disposal of any item of the Company's Facilities is the sole right and responsibility of the Company.

### **13.5 Removal Of Contractor's Plant and Equipment**

- (a) The Contractor must not remove any item of Contractor's Plant and Equipment from the Site during the Term without the prior written consent of the Company's Representative, which consent may not be either withheld or delayed unreasonably.
- (b) Within one (1) month of the expiration of the Term, the Contractor must at its own cost remove from the Site all the Contractor's Plant and Equipment, clean up (including contaminated grounds), remove all waste and make good any damage caused to the Site by that removal. This clause survives termination of this Agreement.

### **13.6 Option To Purchase Contractor's Plant and Equipment On Termination**

- (a) The Contractor irrevocably grants to the Company the exclusive right (but not the obligation):
  - (i) to purchase all or any item of the Contractor's Plant and

Equipment (where the Contractor's Plant and Equipment is owned by the Contractor) free from encumbrances or any third party interest and in good working order (fair wear and tear excepted); and

- (ii) to take an assignment and assumption or novation of leasing or usage arrangements all or any item of Contractor's Plant and Equipment (where the Contractor's Plant and Equipment is not owned by the Contractor),

exercisable by written notice to the Contractor:

- (iii) within a period of ninety (90) days prior to:
  - A. expiry of the Initial Term; or
  - B. if the Initial Term is extended pursuant to clause 18, the end of the then current Term;
- (iv) on termination of this Agreement for default under clause 20.2; or
- (v) in a Termination Event occurring resulting in the termination of this Agreement

for all or any of the items of Contractor's Plant and Equipment being used on Site to provide the Mine Services.

- (b) The Contractor must, at least twenty one (21) days prior to expiry or termination of this Agreement (unless less than twenty one (21) days' notice of termination is given in which case the Contractor must immediately after notice of termination is given) provide to the Company copies of all relevant information in relation to these items of Contractor's Plant and Equipment (including copies of all leasing or usage arrangements plus any use arrangements and mechanical and service reports and records) (**Equipment Information**).
- (c) If the Company exercises this option in respect of any of the Contractor's Plant and Equipment the Company must, within five (5) days prior to expiry or termination of this Agreement or within five (5) days after receiving the Equipment Information (whichever is the later), give notice in writing to the Contractor detailing the items of Contractor's Plant and Equipment which the Company wishes to acquire.
- (d) If the Company gives notice of acquisition by way of purchase of any item of Contractor's Plant and Equipment then the Company must:
  - (i) Agree with the Contractor the market value of the items of owned Contractor's Plant and Equipment specified in the notice within fourteen (14) days or, failing agreement, have the market value determined by expert determination under this Agreement;
  - (ii) upon agreement or determination of the market value, pay the market value determined accordingly within fourteen (14) days from the date of agreement or determination in exchange for an executed transfer, and the keys, manuals and records of the items of Contractor's Plant and Equipment being transferred; and
  - (iii) accept from the Contractor the Contractor's Plant and Equipment being transferred on an 'as-is, where-is' basis and

the property in, possession of and risk in respect of that Contractor's Plant and Equipment passes to the Company at the Site.

- (e) If the Company gives notice of acquisition by way of assignment and assumption or novation of leasing or usage arrangements of any item of Contractor's Plant and Equipment, then the Company must accept an assignment from the Contractor of the Contractor's interest under a hiring or leasing arrangement in the items of Contractor's Plant and Equipment being acquired to the extent that the interest may lawfully be assigned to the Company (with the consent of any third party whose consent to such assignment is required), and with the provision by the Company of any reasonable security required by a third party for the performance by the Company of the obligations assumed by it upon accepting the assignment or novation.
- (f) If the Company gives notice of acquisition by way of purchase, assignment and assumption or novation of any item of Contractor's Plant and Equipment, the Contractor must provide all co-operation reasonably requested by the Company and procure the continued use of the Contractor's Plant and Equipment at the Site (at the cost and risk of the Company from the effective date of termination of this Agreement) until the Contractor's Plant and Equipment has been transferred, assigned or novated to the Company.
- (g) This clause 13.6 survives termination of this Agreement and does not apply to any item of the Contractor's Plant and Equipment that falls within the definition of "Nominated Fixtures" under clause 13.7.

### 13.7 Purchase Of Nominated Fixtures

- (a) If this Agreement is terminated or otherwise comes to an end the Company may give the Contractor a notice requiring the Contractor to leave behind any of the sheds, buildings or other fixtures or facilities comprised in the Contractor's Yard or elsewhere on Site that were established by the Contractor and not paid for by the Company at the time of the mobilisation of the Contractor (**Nominated Fixtures**). If such a notice is given then the Contractor must not remove any of the Nominated Fixtures and the Company will purchase the Contractor's Proprietary Rights in the Nominated Fixtures and the Contractor will sell those rights to the Company free from encumbrances at the then current Replacement Value in accordance with the following procedure:
  - (i) the Contractor will give the Company, within 30 days of the date on which the Company gave its notice under clause 13.7(a), its proposed Replacement Value figure together with all details relevant to the Contractor's calculation of that figure (**Proposed Figure and Supporting Details**); and
  - (ii) the Company will have thirty (30) days from the date on which the Proposed Figure and Supporting Details are provided to the Company (**30 Day Period**) to give the Contractor:
    - A. a notice accepting the proposed Replacement Value figure put forward by the Contractor (**Acceptance Notice**); or
    - B. a notice disputing the correctness of the proposed Replacement Value figure put forward by the Contractor (**Figure Dispute Notice**);

- (iii) If the Company does not give an Acceptance Notice or a Figure Dispute Notice within the 30 Day Period then the Company will be deemed to have given the Contractor a Figure Dispute Notice;
- (iv) If the Company gives the Contractor a Figure Dispute Notice or is deemed to have given a Figure Dispute Notice and the parties are unable to agree upon the appropriate Replacement Value figure within fourteen (14) days after the expiry of the 30 Day Period (**14 Day Period**) then either party may refer the dispute as to the appropriate Replacement Value figure to an expert valuer for determination. If the parties cannot agree on an appropriate person to act as an expert valuer within the week following the expiry of the 14 Day Period then the Parties will jointly appoint a licensed valuer nominated, at the request of either Party, by the then President of the local Division of the Australian Property Institute (or its successor) as the valuer. The valuer will have at least ten (10) years experience in commercial sales valuations in Western Australia. The valuer will act as an expert not an arbitrator and the valuer's determination as to the Replacement Value figure will be final and binding on the Parties and the valuer:
  - A. will be instructed by the parties to determine the Replacement Value figure;
  - B. the parties will be entitled to provide written submissions to the valuer within fourteen (14) days of the date of the valuer's appointment (or such extended period as may be granted by the valuer in his or her discretion);
  - C. the parties must provide copies of their submissions to each other at the same time as they are submitted to the valuer and the valuer will allow each party seven (7) days to reply;
  - D. the parties will act in good faith towards each other, cooperate with the valuer and promptly provide the valuer with any documents, evidence or information reasonably requested by the valuer for the purposes of considering and making his or her determination;
  - E. the valuer will not be required to provide any reasons for the determination although the valuer may do so; and
  - F. the Parties will pay the valuer's costs in equal shares.
- (v) the Company will pay the Contractor the amount equal to the Replacement Value figure as accepted, agreed or determined in accordance with this clause 13.7 on or before the date that is fourteen (14) days after the date that is the earlier of the date on which the Company gives the Contractor an Acceptance Notice and the date on which the Replacement Value figure is either agreed by the parties or determined by the valuer. The Contractor's Proprietary Rights in the Nominated Fixtures and any other rights, title or interest it may have in the relevant items will pass to the Company absolutely on payment. If requested to

do so by the Company, the Contractor will do all things reasonably necessary to perfect the transfer.

- (b) If:
- (i) this Agreement is terminated or otherwise comes to an end;
  - (ii) the Company does not give the Contractor a notice requiring the Contractor to leave behind any Nominated Fixtures; and
  - (iii) the Contractor fails to remove any Nominated Fixtures within 3 months of the date of termination,

the Contractor is deemed to have abandoned those Nominated Fixtures and proprietary title in those Nominated Fixtures will pass to the Company. If the Company considers it necessary or desirable to undertake any work to make an abandoned Nominated Fixture safe or operational, the costs of that work will be a debt due and payable by the Contractor to the Company.

### **13.8 Consumables**

- (a) Subject to the Company supplying consumables under clause 13.8(b)(i), the Contractor must supply all consumables (including fuel, lubricants and the like) required for the performance of the Mine Services and its other obligations under this Agreement at the Contractor's cost.
- (b) The Contractor must provide to the Company's Representative the Contractor's actual landed buying price at the Mine of Contractor-sourced consumables for comparison with prices for those consumables obtainable by the Company and, where the Company can achieve a price advantage, and associated reduction in the Contractor's cost of performing the Mine Services, by supplying such consumables and the consumables are otherwise of similar specification, performance and fit for the purpose, the Contractor may elect:
  - (i) to obtain such consumables under the Company's supply agreements and if so, the Company may novate such supply agreements to the Contractor; or
  - (ii) to continue sourcing such consumables from its own source and, if the price of such consumables is higher than Company-sourced consumables, pay to the Company the difference in landed cost at the Mine between the Company-sourced consumables and the Contractor-sourced consumables.
- (c) The Contractor must make allowance for supply of fuel to the Company from its dedicated light vehicle refuelling facility, which will have electronic record keeping facilities for recording vehicle number and amount of fuel consumed. The Contractor will invoice the Company each month for fuel that it has issued to the Company at cost.

### **13.9 Contractor's Yard**

- (a) The Company must set aside an area within the Site and accessible by road train from the Site access road for the Contractor to establish, operate and maintain the Contractor's Yard, being the area specified in Figure 6 of Schedule 1.
- (b) The Contractor must:

- (i) establish the Contractor's Yard with the necessary signage, fire fighting equipment, plant and equipment of a standard to satisfy the requirements of the relevant Authorities;
- (ii) be responsible for maintaining the Contractor's Yard in good condition and at all times in a neat and tidy state;
- (iii) create a fire-break of an effective width around the circumference of the Contractor's Yard, which fire-break must be maintained free of combustible materials;
- (iv) unless otherwise directed by the Company, upon completion of the Mine Services, decommission the Contractor's Yard and rehabilitate and restore the area of the Contractor's Yard to the satisfaction of the Company (acting reasonably), including remove all waste, clean up (including contaminated grounds) and submitting soil test reports;
- (v) take full responsibility for the security and protection of its Contractor's Yard and the Contractor's Plant and Equipment;
- (vi) take all reasonable precautions to prevent the spillage of fuel, oil lubricants or other petroleum products. Any Contractor's Plant and Equipment leaking oil or fuel will not be permitted to work on the Site. The Contractor must immediately bring to the attention of the Company any fuel or oil spillage and its immediate response to such spillage as per the Contractor's Environmental Management Plan; and
- (vii) regardless of the extent to which any item forming part of the Contractor's Yard constitutes a fixture which, as a matter of law, forms part of the Mining Lease land, it is intended that the Contractor will, except as provided for in clause 13.7, remain the absolute property of the Contractor at the risk of the Contractor at all times (**Proprietary Rights**).

### **13.10 Spare Parts, Tools And Equipment**

The Contractor must carry a reasonable stock of inventory including spare parts, components, tyres, consumables, tools and workshop plant and equipment on Site for the purposes of ensuring that the Contractor's Plant and Equipment can be serviced, repaired and restored to good working order with minimum delay. The Contractor will keep an accurate inventory list of its spare parts, components, tyres, consumables, tools and workshop plant and equipment and will make the inventory lists available for inspection by the Company's representative on request.

### **13.11 Inspection And Maintenance**

- (a) The Company's Representative may at any time inspect any item of Contractor's Plant and Equipment and may stand down (at the Contractor's cost) any item of Contractor's Plant and Equipment which is considered by the Company's Representative to be unsafe or a potential environmental hazard. Contractor's Plant and Equipment that has been stood down by the Company's Representative must not be returned into service until the Contractor has rectified all defects at its cost in accordance with any notice from the Company's Representative. The Contractor must demonstrate that rectification has occurred upon request to do so by the Company.

- (b) The Contractor must undertake all maintenance works necessary to ensure satisfactory operation of the Contractor's Plant and Equipment used on Site. The Contractor must undertake regular servicing in accordance with the manufacturer's recommendations.
- (c) The Contractor must ensure that all Contractor's Plant and Equipment inspection certificates required by law or by this Agreement are current and available for inspection by the Company's Representative and by any person authorised under any applicable law.
- (d) The Contractor must maintain on a shift basis, routine pre-start inspections for all Contractor's Plant and Equipment used or intended for use on the Site. This log must record the daily inspection of each item of Contractor's Plant and Equipment together with details of any defects identified by the operator or driver.
- (e) The Contractor must fit mobile Contractor's Plant and Equipment used on Site, including vehicles, with amber flashing lights and other safety equipment as required by applicable law and the Company's Site standards with respect to vehicles, as provided by the Company.

#### **13.12 Use Of Vehicles**

- (a) The Contractor must ensure that all vehicles that travel on or off Site meet the Company's motor vehicle requirements and carry a current registration certificate (if required) on the vehicle identified and authorised by the Contractor's Representative.
- (b) The Contractor must allow entry to the Site only to those vehicles which meet the Company's motor vehicle requirements.
- (c) The Contractor must require all its drivers or Subcontractor drivers to have a full and current licence and/or to be certified to drive the type of vehicle they are using, and observe and obey the state road laws at all times except where Site traffic signs impose further restrictions.
- (d) The Contractor must require all its drivers or Subcontractor drivers to observe local speed limits or such lesser speeds in accordance with road conditions, weather, visibility and other such influences. The Company may ban a driver from driving or working on the Site if he or she fails to observe this requirement.
- (e) The Contractor must ensure that all Contractor and other vehicles pass through the vehicle wash bay before leaving the Site. The Contractor must ensure that its drivers or Subcontractor drivers travel only on designated haul roads and access roads. No Contractor vehicle may be driven off road without prior written authorisation of the Company.

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### **14. Risk of Loss or Damage and Insurance**

#### **14.1 Responsibility For Care Of The Mine**

- (a) The Contractor is responsible for the care of the Mine from the time when the Company makes the Mine available to the Contractor to the expiry of the Term or in the event of the Early Termination of this Agreement
- (b) The Contractor must promptly make good any loss from, or damage to, any part of the Mine by the Contractor or any of its employees, Subcontractors or agents while it is responsible for its care. This obligation



extends to any area of the Site frequented by the Contractor. If and to the extent that the Company, its employees, Subcontractors or agents are responsible for loss or damage, the repair or reinstatement of the Mine or the Site is at the cost of the Company.

- (c) If the Contractor or any of its employees, Subcontractors or agents damage property of a third party in carrying out the Mine Services, the Contractor must promptly make good the damage and pay any compensation which the applicable law requires the Contractor to pay.

#### **14.2 Insurance Policies Effected By The Contractor**

- (a) The Contractor must, before accessing the Site or commencing the provision of the Mine Services, effect the Contractor's Insurances.
- (b) The Contractor must maintain the Contractor's Insurances from the Commencement Date until the expiry of the Term, ensure that all of the terms and conditions of the Contractor's Insurances and its obligations set out in item 1 of Schedule 8 are complied with and pay all premiums, calls and deductibles when due.

#### **14.3 Common Provisions**

- (a) If a Party fails to effect or maintain the Necessary Insurances, the other Party (**Affected Party**) may (at its absolute discretion) effect and maintain the Necessary Insurances (or any of them) and all costs and expenses incurred by the Affected Party are recoverable from the other Party as a debt due.
- (b) A Party must, in relation to the performance of the Mine Services and its other obligations under this Agreement:
  - (i) promptly give notice to the other Party of any proposed amendment or endorsement to any of the Necessary Insurances which materially adversely affects the amount, scope or terms of such policy and not effect or consent to effect any such amendment or endorsement without first obtaining the approval of the Affected Party (such approval not to be withheld unreasonably);
  - (ii) ensure that all the conditions of the Necessary Insurances are complied with;
  - (iii) not do or omit to do anything which might vitiate, impair or derogate from the cover under any of the Necessary Insurances or which might prejudice any claim under any such policy; and
  - (iv) immediately give notice to the other Party of any event which may result in any of the Necessary Insurances lapsing or being cancelled or avoided.
- (c) A Party must promptly and without delay:
  - (i) give notice to the other Party and its Representative of any accident or damage likely to form the subject of a claim under the other Party's Necessary Insurances; and
  - (ii) give all information and assistance required by the other Party, the other Party's Representative and its insurers in respect of any claim made under the other Party's Necessary Insurances.

- (d) If a Party is requested to do so by the other Party, it will promptly make and pursue a claim under its insurance policies in circumstances where:
- (i) loss or damage has occurred and is covered under the relevant Party's insurance policies ("**Loss or Damage**");
  - (ii) there are reasonable prospects of the claim succeeding; and
  - (iii) some or all of the proceeds from a successful claim could be applied towards any Loss or Damage,
- however, this clause 14.3(d) does not apply in circumstances where the relevant Party is ready, willing and able to pay for the Loss or Damage on its own account.

#### **14.4 Emergencies**

If in the Company's sole discretion, emergency action is necessary:

- (a) to protect the Mine or the Site or any of the Company's or Contractor's employees, Subcontractors or agents from loss, damage or injury; or
- (b) to prevent or minimise any breach of any Authorisation or of the Company's or the Contractor's rights and obligations at law,

and the Contractor fails to take the action, the Company may take the necessary action. If the action was action which the Contractor should have taken at the Contractor's cost, the cost incurred by the Company is a debt due from the Contractor. If time permits, the Company must give the Contractor prior notice of the Company's intention to take emergency action under this clause 14.4.

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### **15. Indemnity, Surety and Liquidated Damages**

#### **15.1 Indemnity**

- (a) Each Party (**Indemnifying Party**) must indemnify the other Party, its directors, employees and contractors (**Indemnified Persons**) from and against any actual damage, loss, expense or liability of any nature suffered or incurred by the Indemnified Persons (including any claims made by third parties) for:
  - (i) physical loss of or damage to property of the Indemnified Persons or any third party; and
  - (ii) damage, loss, expense or liability in respect of personal injury, disease, illness or death,

to the extent that the relevant loss, damage, expense, injury, disease, illness, death or other liability suffered or incurred by the Indemnified Persons was caused or contributed to by the Indemnifying Party's breach of this Agreement or negligent or otherwise wrongful act or omission.

#### **15.1 Indemnities - Continuing Obligation**

The indemnities in this clause 15 are continuing obligations, separate and independent from the other obligations of the Indemnifying Party, and survive termination of this Agreement. It is not necessary for any of the Indemnified Parties to incur expense or make payment before enforcing a right of indemnity conferred

by this clause 15.

## **15.2 Primacy Of Indemnities**

The indemnities in this clause 15 are primary over, and not co-ordinate with, any other right of indemnity to which any of the Indemnified Parties may be entitled in respect of the same subject matter (whether pursuant to insurances maintained by the Contractor or the Company, or otherwise) and are enforceable by the Indemnified Parties against the Indemnifying Party irrespective of whether any of the Indemnified Parties is also entitled to indemnity from its own or the Indemnifying Party's insurers in respect of the subject matter of the indemnities from the Indemnifying Party.

## **15.3 Parent Company Guarantee**

The Contractor must procure and give the Company within fourteen (14) days after the date that this Agreement is executed a duly executed Parent Company Guarantee. Failure by the Contractor to lodge the Parent Company Guarantee within the time required shall constitute a material breach of the Agreement and allow the Company to take action pursuant to the conditions of the Agreement. If the Contractor comprises an incorporated or unincorporated joint venture, a Parent Company Guarantee must be provided by:

- (a) (in the case of an unincorporated joint venture) each of the relevant entities who comprise the joint venture; or
- (b) (in the case of an incorporated joint venture) each of the relevant joint venture company shareholders.

## **15.4 Liquidated Damages**

- (a) In this clause 15.5:
  - (i) **'Crushed Ore Stockpile' ('COS')** means the Stockpile in which Ore is stockpiled after discharge from the secondary Ore crusher systems.
  - (ii) **'POC Event'** means any incident or occurrence of damage to, breakage of or obstruction, blockage or seizure to, at the entry to or inside the Primary Ore Crusher, where:
    - A. as a result, the Primary Ore Crusher is unable to continue to operate safely or at all or the Company, acting reasonably, determines that the Primary Ore Crusher should be shut down; and
    - B. such event was caused by or contributed to by any act or omission of the Contractor in performance of the Mine Services under this Agreement.
  - (iii) **'Feed Failure Event'** means any other disruption or reduction in the feed of Ore from the Company's required feed rate, outside of a POC Event, that was caused by or contributed to by any act or omission of the Contractor in performance of the Mine Services under this Agreement.
  - (iv) **'POC Rectification'** means repair or rectification of the POC Event for all damage to the Primary Ore Crusher, removal or rectification of any breakage of or obstruction, blockage or

seizure to the Primary Ore Crusher, procurement and replacement of broken or damaged parts, installation, testing and commissioning of components and any work required or recommended by the manufacturer or supplier of the Primary Ore Crusher to the reasonable satisfaction of the Company.

- (v) **'Remedial Work'** means maintenance of the live capacity of the Crushed Ore Stockpile by bulldozing of crushed Ore by the Contractor.
- (b) If a POC Event or a Feed Failure Event occurs at any time, the Contractor shall:
  - (i) indemnify the Company for the direct costs and expenses of POC Rectification after any POC Event;
  - (ii) promptly commence Remedial Work at the Contractor's sole cost and expense and continue Remedial Work until the live capacity of the Crushed Ore Stockpile is exhausted or as otherwise directed by the Company's Representative; and
  - (iii) pay liquidated damages calculated at the rate of \$[●] per hour for each hour (or part thereof) from the commencement of the POC Event or Feed Failure Event until the time of completion of any required POC Rectification and restoration of the Crushed Ore Stockpile to the live capacity specified by item 15.2(e) of Schedule 2.
- (c) If the Contractor pays liquidated damages in a calendar year which are, in the aggregate, equal to \$[●], the Contractor is deemed to have caused a Termination Event to occur and that Termination Event shall continue until the next calendar year or this Agreement is terminated, whichever is the sooner.

## **15.5 Maximum Liability**

Notwithstanding any other provision of the Agreement and except to the extent that liability cannot be limited or excluded by law:

- (a) Subject to clause 15.5(c), neither Party shall be liable for any special, exemplary or punitive damages, loss of production, loss of revenue, loss of profit or anticipated profit, loss of business reputation, business interruptions of any nature, loss of opportunities, loss of anticipated savings or wasted overhead.
- (b) The exclusion of liability of each Party in clause 15.5(a) above does not in any case apply to limit or exclude loss, cost, expense or liability:
  - (i) arising from any occurrence covered by a policy of insurance under which the Party is an insured or which, but for an act or omission of the Party (including in respect of its disclosure obligations to any insurer) would have been covered by a policy of insurance which the Party is required to effect under this Agreement;
  - (ii) arising from death of or personal injury to any person;
  - (iii) arising from criminal acts or fraud by the Party or by any person for whose acts or omissions it is vicariously liable;
  - (iv) arising from any Wilful Misconduct or deliberate act or omission in

- wilful breach of its obligations under this Agreement or a Party or by any person for whose acts or omissions it is vicariously liable;
- (v) arising from any act or omission for which the Contractor is liable in liquidated damages under this Agreement;
  - (vi) arising from any infringement of intellectual property rights by the Party or by any person for whose acts or omissions it is vicariously liable; or
- (c) For the purpose of this clause 15.5:
- (i) the term "Party" shall mean the Party, its affiliates, subcontractors and suppliers of any tier, and their respective agents and employees, whether individually or collectively;
  - (ii) the term "Wilful Misconduct" shall mean an intentional and conscious disregard of any material provision of this Agreement but does not include any error of judgment or mistake made by the person alleged to be culpable or by any director, employee, agent or contractor of that person in the exercise, in good faith, of any function, power, authority or discretion conferred on that person under this Agreement or under any law

## **15.6 Performance Bond**

- (a) The Contractor shall provide the Company with a Performance Bond in the amount of \$[●] for the purpose of ensuring the due performance of the Agreement.
- (b) The Performance Bond shall be in the form of an approved unconditional undertaking given by a bank of international standing (to the satisfaction of the Company) in the form shown in Schedule 17, or other form approved in writing by the Company.
- (c) In all instances the Performance Bond shall be duly stamped for any duty that may be levied on it.
- (d) The costs (including all stamp duty, registration fees or other taxes, fees and charges) incidental to the provision, maintenance, transfer and re-transfer of the Performance Bond shall be borne by the Contractor.
- (e) The Company may call upon the Performance Bond to pay for any costs, expenses or damages which the Company claims that it has incurred or reasonably considers it might in the future incur as a consequence of any act or omission of the Contractor or its Subcontractors which the Company asserts constitutes a breach of the Agreement.
- (f) Subject to its rights under the Agreement, and after the completion of the Agreement, the Company shall return the unused balance of the Performance Bond to the Contractor at the time of receipt by the Company of a suitable Deed of Release from the Contractor.
- (g) The Contractor shall lodge the required Performance Bond with the Company within fourteen (14) days after the date that this Agreement is executed or within such further time as the Company may allow and directs in writing.
- (h) Failure by the Contractor to lodge the Performance Bond within the time required shall constitute a material breach of the Agreement and allow the Company to take action pursuant to the conditions of the Agreement.

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## **16. Force Majeure**

### **16.1 Meaning**

**Event of Force Majeure** means an event occurring after the Commencement Date that:

- (a) is beyond the reasonable control of the Party affected by that event;
- (b) is not caused by any fault, act or omission of the Party seeking to rely upon the protection of this clause 16;
- (c) causes or results in prevention of the performance by the affected Party of all or any of its obligations under this Agreement; and
- (d) could not have been prevented, overcome or remedied by the exercise by the affected Party of a standard of care and diligence consistent with that of a competent mine owner or a competent mining contractor (as the case may be),

which might (if it satisfies the requirements of clauses 16.1(a), 16.1(b), 16.1(c) and 16.1(d)) in certain circumstances include an act of God, acts of Authorities, war, riot, civil disturbance, cyclone, flood, storm, fire, explosion, a national or state-wide strike or industrial dispute (excluding those involving the employees or workers of the Party claiming relief from performance of obligations under this Agreement) or embargo.

### **16.2 Relief From Liability**

No Party will be liable to the other for any failure in or delay to the performance or observance on its part of any obligation or condition expressed or implied in this Agreement (other than an obligation to pay money) (collectively **Relevant Obligations**) to the extent that such failure or delay is attributable to an Event of Force Majeure.

### **16.3 Obligation To Resume Performance**

An Event of Force Majeure may be relied upon by a Party only to the extent that it continues directly to affect the performance or observance of the Relevant Obligations by that Party and the Party will resume performance and observance of the Relevant Obligations as soon as practicable after termination or abatement of the Event of Force Majeure.

### **16.4 Notice To Be Given**

A Party affected by an Event of Force Majeure must:

- (a) promptly give notice to the other Party giving full particulars of the Event of Force Majeure, the manner in which or the reasons for which it prevents performance of the Relevant Obligations and the probable duration of the period of that prevention; and
- (b) mitigate the effects of the Event of Force Majeure using all reasonable precautions and any reasonable alternative measures, provided that a Party affected by an Event of Force Majeure is not required to:
  - (i) settle any strike, or other labour dispute on terms contrary to its wishes; or
  - (ii) contest the validity or enforceability of any applicable law or

legally enforceable order by way of legal proceedings.

## **16.5 Extended Event Of Force Majeure**

If an Event of Force Majeure continues:

- (a) for a continuous period of sixty (60) or more days; or
- (b) for successive periods totalling sixty (60) or more days within any continuous period of ninety (90) days,

either Party may, by notice to the other, raise the Event of Force Majeure as an Issue to be resolved in accordance with the Issue Resolution Process (whether the Event of Force Majeure affects that Party's or the other Party's observance or performance of this Agreement) and failing:

- (c) resolution of the Issue to the satisfaction of both Parties; or
- (d) the final termination or abatement of the Event of Force Majeure,

within forty five (45) days of the notice raising the Event of Force Majeure as an Issue, then subject to clause 16.6 a Termination Event is deemed to have occurred and to continue until the resolution of the Issue or final termination or abatement of the Event of Force Majeure or termination of this Agreement, whichever is the sooner.

## **16.6 Part Only Of Operations Affected**

If an Event of Force Majeure affects only a discrete part of the operations of the Party affected at the Site, the Party affected must continue to perform its other obligations under this Agreement for the other parts of the Site and the Event of Force Majeure cannot constitute a Termination Event unless and until the inability of the Party affected to perform and observe the Relevant Obligations makes it impossible or substantially impracticable to continue to perform its other obligations under this Agreement such that, as a matter of Best Industry Practice, it must cease substantially all of its operations at the Site until the final termination or abatement of the Event of Force Majeure.

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## **17. Issue Resolution**

### **17.1 Limitation On Proceedings**

The Parties agree that it is a condition precedent to the commencement of any litigation proceedings by a Party in respect of an Issue under this Agreement that the Party has complied fully with the Issue Resolution Process (regardless of the level or levels on which the Issue has previously been considered) except where:

- (a) the Party seeks urgent interlocutory, injunctive or declaratory relief; or
- (b) the other Party has failed to observe the requirements of this clause 17 and the Party seeks to enforce compliance with the Issue Resolution Process,

in respect of the Issue.

### **17.2 Issue Resolution Process**

- (a) **(Notice may be given)** Where an Issue arises between the Parties, either Party may give an Issue Notice to the other Party to initiate the formal Issue Resolution Process.

- (b) **(Form of Notice)** The notice of an Issue (**Issue Notice**) must:
  - (i) state that the notice is given under this subclause;
  - (ii) describe the nature of the Issue; and
  - (iii) nominate a representative of the Party who is authorised to negotiate and settle the Issue on the Party's behalf.
- (c) **(Representative of Other Party)** The other Party must, within seven (7) days after receipt of an Issue Notice, give notice to the other Party nominating a representative authorised to negotiate and settle the Issue on its behalf.
- (d) **(Negotiation by Representatives)** The Parties' representatives must negotiate in good faith with a view to resolving the Issue within twenty one (21) days after the receipt of the Issue Notice, (or such longer period as those representatives agree), failing which the Issue must be immediately referred to the chief executive officers of the Parties.
- (e) **(Chief Executive Officers)** The chief executive officers must negotiate in good faith with a view to resolving the Issue within fourteen (14) days of the Issue being referred to them (or such longer period as the chief executive officers agree) failing which, the Issue must be immediately referred to mediation.
- (f) **(Mediation)** Mediation of the Issue must:
  - (i) be conducted by the person or body agreed to by the Parties or, failing agreement within thirty five (35) days after receipt of the Issue notice, as nominated by the President for the time being of the Law Society of Western Australia on request by either Party;
  - (ii) be conducted in accordance with such rules as may be agreed to by the Parties or, failing agreement within thirty five (35) days after receipt of the Issue Notice, in accordance with the rules nominated by the person or body agreed or nominated to conduct the mediation;
  - (iii) be at the cost and expense of the Parties equally (except that each Party must pay its own advisers, consultants and legal fees and expenses) unless the Parties otherwise agree; and
  - (iv) if not earlier resolved, be continued for a period expiring on the date being twenty-one (21) days after the nomination of the mediator (or such other period as the Parties may agree) after which either Party may at any time after that date seek expert determination under this Agreement or commence litigation proceedings in respect of the Issue.

### 17.3 Expert Determination

Where a matter is permitted by this Agreement to be determined by an expert, any Party may refer the matter to the expert determination of a suitably qualified person in accordance with, and subject to, the Institute of Arbitrators & Mediators Australia Expert Determination Rules and the following provisions apply:

- (a) the costs of the expert are to be paid by the Parties in equal shares;
- (b) each Party must pay its own costs of and incidental to the process;



- (c) the expert determination is to be conducted by a person or body agreed to by the Parties or failing agreement by the person or body nominated by the Institute of Arbitrators & Mediators Australia;
- (d) in making a determination:
  - (i) the expert must act in that capacity and not as an arbitrator;
  - (ii) the expert's finding is final and binding upon the Parties in the absence of manifest error;
  - (iii) the expert must determine which Party or Parties should bear the costs of any such determination and in what proportion. In making this decision, the expert must consider the degree to which they consider such Party was unreasonable in failing to agree to the matter; and
  - (iv) the expert may employ consultants to assist in the performance of their duties.

#### **17.4 Issues Resolution Not To Delay Provision Of The Mine Services**

Notwithstanding the other provisions of this clause 17, the Contractor must:

- (a) continue without delay to provide the Mine Services and perform its other obligations under this Agreement, so far as it is practicable to do so, having regard for Best Industry Practice in view of the Issue to be resolved; and
- (b) comply with all directions of the Company's Representative in connection with this Agreement which do not otherwise affect the ultimate resolution or determination of the Issue.

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### **18. Term**

#### **18.1 Term Obligations**

The Contractor must provide the Mine Services and perform its other obligations under this Agreement during the Term.

#### **18.2 Options To Extend Term**

- (a) The Contractor grants to the Company up to two (2) options to extend the Initial Term of this Agreement on the same terms and conditions (excluding this option to extend), for a further period of one (1) year from the end of the Initial Term (**First Option Period**) and, if the first option is exercised, for the further period of one (1) year from the end of the First Option Period. To exercise the options to extend, the Company must give notice to the Contractor no later than ninety (90) days prior to the end of the then current Term.
- (b) The exercise of the options is at the Company's absolute discretion and, if exercised, the Term is extended accordingly.
- (c) On extension of the Term under this clause, the Contractor may request the Project Management Group to review and revise the Service Fee or the Schedule of Rates and any such review and revision must be undertaken by the Company and Contractor in good faith and as promptly as possible, with either the Company or Contractor being entitled, by notice

in writing to the other, to raise any dispute as an Issue to be resolved in accordance with the Issue Resolution Process (but excluding any reference to mediation).

- (d) If the pricing review and revision is not completed before the extension of the Term is to commence, the Service Fee and the Schedule of Rates at the end of the Term continues to apply until the Issue is resolved.

### **18.3 Automatic Extension Of The Term**

Upon expiry of the Initial Term or any Extended Term, the Company may extend the Term for a further three (3) months by giving the Contractor a written notice of extension and:

- (a) this Agreement will continue;
- (b) the Contractor must provide the Mine Services and perform its other obligations under this Agreement,

unless either Party terminates this Agreement by giving the other Party three (3) month's prior notice of termination at any time but not earlier than three (3) months prior to the expiry of the Initial Term.

### **18.4 Termination Stockpile Level**

The Contractor must ensure, on expiration of the Term (other than through early termination), that the Company has available to it on the Site the Termination Stockpile Level.

### **18.5 Vacation Of Site**

The Contractor must ensure, on expiration of 3 months from the completion of the Term, that the Site is vacated by the Contractor in a clean condition with any outstanding rehabilitation completed and the Contractor fully demobilised.

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## **19. Suspension of Mine Services**

### **19.1 Company May Suspend**

- (a) The Company may, by notice to the Contractor, suspend provision of the whole or any part of the Mine Services, stating the estimated length of and reason for the suspension (if it is possible to make such an estimate).
- (b) The Contractor must, on receipt of a notice of suspension, take all reasonable steps to reduce any delay or cost consequent upon the suspension. If requested by the Company's Representative to do so, the Contractor must promptly re-direct its personnel and Contractor's Plant and Equipment to work on a portion of the Site unaffected by the reason for the suspension.
- (c) A suspension is deemed to have been directed by the Company, without the need for any notice other than that required under clause 16, during any period for which a Party is entitled to claim relief in respect of an Event of Force Majeure under clause 16.
- (d) A suspension under this clause 19 does not of itself terminate this Agreement.
- (e) Except in the case of a deemed suspension during any period for which a

Party is entitled to claim relief in respect of an Event of Force Majeure, the Company's Representative must, when the reason for any suspension no longer exists, give notice to the Contractor directing it to recommence providing the Mine Services and the Contractor must comply with the direction promptly. A deemed suspension during any period for which a Party is entitled to claim relief in respect of an Event of Force Majeure ends when that entitlement ends.

**19.2 Not used**

**19.3 Demobilisation**

Without limiting anything in clause 19.2, if requested by the Company's Representative, the Contractor must demobilise personnel and equipment from the Site as specified by the Company for the duration of a suspension of Mine Services. Payment for any partial demobilisation or subsequent remobilisation is to be commensurate with proportion of the amount stated in the Schedule of Rates for demobilisation and mobilisation as is applicable to the level of demobilisation and mobilisation that actually occurs as a result of the suspension.

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**20. Termination**

**20.1 Termination by Company For Convenience**

- (a) Notwithstanding any other provision of this Agreement, the Company may, at its sole discretion, terminate this Agreement for its convenience at any time by giving the Contractor no less than thirty (30) days' notice.
- (b) On any termination under clause 20.1(a):
  - (i) the Company must, without prejudice to any other rights or remedies it has, pay to the Contractor the Early Termination Amount, if applicable, in full satisfaction of any liability incurred by the Company to the Contractor and any liability incurred by the Contractor to any third party as a result of or in connection with such termination of this Agreement for convenience; and
  - (ii) this Agreement terminates on the date of expiration of the notice given under clause 20.1(a); and
  - (iii) subject to subclause 20.1(b)(i), neither Party has any further claim whatsoever against the other Party in respect of any cost, expense, damage or liability of any other nature incurred or sustained by the Party as a result of or in connection with the termination but:
    - A. this release does not affect liability for any cost, expense or damage arising prior to the termination; and
    - B. this provision survives termination of this Agreement.

**20.2 Termination By Either Party On Default**

- (a) Either Party may:
  - (i) in the case of an Event of Default comprising a failure by a Party to pay an amount of money on or after the due date of payment in accordance with this Agreement, give fourteen (14) business days' notice of termination to the defaulting Party; or

- (ii) in the case of any other Event of Default, give sixty (60) business days' notice of termination to the defaulting Party,

such notice to be given at any time if an Event of Default in respect of the defaulting Party has occurred.

- (b) In such event, if the Event of Default is not remedied by the expiration of the notice, this Agreement terminates.
- (c) The Parties' rights and liabilities upon a termination under clause 20.2(a) and clause 20.2(b) are the same as they would have been under the law had the Party in respect of which the Event of Default has occurred repudiated this Agreement and the other Party had elected to treat this Agreement as at an end and recover damages.

### **20.3 Termination On A Termination Event Occurring**

- (a) At any time while a Termination Event continues, the Party not in breach of this Agreement or which did not cause the Termination Event to occur may terminate this Agreement by giving the other Party twenty (20) business days' notice specifying the Termination Event relied upon.
- (b) In such event, if the Termination Event is not remedied by the expiration of the notice, this Agreement terminates.
- (c) The Parties' rights and liabilities upon a termination under clause 20.2(a) and clause 20.3(b) are the same as they would have been under the law had the Party in respect of which the Event of Default has occurred repudiated this Agreement and the other Party had elected to treat this Agreement as at an end and recover damages.

### **20.4 Preservation Of Rights On Termination**

Termination of this Agreement for any reason does not affect the rights of a Party that arise before the termination, or as a consequence of the event or occurrence giving rise to the termination, or as a consequence of the breach of any obligation under this Agreement which continues to take effect after termination.

### **20.5 Contractor's Obligations On Termination**

Upon termination of this Agreement for any reason (other than the occurrence of an Event of Default in respect of the Company), the Contractor must:

- (a) cease the performance of the Mine Services within the time specified in the notice;
- (b) ensure that the Mine is left in a safe condition and is secured to the satisfaction of the Company;
- (c) hand over to the Company all Documentation relating to the Mine Services and the Mine;
- (d) do all things reasonably required by the Company to assist the Company to place the Company or its nominee in possession and control of the Mine so as to allow (if applicable) the continuation of the mining-related activities on the Mine; and
- (e) subject to clause 13.6, comply with the Company's directions in respect of the demobilisation from the Site of persons and the Contractor's Plant and Equipment and the assignment to the Company or its nominee of all rights

and benefits under contracts entered into by the Contractor with third parties in relation to the Mine Services.

## **20.6 Contractor's Costs**

Except as expressly provided by this Agreement, if this Agreement terminates for any reason, other than the occurrence of an Event of Default in respect of the Company or for the convenience of the Company, the Contractor has no claim against the Company for any amount on account of any liability incurred by the Contractor as a result of or in connection with the termination of this Agreement. This provision survives termination of this Agreement.

## **20.7 Site Handover On Termination Or Expiration Of The Term**

In addition to any other rights and obligations of either Party which exist on termination:

- (a) not less than three (3) months prior to the date of expiration of the Term or the effective date of termination (as the case may be), the Contractor must provide to the Company's Representative for approval a plan (**Demobilisation Plan**) providing for:
  - (i) removal of the Contractor's Plant and Equipment and personnel from the Site;
  - (ii) complete restoration and rehabilitation of the Contractor's Yard and any other work areas to the satisfaction of the Company; and
  - (iii) the Company and the Contractor together inspecting the Site to confirm the demobilisation has been completed;
- (b) the Company must within ten (10) days of being provided with the Demobilisation Plan, approve the Demobilisation Plan or advise the Contractor of what amendments it requires to the Demobilisation Plan;
- (c) the Contractor must demobilise in accordance with the Demobilisation Plan approved by the Company's Representative;
- (d) the Contractor must within one (1) month of the termination of this Agreement, as the case may be (unless otherwise provided in the Demobilisation Plan):
  - (i) remove all Contractor's Plant and Equipment and all other equipment, plant, infrastructure and facilities that the Contractor has brought onto the Site, except where otherwise directed by the Company's Representative;
  - (ii) complete the clean up and, unless otherwise directed by the Company, the rehabilitation of the Mine to a condition reasonably acceptable to the Company's Representative; and
  - (iii) demobilise all Contractor's personnel;
- (e) the Contractor must co-operate in and do everything reasonably necessary to facilitate the orderly handover of the provision of the Mine Services to a contractor taking over the provision of the Mine Services on the Site, including handover of Contractor's Plant and Equipment if and to the extent the Company exercises its rights pursuant to clause 13.6 (if any) under this Agreement to require handover; and

- (f) without limiting the generality of the foregoing, the Contractor must hand over to the Company, or at its direction, in appropriate form and format data and information relating to its provision of the Mine Services which would be relevant to or would assist in the ongoing mining operations.

---

## **21. Intellectual Property And Documentation**

### **21.1 Project Intellectual Property**

- (a) The Project Intellectual Property owned or created by the Company is vested in the Company. The Company grants to the Contractor an irrevocable royalty free licence to use the Project Intellectual Property of the Company for the purpose of performing the Mine Services. The Contractor may sublicense the Project Intellectual Property to Subcontractors only for the purposes of this Agreement.
- (b) The Project Intellectual Property owned or created by the Contractor is vested in the Contractor. The Contractor grants to the Company an irrevocable perpetual non-exclusive royalty free licence to use the Project Intellectual Property of the Contractor for the purpose of operating the Mine during or after the Term. The Company may sublicense the Project Intellectual Property to Separate Contractors only for the purposes operating its Mine. This provision survives and continues for the benefit of the Company after termination of this Agreement.

### **21.2 Reproduction And Return Of Documentation**

- (a) Each Party must ensure that the Documentation owned or created by the other Party relating to the Mine Services or the Mine is used, copied, supplied or reproduced only for the purposes of performing the Mine Services or operating the Mine and its other obligations under this Agreement, or to comply with law, unless it has obtained the prior approval of the other Party, which approval must not be withheld unreasonably.
- (b) Unless as may be required by law, each Party must on, or as soon as practicable after, the end of the Term or any earlier termination of this Agreement deliver up to the other Party, or at the option of that Party, destroy the Documentation owned or created by the other Party.

### **21.3 Moral Rights**

Each Party must use its best endeavours to procure from each author of its Documentation express agreement that he or she will not enforce any Moral Rights (as described in Article 6 bis of the Berne Convention for the Protection of Literary and Artistic Works 1886) that he or she may have, presently or in the future, in any copyright in works comprising the Documentation, including by executing a Moral Rights' consent if required by the other Party.

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## **22. Media Releases And Confidentiality**

### **22.1 Media Releases**

- (a) The Contractor must not advertise or issue any information, publication, document or article for publication or media releases or other publicity relating to the Mine Services, the Site, this Agreement or the Company's business and activities without the prior approval of the Company, except that the Contractor may disclose such information and other matters:
  - (i) to its shareholders, directors, officers, employees, contractors or

consultants, and to any Authorities or community consultative committees who have a specific need to have access to such information and other matters; or

- (ii) as required by law or any listing rules of a recognised stock exchange applying to a Party (or any of its related companies).
- (b) The Contractor must refer to the Company any enquiries from the media concerning the Mine Services, the Site or the Company's business and activities and must assist the Company and the Company's Representative in any public relations activities relating to the Mine Services or the Site providing, if requested, such personnel as may be required.
- (c) The Contractor must not, and ensure that its employees and its Subcontractors and their respective employees do not, take any photographs or video recording of any Mine Services or any part of the Site, without the prior approval of the Company's Representative.

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## **23. Confidentiality**

### **23.1 General Obligation**

Subject to clauses 23.2 to 23.4, this Agreement and all information exchanged between the Parties under this Agreement or during the negotiations preceding the signing of this Agreement is confidential to the Party which provided it and may not be disclosed to any person except:

- (a) by a Party to the legal and other professional advisers, auditors and other consultants (**Consultants**) and employees of:
  - (i) that Party; or
  - (ii) that Party's related bodies corporate,
  - (iii) in any case requiring the information for the purposes of this Agreement (or any transactions contemplated by any of it), or for the purpose of advising that Party in relation thereto;
- (b) to another Party with the consent of the Party which first supplied the information;
- (c) if the information is at the time lawfully in the possession of the proposed recipient of the information through sources other than a Party;
- (d) to the extent required by any law or by the lawful requirement of any Governmental Agency having jurisdiction over the Party or its related bodies corporate;
- (e) to the extent required by a lawful requirement of any stock exchange having jurisdiction over a Party or its related bodies corporate;
- (f) if necessary or commercially desirable to be disclosed in any prospectus or information memorandum to investors or proposed or prospective investors:
  - (i) for an issue or disposal of any shares in a Party or its related bodies corporate;
  - (ii) for an issue of debt instruments of a Party or a Party's related body corporate; or

- (iii) for the purposes of a Party obtaining a listing on Australian Stock Exchange Limited of any shares;
- (g) if required in connection with legal proceedings, arbitration or determination by a panel or an expert relating to this Agreement or for the purpose of advising a Party in relation thereto;
- (h) if the information is at the time generally and publicly available other than as a result of breach of confidence by the Party wishing to disclose the information or those to whom it proposes to disclose it;
- (i) if necessary or commercially desirable to be disclosed to an existing, or bona fide proposed or bona fide prospective:
  - (i) financier of a Party or of any of its related bodies corporate; or
  - (ii) rating agency in respect of a Party or of any of its related bodies corporate;
- (j) if necessary or commercially desirable to be disclosed to any bona fide proposed or prospective:
  - (i) transferee of an interest in this Agreement (which will, in the case of any offer by tender, include any short-listed actual or prospective bidder or tenderer where the short list does not exceed five (5) in number);
  - (ii) financier of such transferee providing or proposing or considering whether to provide relevant financial accommodation; or
  - (iii) assignee of rights under any security permitted under clause 25; or
- (k) if necessary or commercially desirable to be disclosed to Consultants or employees of any of the persons referred to in clause 23.1(j) or 23.1(k).

## **23.2 Conditions**

- (a) In the case of a disclosure under clause 23.1(a) or 23.1(c) and, where appropriate, under clause 23.1(e), 23.1(f) or 23.1(g), the Party wishing to make the disclosure must inform the proposed recipient of the confidentiality of the information and the Party must take customary precautions to ensure that the proposed recipient keeps the information confidential.
- (b) In the case of a disclosure under clause 23.1(j), 23.1(k) or 23.1(l) (in the case of Consultants only), the Party wishing to make the disclosure must not make any disclosure unless:
  - (i) in the case of a disclosure under clause 23.1(j) or 23.1(k), the proposed recipient has first entered into and delivered to the Parties a confidentiality undertaking in a form acceptable to the other Parties;
  - (ii) in the case of a disclosure under clause 23.1(l), the Company or employer of the proposed recipient has first entered into and delivered to the Parties a confidentiality undertaking in a form acceptable to the other Parties which will incorporate a warranty by the Company or employer of the proposed recipient that the



proposed recipient is under an obligation of confidentiality to the Company or employer and that the Company or employer will enforce that obligation to the fullest extent that the law allows upon being called upon to do so by any of the Parties.

### **23.3 Notice To Other Parties**

Each Party must:

- (a) promptly inform all other Parties of any request received by that Party from any person described in clause 23.1(e) to disclose information under clause 23.1(e);
- (b) inform all other Parties as soon as reasonably practicable after information is disclosed by the Party under clause 23.1(e); and
- (c) not disclose any information under clause 23.1(f) unless all other Parties have been informed of the proposed disclosure.

### **23.4 Survival Of Confidentiality Obligations**

The obligations of confidentiality imposed by this clause 23 survive the termination of this Agreement and any person who ceases to be a Party continues to be bound by those obligations.

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## **24. Notices**

### **24.1 Types Of Notices**

All notices of any kind and all consents, statements, forecasts, advices, policy statements, procedures manuals, guidelines and the like, and all invoices given or made under this Agreement (each a **Communication**) must be:

- (a) in writing;
- (b) marked for the attention of the appropriate person named in clause 24.2; and
- (c) delivered by hand to the address of the addressee, or sent by ordinary letter post (airmail if posted to or from a place outside Australia) or hand delivery by a reputable courier service to the physical address of the addressee, or sent by email or fax to the email address or fax number of the addressee (as the case requires) which is specified in clause 24.2.

### **24.2 Addresses**

Subject to clause 24.5, the respective physical addresses and email addresses of the Parties are:

#### **Company**

Name: Karara Mining Limited  
Address: Level 2, London House 216 St George's Terrace  
Perth WA 6000

For the attention of: Manager Mining / General Manager Operations

Email: [●]

#### **Contractor**

Name: [●]  
Address: [●]

For the attention of: [●]

Email: [●]

### **24.3 Notice Takes Effect**

Subject to clause 24.4, a Communication takes effect from the later of:

- (a) the time it is actually received; and
- (b) any later time specified in the Communication.

### **24.4 Deemed Receipt**

For the purposes of this Agreement:

- (a) a Communication delivered by hand to the physical address of a Party is deemed to be received if it is handed (with or without acknowledgment of delivery) to any person at that address who, in the reasonable judgment of the person making the delivery (upon making appropriate enquiries), appears to be and represents himself as a manager or officer of the Party to whom the Communication is addressed;
- (b) a Communication which is posted is deemed to be received by the Party to whom the Communication is addressed:
  - (i) on the third business day in the place to which the Communication is addressed, if that place is in the same country as the place at which the Communication is posted; or
  - (ii) on the tenth business day in the place to which the Communication is addressed, if that place is in a different country from that in which the Communication is posted.
- (c) a Communication sent by fax transmission which is transmitted:
  - (i) prior to 4:00 p.m. local time at the place to which it is transmitted is deemed to be received by the Party to whom it is addressed on the date of transmission if it is a business day in that place or, if it is not, then on the next day which is a business day in that place; and
  - (ii) after 4:00 p.m. local time at the place to which it is transmitted is deemed to be received by the Party to whom it is addressed on the first business day in that place following the date of transmission;
  - (iii) and the production of the transmission report or a printout of a transmission log generated by the sender's fax machine (or other fax transmission device) showing successful uninterrupted fax transmission of all pages of the relevant Communication to the fax number of the Party to whom it is addressed constitutes prima facie evidence that the fax was sent and received; and

- (d) an email Communication which is sent:
  - (i) prior to 4:00 p.m. local time at the physical address of the intended recipient is deemed to be received by the Party to whom it is addressed on the date of sending if it is a business day in that place or, if it is not, then on the next day which is a business day in that place; and
  - (ii) after 4:00 p.m. local time at the physical address of the intended recipient is deemed to be received by the Party to whom it is addressed on the first business day in that place following the date of sending;
  - (iii) unless the sender receives an email message showing the failure of the email; and proof of the fact that the email message was sent but that the sender received no email message showing that it failed constitutes prima facie evidence that the email was sent and received.

#### **24.5 Change Of Address**

A Party may at any time, by notice given to the other Parties to this Agreement, designate a different person, physical address, email address or fax number for the purpose of this clause 24.

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### **25. Assignment**

#### **25.1 Assignment Of This Agreement**

- (a) The Contractor must not assign its rights or interests under this Agreement without the Company's prior written consent.
- (b) The Company may novate its rights and obligations under this Agreement to a third party provided that:
  - (i) the proposed party to whom the Agreement is to be novated is proposed to also acquire all or part of the Company's interest in the Mine;
  - (ii) the proposed party to whom this Agreement is to be novated is legally, financially, technically and operationally capable of complying with the Company's obligations under this Agreement;
  - (iii) on or before such novation, the Company's and the proposed party to whom this Agreement is to be novated executes such document or agreement such that the proposed party becomes bound by the provisions of this Agreement and the Company's is discharged from its obligations under this Agreement.
- (c) A party may, without obtaining consent under clause 25.1(a) assign this Agreement, its interest in this Agreement or any right under this Agreement to a related body corporate if on or before such assignment the related body corporate executes such document or agreement such that the related body corporate becomes bound by, and is obliged to adhere to, the provisions of this Agreement.

#### **25.2 Effect Of Assignment**

Assignment of this Agreement will not abrogate, impair, release or extinguish any debt, obligation or liability of one party to the other which may have accrued under this Agreement prior to the date of such an assignment.

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## **26. Miscellaneous**

### **26.1 Entire Agreement**

This agreement constitutes the entire agreement between the Parties in respect of its subject matter and supersedes all prior agreements, representations, warranties, promises, statements, negotiations and letters in respect of its subject matter.

### **26.2 Nature Of The Relationship**

- (a) Nothing in this Agreement constitutes a joint venture, agency, partnership or other fiduciary relationship between the Company and the Contractor.
- (b) The Contractor acknowledges that it has no authority to bind the Company.
- (c) At all times during the provision of the Mine Services and the performance of the Contractor's other obligations under this Agreement, the Contractor is an independent contractor and not an employee or agent of the Company.

### **26.3 Application Of Agreement**

This Agreement applies to the provision of the Mine Services and the performance of the Contractor's other obligations under this Agreement whether provided or performed before, on or after the date of this Agreement.

### **26.4 Law Of This Agreement**

- (a) The law of this Agreement is the law in force in Western Australia.
- (b) The Parties submit to the non-exclusive jurisdiction of the courts of Western Australia.

### **26.5 Variation And Waivers In Writing**

- (a) A Party may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by a Party does not prevent a further exercise of that or of any other right, power or remedy. Failure by a Party to exercise or delay in exercising a right, power or remedy does not prevent its exercise.
- (b) A provision of, or a right, created under this Agreement may not be waived except in writing signed by the Party granting the waiver, or varied except in writing signed by the Parties.

### **26.6 Approval Or Consent Requirements**

Unless otherwise expressly provided in this Agreement, where a Party's approval or consent to any act, matter or thing is required under this Agreement:

- (a) the approval or consent must be given by notice;
- (b) the approval or consent must be obtained prior to the act, matter or thing to which it relates;
- (c) the approval or consent may be refused, given unconditionally or given

subject to conditions in the discretion of the Party giving it;

- (d) a Party seeking approval or consent must use its best endeavours to ensure that the Party giving approval or consent is given reasonable time and information to make a determination as to the act, matter or thing (and not object to the Party taking reasonable time in making that determination); and
- (e) the Party must not be unreasonable in refusing, delaying or imposing conditions on its approval or consent.

#### **26.7 No Implied Approval By The Company**

The Contractor acknowledges that no comment, review, representation, vetting, inspection, testing or approval by the Company or the Company's Representative in respect of the Contractor's obligations under this Agreement will lessen or otherwise affect the Contractor's obligations under this Agreement.

#### **26.8 Parties' Rights And Remedies Not Affected**

The rights, powers and remedies provided in this Agreement are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this Agreement.

#### **26.9 Civil Liability Act**

All of the provisions in Parts 1A, 1B, 1C, 1D, 1E and 1F of the *Civil Liability Act 2002* are expressly excluded and do not apply to anything arising out of this Agreement.

**Executed** by Karara Mining Limited  
ACN 070 871 831, in accordance with  
section 127 of the Corporations Act by  
or in the presence of:

---

Signature of Director

---

Signature of Secretary

---

Name of Director in full

---

Name of Secretary in full

**Executed** by [●] ACN [●], in  
accordance with section 127 of the  
Corporations Act by or in the  
presence of:

---

Signature of Director

---

Signature of Director

---

Name of Director in full

---

Name of Director in full

## Schedule 1 – Site Description and Information

### 1. Plan of Site, Mine and Pits

The Karara mine site is located 320 kilometres north-north-east of Perth and 225 km east of Geraldton (Figure 1).

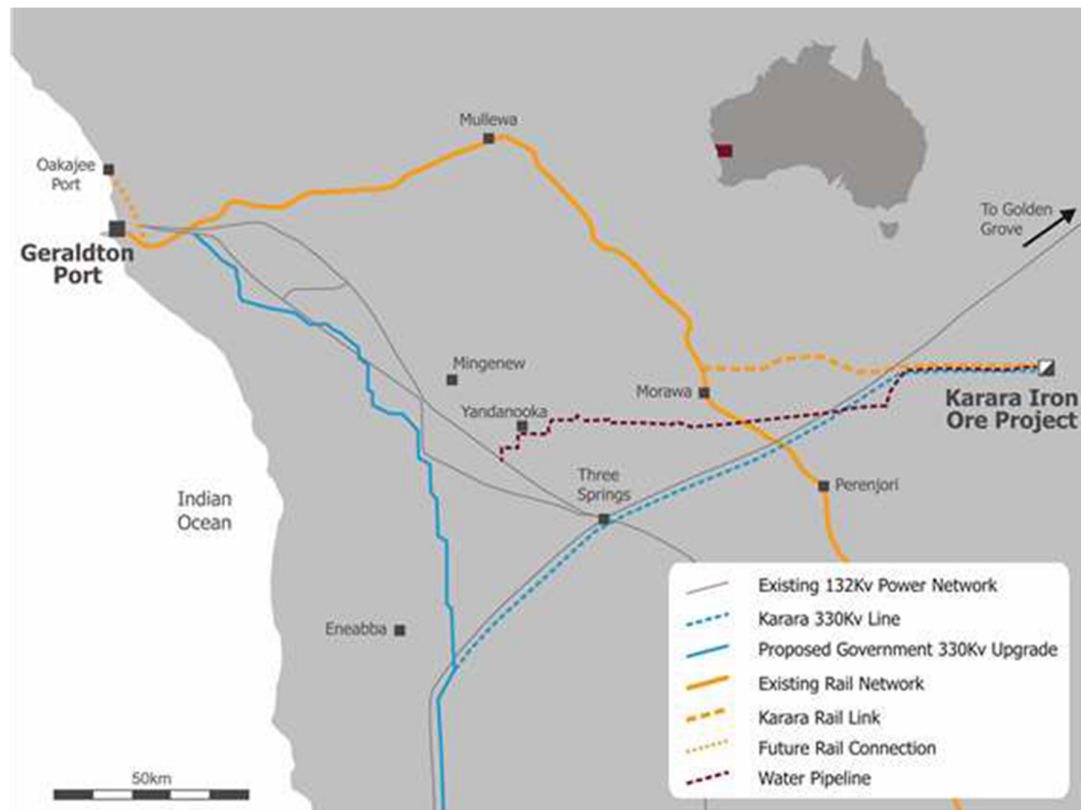
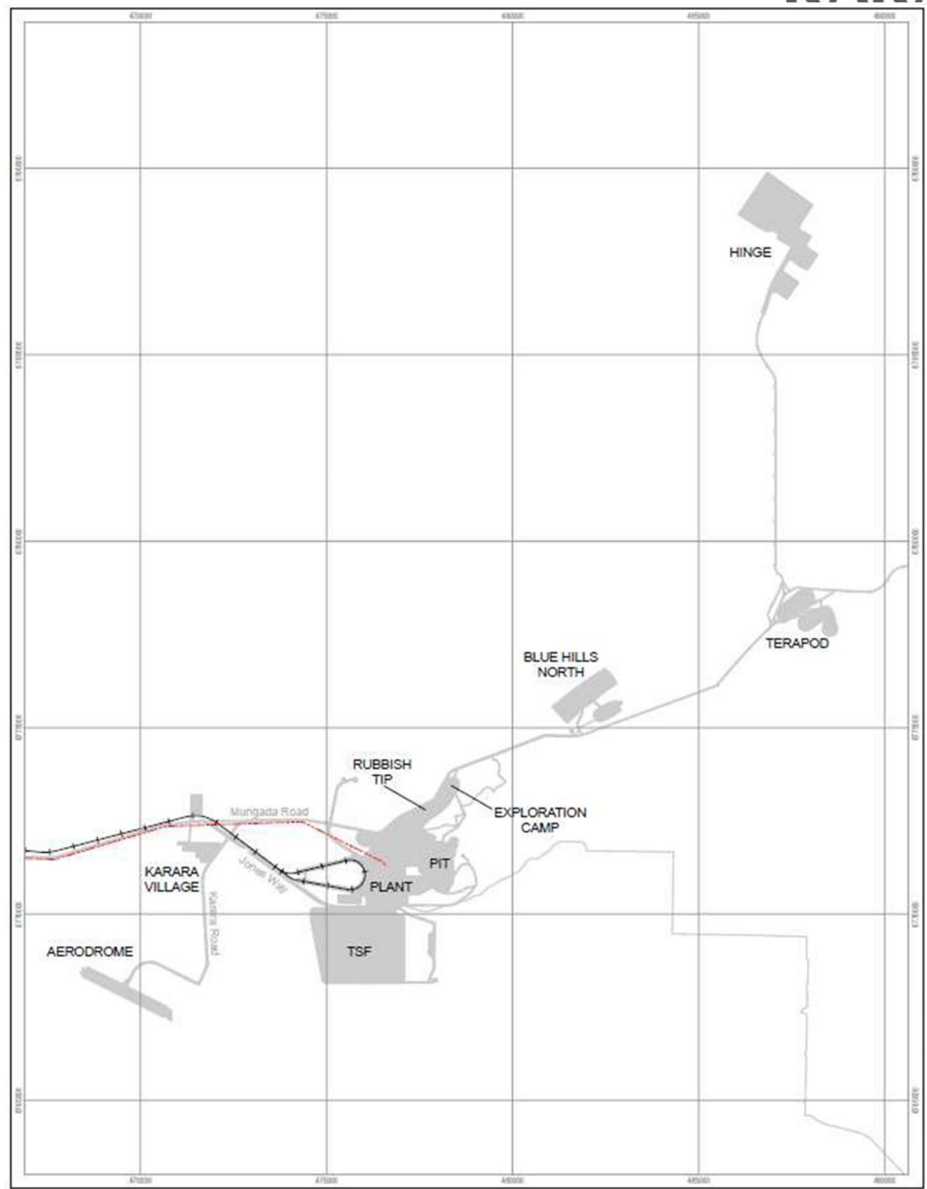


Figure 1: Location of Karara Mine Site

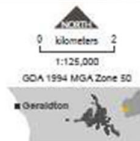


15 October 2014  
Version: A  
Size: A4

KIOP, MIOP & HIOP  
**Mine Site Locations**

**Legend**

- Power Transmission Route
- +— Railway
- Site Footprint



**Figure 2: Plan of Karara Aerodrome to Hinge**





**KARARA IRON ORE PROJECT**  
**PLANT & ROM AREA**



Figure 3: Plan of Karara Plant and ROM Area



Figure 4: Plan of Karara Village to Rail Siding





Figure 5: Plan of Karara Plant Area





Figure 6: Karara Mine Area

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## **2. Location and Geology**

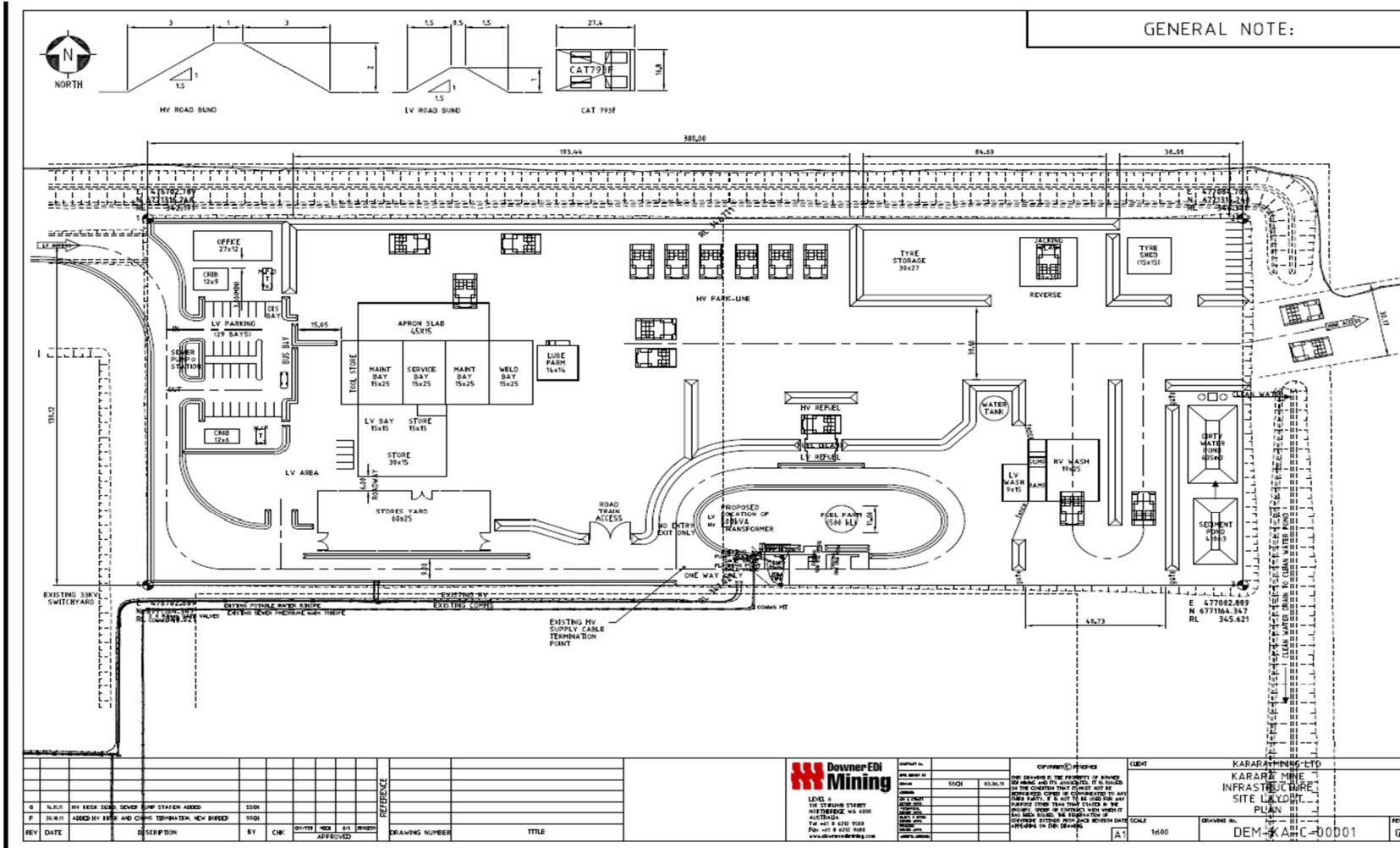
The Site contains the following features which restrict mining operations in some significant way:

Not Applicable.



### 3. Contractor's Yard (Clause 13.9)

This figure is indicative only of the nature of the existing facilities within the Contractor's Yard.



## Schedule 2 - Description of Mine Services (Mining)

---

### 1. Mining Operations

At all times during the Term, the Contractor must, consistent with the LOM Mine Plan:

- (a) plan the Mine, and its development and construction, to the reasonable design standards prescribed by the **Company's** Representative;
- (b) clear land, remove and store vegetation, topsoil and subsoil for re-use and prepare mining area, strip Waste and store such Waste on dumps nominated from time to time by the Contractor and approved by the Company's Representative. PAF Waste shall be encapsulated in NAF Waste;
- (c) mine and extract Ore in accordance with the Short Term Mine Plan and the directions of the Company's Representative from time to time;
- (d) take all reasonable steps to minimise Waste or foreign matter in the Ore and take all reasonable steps to minimise lost Ore in the mining processes;
- (e) immediately notify the Company's Representative of any geotechnical issues which the Contractor considers may arise, or which may have arisen, and which may affect continued mining in accordance with any of the Mine Plans;
- (f) implement, and comply with the obligations of, the Environmental Management Plan (**EMP**) approved by the Company's Representative and the relevant governmental authority (see item 19 of Schedule 2);
- (g) rehabilitate land (on an on-going basis) to the requirements outlined in this Agreement and other relevant plans under the EMP as soon as possible after completion of mining in each area of the Site;
- (h) prepare and implement the approved Safety Management Plan (see item 18 of Schedule 2);
- (i) prepare and implement the approved Indigenous Peoples Plan (see item 21 Schedule 2);
- (j) prepare and implement the approved Quality Management Plan (see item 23 of Schedule 2);
- (k) prepare and implement the approved Human Resources and Industrial Relations Management Plan (see item 22 of Schedule 2);
- (l) construct and maintain all access ways and haul roads in the Mine necessary to carry out this Agreement, including the designated Stockpile pads and the Waste dumps, all roads between the pits and the Waste dumps, the road network around the pits, the road network around the Waste dumps,

access roads and roads leading to the Processing Plant site, to the reasonable design standards prescribed by the Company's Representative, using selected mine waste;

- (m) carefully control blasthole layouts, including direction of fire, proposed fragmentation, powder factor and the materials used for blasting in compliance with all applicable Authorisations;
  - (n) implement and comply with the requirements of the Company's emergency response plan for the Site using basic fire fighting equipment and techniques; and
  - (o) facilitate grade control sampling as required by the Company.
- 

## **2. Minerals Handling**

At all times during the Term, the Contractor must:

- (a) avoid large Stockpiles of oversize Ore accumulating by employing rockbreaking machinery or other approved methods at the Contractor's expense to reduce the size of any oversize Ore. For the purposes of this item "oversize Ore" means Ore that exceeds the size specified in item (b) below;
  - (b) deliver to the Processing Plant, Ore of a maximum size of eight hundred millimetres (800 mm) in any dimension;
  - (c) stockpile Ore on the Mine in locations and sufficient quantities to satisfy the requirements of this Agreement;
  - (d) not stockpile Ore on the Mine in locations other than locations nominated by the Company's Representative; and
  - (e) maintain a sufficient Stockpile to the Nominated Stockpile Level of adequate Ore at the ROM pad to ensure availability of feed to the Primary Ore Crusher during mining interruptions or periods of reduced mining or Ore haulage.
- 

## **3. Haulage and Loading**

At all times during the Term, the Contractor must:

- (a) load and transport Ore from the Pits and deposit it in a designated Stockpile approved by the Company's Representative or the Processing Plant feed hopper;
- (b) load and transport Ore from a designated Stockpile into the Processing Plant feed hopper;
- (c) with the written approval of the Company's Representative, and subject always to the Company's Representative being satisfied that:
  - (i) there will be an adequate supply of Ore for the Primary Ore Crusher;
  - (ii) mining, haulage and crushing requirements will not otherwise be compromised.



the Contractor may arrange to reduce or shutdown its haulage and mining operations for a period or periods over the Christmas/New Year period. Conditional approval may be given by the Company's Representative and approval may include conditions regarding averaging payments to the Contractor to minimise cash flow spikes that may occur if haulage quantities are increased ahead of any shutdown.

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#### **4. General Service Obligations**

At all times during the Term, the Contractor must:

- (a) provide personnel as required by the law governing the operation of the Mine by the Contractor fulfilling this Agreement and must have at least two personnel who hold a WA Quarry Manager's Certificate or a First Class Mine Manager's Certificate of Competency. Furthermore, the Contractor will be expected to assist in the Company's other statutory roles, when requested;
  - (b) ensure chosen mining methods are suitable and reliable for the Site;
  - (c) ensure best practical, technical and environmental standards are met and maintained in all areas of the Site;
  - (d) provide sufficient employees and Subcontractors and their employees to perform all Mine Services;
  - (e) provide adequate training for its employees and Subcontractors' employees to ensure the Contractor's obligations under this Agreement are performed in a timely manner;
  - (f) prepare, maintain books of accounts, in accordance with accounting principles generally accepted in Australia;
  - (g) minimise dust generation while undertaking mining operations and comply with any dust management plan issued by the Company at all times;
  - (h) subject to the Contractor's existing capability and capacity at the relevant time, perform any other activity incidental to and necessary for efficient mining and processing of the Ore;
  - (i) provide fleet management and machine control systems across the mining and drilling fleets and provisions for collision avoidance and fatigue management systems;
  - (j) ensure all vehicles are equipped with dash cameras;
  - (k) ensure excavators are equipped with a suitable system to prevent G.E.T loss;
  - (l) carry out general maintenance of the Mine so as to ensure that it is in a safe, tidy and environmentally compliant condition; and
  - (m) provide lightning detection units to manage and minimise the risk of a lightning strike to exposed field personnel and damage to equipment.
-

## **5. Explosives and Detonator Magazines**

The Company will provide explosive and detonator magazines and blasting agent storage including all associated fixed facilities necessary to carry out blasting under this Agreement. The Contractor shall provide license for explosive and detonator magazine. The Contractor is responsible for the maintenance and housekeeping of magazines and must ensure that explosives and detonators are securely stored in strict accordance with all applicable law and Australian standards and regulations including (where applicable and as updated):

- (a) MSIA and its regulations;
- (b) AS 2187.1-1998 Explosives - Storage, transport and use;
- (c) AS/NZS 1768:2007 Lightning protection;
- (d) Safe Work Australia: Australian Code for the Transport of Explosives by Road and Rail (Australian Explosives Code) 3rd ed (2009);
- (e) Australian Dangerous Goods Code (ADG Code);
- (f) NOHSC: Storage of Chemicals. Guidance Note for Placarding Stores for Dangerous Goods and Specified Hazardous Substances NOHSC:3009(1990);
- (g) NOHSC: Storage and Handling of Workplace Dangerous Goods, National Code of Practice NOHSC:2017(2001); and
- (h) NOHSC: National Code of Practice for the Control of Major Hazard Facilities NOHSC:2016(1996)

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## **6. Drawings**

The Contractor shall provide the Company with as built drawings of all newly constructed surface and sub-surface infrastructure that it constructs or installs including buildings, equipment, electrical, plumbing, pipes, lines and other fixtures and drawings must be provided no later than thirty (30) days following the completion of construction. The drawings shall be true to scale, adequate for permit-to-dig and in the form of one appropriately sized paper drawing and an electronic copy in native file format acceptable to the Company (acting reasonably).

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## **7. Radio and Communications**

The Contractor must provide all radio communications equipment necessary for carrying out the Mine Services for itself, and the Contractor will ensure that:

- (a) all of the Contractor's vehicles and all manned plant and manned mobile equipment is fitted with an operating radio set; (UHF & Digital)
- (b) radio equipment is installed and maintained in good working order at the Contractor's Site office and in the Contractor's Yard and in any other Site location that the Company's Representative (acting reasonably) considers necessary for the purposes of this Agreement;
- (c) all radio sets will be able to transmit and receive frequencies as assigned by and licensed with the relevant Government Agency and approved by the Company's Representative;

- (d) radio sets in vehicles used by the Contractor's supervisors, shotfirers and any other personnel designated by the Company's Representative will be able to transmit on a separate blasting frequency nominated by the Company's Representative;
- (e) all of the Contractor's radio sets will be capable of broadcasting a warning that blasting is in progress on all other channels in use on the Site except for the one used for the control of blasting operations;
- (f) all of the Contractor's radio communication systems at the Site will be designed and installed by a reputable communication supplier with ample knowledge of mine radio systems including both data and voice systems;
- (g) all equipment to be used as part of the Contractors Site radio communications system, both voice and data, will meet all relevant Australian standards; and
- (h) it prepares and complies with procedures relating to the safe use of mobile telephones on the Site and the Contractor will implement control measures to ensure compliance with that policy and that must be approved by the Company's representative,

and the Contractor acknowledges that all costs associated with the provision and maintenance of communications by the Contractor are included in the Contractor's rates.

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## 8. Lighting

The Contractor will construct, install and maintain in good working order lighting as required in order to carry out the Mine Services including all mobile or temporary lighting including mobile Pit lighting plants where necessary for carrying out the Mine Services and the Contractor shall:

- (a) ensure that lighting in all active working areas used exclusively or predominantly by the Contractor is adequate at all times for the safe performance of the Mine Services including:
  - (i) allowing all work carried out during the hours of darkness or poor visibility, to be undertaken safely; and
  - (ii) allowing visual determination of Ore contacts by the Company's Representative when Ore is mined during the hours of darkness or poor visibility;
- (b) The Contractor shall supply, maintain, test, inspect, service and maintain records for all permanent lighting and temporary lighting sets including power supply;
- (c) as a minimum provide adequate lighting in the following areas used exclusively or predominantly by the Contractor:
  - (i) major intersections;
  - (ii) areas where drilling operations are being carried out;
  - (iii) excavation areas;
  - (iv) at all tip heads;

- (v) at the workshop and other maintenance areas; and
- (vi) in any other working area deemed necessary by the Company's Representative; and
- (d) ensure that all lighting is installed and used so as not to create undue environmental or social nuisance,

and the Contractor acknowledges that all costs associated with the provision of adequate lighting are included in the Contractor's rates.

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## **9. Geological, Sampling, Inspection, Supervision and Material Control**

For purposes associated with the provision of Mine Services, the parties acknowledge that:

- (a) Geological management is the responsibility of the Company;
- (b) the Company may carry out geological mapping including lithological contacts on each flitch level. These will be mapped during and after mining and delays due to geological mapping are included within the Contractor's rates;
- (c) the Contractor shall afford safe access and the use of its facilities to allow examination of any rock face as directed by the Company's geologist. The Company's geologist shall give the Contractor prior notice of its intention in order that, if necessary, the Contractor can reschedule its work accordingly;
- (d) the Contractor will allow for blast holes to remain open and drill cuttings to be left undisturbed for 48 hours such that sampling can occur and delays associated are included within the Contractor's rates. Further, the Company may request additional samples from blast hole drill rigs. The Company may utilise down-hole logging tools and RC grade control drill rigs and these contractors will require access into the working areas from time to time;
- (e) the Company's Representative will provide material control as follows:
  - (i) electronic data to identify zones in the Pit designating different material types for separate stockpiling at the Waste dump area or Ore Stockpile, or other location as directed by the Company's Representative;
  - (ii) the destination of the different material zones; and
  - (iii) if, in the opinion of the Company there is risk of Ore loss or dilution, then direction of excavation required to minimise Ore loss and dilution and meet blending requirements;
- (f) the Contractor shall make every effort to safeguard the markings outlining Ore, Waste or other material types during excavation. Digging along the markings will generally be supervised and shall always be at the direction of the Company's Representative;
- (g) the Company's Pit technicians and geologists may be present at each loading unit during the loading of Ore and associated Waste; and

- (h) the Contractor shall be required to provide plant from time to time to spray or wash the rock at each loading face, to facilitate visual inspection. The costs of supplying this facility are included in the Contractor's rates.  
Water trucks shall be fitted with a front mounted water cannon able to be aimed and controlled from the driver's seat.

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## **10. Drainage and Dewatering**

### **10.1 Surface Drainage**

- (a) The Contractor shall carry out the development and maintenance of surface drainage to locations approved by the Company's Representative in all working areas outside the open Pit, including but not limited to the top of Waste dumps, Stockpile areas and Stockpiles, ROM, access and haul roads. All surface water must be diverted into settlement ponds and be clean prior to being discharged into the environment.
- (b) The Contractor shall divert all drainage channels and watercourses with catch drains so as to prevent water flowing into the open Pit area. The water shall be diverted to locations as directed by the Company's Representative to ensure that water runs into the major catchment drains or sumps.
- (c) The Contractor shall be responsible for the regular cleaning of catch drains and associated sumps and any pre-existing catch drains within the Mine the cost for which shall be included within the Contractor's excavation, load, haul and dump rates.
- (d) The Contractor acknowledges that the costs associated with the management of surface water are included within the Contractor's rates.

### **10.2 In-pit Drainage and Dewatering**

- (a) The Contractor shall be responsible for the development of surface drainage on working benches and drop cuts sufficient to keep the working face of each mining area dry as the Pit is mined and shall excavate suitable sumps to collect all water including groundwater entering or draining into the Pit together with storm water and surface runoff into the Pit.
- (b) The Contractor shall be responsible for internal drainage within the Pit so as to ensure that water drains to the appropriate primary in-Pit dewatering sumps. This will include the upgrade of access ramps, installation and maintenance of culverts and sumps, and the installation and maintenance of any secondary pumping systems required to direct water to the primary in-Pit dewatering sumps. The Contractor shall obtain prior approval from the Company's Representative in relation to the design and location of primary in-Pit dewatering sumps.
- (c) The Contractor shall be responsible for pumping out or otherwise removing any stormwater, surface run-off, groundwater and any other water, which enters the primary in Pit dewatering sump. The Contractor may disperse the water by using it for dust suppression, or as otherwise directed by the Company's Representative. Any excess water shall be pumped to a storage dam located external to the Pit.

- (d) Supply, installation and relocation of all dewatering equipment and piping within the Pit, including piping from Pit to the Turkey's Nest, is the Contractor's responsibility and included within the Contractor's rates.
- (e) The Contractor, in consultation with the Company's Representative, will take all necessary steps to mine around all in Pit dewatering bores in such a way that no damage (or destruction) of the bores occurs. A mining plan for mining around the bores which will allow the bores to be re-equipped and re-used to dewater the Mine will be developed in consultation with, or by the Company's Representative.
- (f) The Contractor acknowledges that, once the bores are installed and are operational that, from time to time and as determined by the Company, the Contractor will be required to assist with the moving and/or maintenance of the bores.
- (g) The cost of pumping stormwater, surface run-off and groundwater and any other water (that is not introduced by the Contractor) from the Pit will be at the relevant rates in the Schedule of Rates. At all times the Contractor must minimise the cost of removal of all forms of water.
- (h) The Contractor is to provide scaled batters and clean, level floors prior to any depressurisation holes, bores and piezometers being drilled. Continuous access to areas of the Pit where this work is being carried out must be maintained by the Contractor until the work is completed, or as instructed by the Company.
- (i) The Contractor will be responsible for installation of the pumping and reticulation required for the removal of water from the Pit bores (including depressurisation), including any upgrading, extension, replacement or removal of dewatering reticulation and fittings and will be charged on a time and materials basis as approved by the Company's Representative.
- (j) The Contractor will provide continuous, safe access to all in-Pit water bores depressurisation holes and piezometers. They may only have their access restricted where agreed by the Company. In addition, the Contractor will ensure that measures are taken to avoid damage/destruction to depressurisation holes, piezometers, water bores and all associated Pit dewatering infrastructure. If damage is unavoidable the Company must be informed and approved prior to commencing works.
- (k) Damage of any of Pit dewatering and monitoring infrastructure, that has not been approved by the Company's Representative, will be repaired or replaced at the Contractors expense, to the original specification as determined by the Company.
- (l) The Company, in consultation with the Contractor, will develop a detailed procedure for drilling, blasting and excavating around in-Pit dewatering bores depressurisation holes and piezometers to minimise the risk of compromising water bores and the cost of such development and of the implementation of the procedure is included in the Contractor's rates.

### **10.3 Procedures**

- (a) The Contractor shall develop and implement procedures to comply with

the overall drainage design for the Mine including surface catchments, roads, dumps and Stockpiles as approved by the Company's Representative. This design, which may be changed from time to time, will direct flow towards designated sumps or settlement ponds.

- (b) The Contractor shall competently manage the nature and extent of required drainage works and will ensure that all required plant, labour and drainage consumables including culverts, pumps and polyethylene piping and all necessary fittings are provided to achieve and maintain external and in-Pit drainage of both storm and groundwater.

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## **11. Topsoil Removal and Stockpiling**

### **11.1 General**

- (a) Ground disturbance will be authorised through a procedure and permitting process prior to ground disturbing activities commence. Movement of personnel, equipment and plant beyond the disturbance footprint is prohibited without the Company's approval.
- (b) Exposure and use of saline soils will be minimised. Vegetation, subsoils and topsoils will be stockpiled separately as directed by the Company's Representative.

### **11.2 Clearing and Topsoil Removal**

- (a) The Contractor shall remove topsoil, subsoil, trees and vegetation as necessary from road or Stockpile or planned development areas, Pit surfaces and footprints of dumps and Stockpiles and stockpile the materials to locations outside the cleared area. The location of the soil dumps will be within five hundred (500) metres (this could be longer) of the source areas and will be determined by the Company's Representative. Trees, vegetation, topsoil and subsoil from other areas may also require stripping and stockpiling at the direction of the Company's Representative. Removal of vegetation will be directed by the Company's Representative.
- (b) The definition of topsoil and subsoil will be determined by the Company's Representative (acting reasonably). All topsoil and subsoil must be stockpiled separately.
- (c) The depth of stripping will be determined by the Company's Representative prior to the commencement of work in a particular area. The Company's Representative may vary the depth as work progresses. The combined depth of topsoil and subsoil may be in excess of one (1) metre, but will generally be a depth of approximately three hundred (300) millimetres.
- (d) The Contractor will require a ground disturbance permit issued by the Company's Representative prior to any clearing or the removal of any vegetation or topsoil taking place.

### **11.3 Topsoil Storage**

- (a) All stripped topsoil and subsoil shall be stockpiled in areas approved by the Company's Representative away from further disturbance. Stockpiles shall not be in excess of 1.5 metres in height and shall be stabilised to minimise erosion at the direction of the Company's Representative. All topsoil and subsoil Stockpiles shall be sign posted,

and have a containment windrow around them and shown on Mine Plan maps. The Contractor acknowledges that all costs of signage, posts and installation are included in the Contractor's rates.

- (b) Topsoil and subsoil materials are not to be stripped while very wet. If watering is required to reduce dust hazard, only potable or sub-potable water is to be used.

#### **11.4 Contaminated Soils**

Contaminated soil or absorbent material will be disposed of in accordance with the requirements of the Company's Representative and the appropriate Government Agency. Any suspected presence of contaminated soil or absorbent material must be reported immediately to the Company's Representative. All soils contaminated by hydrocarbons will be disposed of at a site located within the Waste dump footprint or as otherwise designated by the Company's Representative for bioremediation in accordance with the Company's Representative's directions and if this contamination is at the fault of the Contractor, the cost of moving to the bioremediation site and the costs of bioremediation of this material will be borne by the Contractor.

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### **12. Construction of Haul Roads**

#### **12.1 General**

The Contractor must construct using selected mine waste, maintain and repair all haulage roads, haulage ramps and haulage road and ramp gradients on the Mine, to the design standards prescribed in this Agreement and otherwise in the condition necessary to provide safe, efficient and economical haulage or access as part of the Mine Services consistent with Best Industry Practice. Without limiting the generality of the foregoing, all roads shall be regularly watered, graded and maintained so as to maintain crossfalls and cambers, remove spillage, fill in depressions and rutting as they occur, and keep drains and sumps clear.

#### **12.2 Haul Road Design**

All permanent surface haul roads, access roads, primary Pit and dump ramps and primary dump roads shall be constructed according to designs approved by the Company's Representative to meet the following minimum criteria:

- (a) will be adequate for the safe and efficient operation of the Contractor's Plant and Equipment;
- (b) constructed of suitable materials to provide a non-slippery surface and include provision for adequate drainage;
- (c) cut to within one hundred millimetres (100 mm) of design elevation;
- (d) for two-way roads, driving surface width, excluding drains and windrows, of not less than three and a half (3.5) times the width of the largest haul truck (unless otherwise directed by the Company's Representative);
- (e) longitudinal gradients of not steeper than one in ten (1:10) unless approved by the Company's Representative;
- (f) all necessary reflective delineators, reflective markers and required signage installed and regularly cleaned and maintained; and



- (g) conform with design standards as agreed between the Parties.

### **12.3 Temporary Haul Roads and Ramps**

- (a) The Contractor shall carry out the construction and maintenance of temporary ramps and haul roads necessary to perform the Mine Services. These include:
  - (i) haul roads in and around the Pit mining areas;
  - (ii) haul roads on and around the Stockpile dumps;
  - (iii) haul roads on and around the Waste dumps; and
  - (iv) any access roads required on the Mine to fulfil the requirements of this Agreement.
- (b) The Contractor shall upgrade and construct temporary bench haul roads and in-Pit ramps as required to suit the scheduling of the Contractor's operations. The width and profile of temporary haul roads and ramps shall be adequate for the safe and efficient operation of the Contractor's Plant and Equipment. Temporary ramps may have steeper grades to suit the mining operation.
- (c) Prior to their construction, the Company's Representative must first approve the layout and position of all temporary bench haul roads and ramps and the material with which the temporary bench haul road is to be constructed out of and sheeted with.
- (d) Haul roads and ramps on benches shall not be surfaced or built with "Non-Like" material, without the prior approval of the Company's Representative, and are to avoid Ore zones wherever practicable. For the purposes of this item, "Non-Like" material means material that is distinguishable from the underlying base material in terms of grade, physical and metallurgical characteristics.

### **12.4 General Requirements for Haul Roads**

- (a) The Contractor shall ensure that suitable material is set aside and made available for the construction of haul roads and ramps, which meet the specifications as described by the Company and to ensure that all haul roads and ramps are trafficable under all weather conditions. The Contractor shall provide for the winning based upon size, and transport of such materials. In some areas near Ore, the Company's Representative may require the use of low grade Ore for road construction.
- (b) Due allowance shall be made for controlling surface water to prevent ponding and erosion of the roadway and surrounding terrain. Adequate drainage shall be installed such only clean water is discharged via sedimentation sumps.
- (c) The Contractor shall install and maintain windrows on all haul roads and ramps to approved design and using approved material. Reflecting markers shall be installed and maintained along the edges of all surface haul roads and primary Pit ramps at no greater than fifty-metre (50m) intervals or as otherwise approved by the Company's Representative.
- (d) The Contractor shall provide, install and maintain adequate traffic control signs, traffic control bunds and islands, signals and other

measures for the safe and efficient control and separation of the Contractor's Plant, Equipment and all vehicles.

- (e) The Contractor shall regularly clean and maintain all signs, signals and markers so as to ensure that they are visible and legible at all times.
- (f) If in the opinion of the Company's Representative (acting reasonably), the construction and maintenance of any of the haul roads, access roads and ramps, safety windrows, drains is not adequate for the safe and efficient operation of the Contractor's Plant and Equipment, the Company's Representative may direct that the Contractor modify or upgrade the haul roads and ramps so as to achieve safe operation.

## **12.5 Payment for Construction of Permanent Roads**

- (a) The Contractor acknowledges that the costs of all roads, including permanent and temporary ramps and bench roads, within the Pit or to Processing Plant, designated dumps, and Stockpiles are included in the Contractor's rates.
- (b) The cost of other roads, if requested by the Company, will be undertaken using the rates in the Schedule of Rates or on a dayworks basis as directed.

## **12.6 Construction of Pits**

- (a) The Contractor must construct, maintain and repair all pits, walls, wall angles, berm widths cleanly so as to maximise safety and stability and minimise the amount of necessary drainage works and erosion, to the reasonable design standards prescribed by the Company's Representative in accordance with this Agreement and otherwise in the condition necessary to provide the Mine Services for the duration of this Agreement.
- (b) The Contractor must treat all walls carefully during blasting operations using controlled blasting or other agreed blasting techniques designed to achieve good wall quality as approved by the Company's Representative. All final walls must be scaled and free of loose rocks and left in a stable condition until the Pit is finished.

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# **13. Drilling and Blasting**

## **13.1 General**

- (a) The Contractor shall prepare all areas for drilling. This shall include, all ground preparation required to clear the area ready for safe drill access, preparation of drill sites on the front of the bench adjacent to previous blasts as well as setting out of blast holes according to the blast master plan and Company-reviewed shot designs.
- (b) The Contractor shall carry out the drilling and blasting operations subject to the requirements of the Company.
- (c) The Contractor shall conduct and control its drilling and blasting operations in such a way as to achieve planned fragmentation as well as minimum heave and movement over the whole blast, including damage to walls and berms.
- (d) The Contractor must be equipped to use both non-electric (i.e Nonel)

and electronic detonation systems for blasting subject to the requirements of the Company.

- (e) The Contractor must address wet weather periods and the presence of any groundwater and the use of emulsion explosives may be required, with the Company's consent. (All product to be inhibited and tested for sleep time).
- (f)
- (g) The Contractor is responsible for Drill and Blast designs, which must be approved by the Company.

### **13.2 Protection of Drilling Areas**

The Contractor shall be responsible for protecting and maintaining all drilling areas and drilled holes including the erection and maintenance of barricades, signs, lights or any other warning devices, control of drainage and installation of windrows.

### **13.3 Dust Suppression**

The Contractor shall provide efficient dust suppression units on all of its drill rigs used for production and miscellaneous drilling. Dust suppression units shall be installed, adjusted and maintained in accordance with the manufacturer's specifications and shall be used at all times that a drill rig is being used. Care shall be taken to ensure that dust extraction systems also operate effectively when drilling angled holes.

### **13.4 Company's Requirements For Drilling and Blasting**

The following are the Company's requirements for the Contractor's drilling and blasting activities:

- (a) when blasting is required, suitable drill patterns and blast designs within Ore and Waste shall be submitted at least twenty-four (24) hours before the scheduled commencement of drilling by the Contractor for review by the Company's Representative. This plan shall take into account the need to minimise over break, minimise blasting dilution, minimise oversize generation, eliminate damage to final walls, avoid fly rock, minimise heave and minimise oversize. The maximum lump size for Ore is one thousand millimetres (1,000 mm) in any dimension following blasting;
- (b) when blasting above the designated water table and where it is agreed by the Company's Representative that it is impractical to use a dry blasting agent as a result of likely water inflows, a design suited to the use of a bulk water proof explosive shall be presented to the Company's Representative for review. Any decision to use waterproof explosives above the water table must be approved by the Company; (Inhibited explosives to be used)
- (c)
- (d) the Company will provide permanent Survey Base Station for GPS corrections. The Contractor shall be responsible for the actual marking out of blast patterns as approved through relevant blast approval notices, using spray paint or other suitable method, or automated drill guidance systems, prior to the commencement of drilling;

- (e) drilling and blasting procedures against Pit walls shall always be carried out so as to protect wall rock from blast damage. The Company's Representative may direct that modified production blast or trim patterns be drilled along Pit walls. In this event the Contractor will provide a drill and blast plan for review by the Company's Representative and the proposed charging and initiation methods twenty-four (24) hours prior to commencement of drilling;
- (f) drilling and blasting of drop cuts for the establishment of new benches or haul roads shall be carried out so as to protect nearby Pit walls from damage, keeping the heave and movement of material to a practical minimum;
- (g) the Company's Representative may direct the Contractor at any time not to fire any blast if, in the opinion of the Company's Representative:
  - (i) the infrastructure, roads and Pit areas affected by the blast are at risk;
  - (ii) the blast will occur outside the allowed times;
  - (iii) prevailing weather conditions could result in unacceptable dust or noise nuisance; or
  - (iv) its grade control information for the blast is incomplete;
- (h) drilling and blasting within a five hundred metre (500 m) radius of permanent installations or dewatering bores shall always be carried out following the restricted blasting conditions procedure, developed by the Contractor and approved by the Company so as to prevent damage due to blasting;
- (i) stemming will be provided on the Site by the Company to the Contractor free of charge. If the Contractor uses greater than 10% more stemming than that which has been deemed required based upon the blast designs, the additional stemming will be at the Contractor's cost and charged by the Company at a rate of \$30 per tonne. The Contractor is responsible for the transportation within the Site and installation of stemming material. In the event that crushed rock is considered unnecessary by the Contractor, other stemming material may be used subject to the prior approval by the Company's Representative; and
- (j) if Fibrous Minerals are identified in blast hole drill cuttings the Contractor will adopt those procedures for the handling of Fibrous Minerals as determined and defined by the Company.
- (k) The Company has the right to optimise or modify the blasting parameters at any time without additional cost.

### **13.5 Blast Approval Notices**

- (a) As part of production scheduling, the Contractor will develop a system of blast approval notices for each planned blast, which identifies individual blasts by number. The shape and orientation of each pattern will be determined by the nature and orientation of Ore in the blast and any access and clearance constraints.
- (b) The Company will provide sufficient geological information to enable the

Contractor to plan the initiation sequence to minimise internal blasting dilution and to protect final Pit walls.

- (c) The blast approval notices will include:
  - (i) date and time;
  - (ii) blast plan number;
  - (iii) location;
  - (iv) pattern parameters including hole diameter, burden, spacing, bench height, hole depth (excluding sub-drill);
  - (v) sub-drill;
  - (vi) explosive type and powder factor;
  - (vii) hole stemming height;
  - (viii) initiation method, timing and proposed firing direction;
  - (ix) blast volume and material split (Ore of different grades and Waste); and
  - (x) a scale plan of the pattern shall be presented with all blast approval notices.
- (d) All blast approval notices must be presented to the Company's Representative for review no later than twenty four (24) hours prior to the scheduled time to conduct the blast. No deviation from an approved blast will be permitted without the written consent of the Company's Representative.
- (e) The Company's Representative may reject the blast approval notice provided by the Contractor at any time and require the Contractor to modify and resubmit its blast approval notice if, in the opinion of the Company's Representative, the notice does not meet the required specifications.

### **13.6 Drilling Tolerances**

- (a) To ensure consistent explosive distribution, safe Pit bench conditions and accuracy of grade control the following tolerances for drilling of blast holes and grade control holes are required:
  - (i) the drillhole collar shall be within one hundred millimetres (100 mm) of the planned position;
  - (ii) the inclination of the drillhole shall be set up ("collared") within three degrees (3°) of the design inclination; and
  - (iii) blast hole depth shall be such that the actual base of the hole, ready for charging, shall be positioned within one hundred millimetres (100 mm) of the planned base of hole elevation.
- (b) To ensure adequate wall stability and achievement of Pit designs the following tolerances for drilling of inclined or batter holes are required:
  - (i) the drillhole collar shall be within one hundred millimetres (100

mm) of the planned position;

- (ii) the inclination of the drillhole shall be set up ("collared") within 2° of the design inclination in directions both parallel and perpendicular to the proposed pit wall line;
  - (iii) drillhole depth shall be such that the actual base of the hole, ready for charging, shall be positioned within one hundred millimetres (100 mm) of the planned base of hole; and
  - (iv) reduced feed pressure and/or guide rods are to be employed to encourage hole straightness.
- 
- (c) The Contractor shall maintain the quality of the drilling standards by implementing a drill and blast QA/QC programme. The drill and blast QA/QC programme will, as a minimum, meet the requirements of the Company.
  - (d) Should the Contractor encounter difficult drilling conditions during drilling that preclude achieving the above tolerances, it shall immediately bring them to the attention of the Company's Representative.
  - (e) The Company's Representative may reject any drillholes, which are not within the above tolerances. The Company's Representative shall advise the Contractor of the rejection of any drillholes drilled under its direction within twenty-four hours of being notified by the Contractor of the completion of the holes. The Contractor shall promptly re-drill any such holes without additional cost to the Company. In the event of substantial non-conformance with the tolerances, the Contractor shall modify its methods and or equipment as necessary to prevent the problems reoccurring.
  - (f) For batter and angled batter drillholes, the Company shall not be obliged to pay for drillholes that are found to be outside of tolerance when excavation has been completed. If the Company pays for any batter drillholes and subsequently discovers they were non-compliant, the Company is entitled to a refund on account of the amount paid for the non-compliant drillholes.
  - (g) The Contractor shall redrill or flush out any holes that have collapsed or been lost at its own cost except that the Contractor has made no provision in its Contract rates for any holes that have collapsed and have to be redrilled as a result of negligence on the part of the Company or other parties that the Contractor has no reasonable control over.

### **13.7 Grade Control Drilling and Sampling**

- (a) The primary method of grade control will be via blast hole using down-hole geophysics. Sampling of approximately 1 in 50 holes will be undertaken from the blast hole collar after the hole is drilled. The Company's Representative shall be responsible for taking samples and the Company shall log the samples to the blasthole location. The Contractor shall ensure that drill rigs do not trample over blast hole cuttings prior to sampling by the Company. All drill-hole including collars shall remain undisturbed until the Company's Representative has completed the required grade control process. In the event that blast hole cuttings are lost or otherwise disturbed to the extent that the Company cannot obtain a representative sample from the cuttings,

then the Contractor shall re-drill the hole without cost to the Company.

- (b) The Contractor acknowledges that it has made adequate provision in the Contractor's rates to allow the Company's personnel to take blast hole samples between the drilling and blasting processes. Unless otherwise informed by the Company's Representative, the Contractor should allow for samples to be taken from all Pit blast holes.
- (c) Sample results will be interpreted by the Company's geologists and plans drawn up for marking out blocks of Ore according to classification, Waste inclusions in the Ore zone and perimeter Ore/Waste contacts. A copy of the electronic mark-out plan will be provided to the Contractor.
- (d) The Ore/Waste interface and grade zones will, unless otherwise directed by the Company's Representative, be marked out using machine guidance files loaded on the contractor's dig units.
- (e) The process of assaying, interpreting results and marking out of Ore blocks may require, from taking of the sample, up to five (5) days. The Contractor shall schedule its day to day mining operations to accommodate the time necessary for these activities.
- (f) Mining will not be permitted in the vicinity of the Ore blocks until contacts have been clearly marked by the Company's Representative. The Contractor shall mine as accurately as possible to Ore and Waste block outlines. It is an essential requirement of this Agreement that the Contractor conducts Ore mining operations to minimise the amount of dilution or Ore loss between Ore and Waste zones. To this end, when mining Ore boundaries, the Contractor must supply a mining methodology procedure for approval of the Company's Representative.
- (g) If, in the reasonable opinion of the Company's Representative, the Contractor's selective mining operations are not achieving acceptable Ore recovery, including dilution, then the Company's Representative may request the Contractor to modify its operations at its own cost, provided that any changes requested by the Company's Representative are within the reasonably contemplated scope of the Agreement.

### **13.8 Blasting**

- (a) General Requirements
  - (i) At all times that charging and blasting is in progress, the Contractor shall have on Site a suitably trained and qualified supervisor responsible for the immediate supervision and control of this work.
  - (ii) The Contractor shall appoint a drill and blast supervisor who shall have defined authority and responsibility for ensuring that the requirements of the Agreement with respect to drilling and blasting are implemented and maintained. The drill and blast supervisor shall have experience of work of similar magnitude and complexity as the drill and blast work under this Agreement. Contractor's drill and blast supervisor shall meet the criteria stated in Schedule 5 and is subject to the prior approval of the Company.
  - (iii) The Contractor shall ensure that blasting operations incorporate the requirements of noise management as

detailed in this Agreement.

(b) Drilling Plan

- (i) When areas of material requiring blasting have been identified by the Company's Representative, the Contractor shall prepare and submit for each bench a blast master plan which will include the area to be blasted, sequence of blasting, and identify each blast by individual number.
- (ii) The Contractor shall submit an individual drilling plan for each blast. The drilling plan submitted by the Contractor shall indicate the proposed location of blast, spacing, burden and diameter of blast holes, depth of sub drill and hole inclination together with anticipated powder factor, bulk explosive type, stemming depth and direction of firing. A blast may include more than one drilling plan area.
- (iii) The drilling plan shall be submitted to the Company's Representative for review at least twenty four (24) hours prior to the requirement to commence drilling.
- (iv) Once satisfied with a drilling plan, the Company's Representative will sign the plan as submitted or, after discussion with the Contractor, propose changes to the proposed drill patterns or other details.
- ~~(v)~~ The Contractor shall be responsible for the actual marking out of blast patterns as approved through relevant blast approval notices using automated drill guidance systems. All drill rigs must be equipped with functional and calibrated machine guidance system for drilling.
- (vi) Once all the drill holes have been marked up on the ground, the Contractor must provide a drill pattern plan that will show total number of holes, total volume in BCM for the pattern, individual number of holes with the designed drill depth (inclusive of subdrill) before drilling can commence.
- (vii) During drilling of each block, observations of hardness, occurrence of voids or broken ground, water encountered and free water standing in completed holes shall be marked by the Contractor on the drilling plan and the boundaries between Ore and Waste when available shall be added by Company's technical staff.
- (viii) After the completion of drilling of each block, the actual depth of all holes must be recorded. Any holes that do not go to within one hundred millimetres (100 mm) of the designed depth, must be cleared or back filled to the designed drill depth.
- (ix) Prior to blasting, the Company's Representative, at Company's Representative's sole discretion, may survey all individual blast holes.
- (x) At the completion of drilling, the drill plan with actual depths of holes and observations marked up, shall be supplied to the Company's Representative.



(c) Blast Plan

- (i) At the completion of drilling, the Contractor shall mark on the blast plan detailed proposals regarding the blast blocks, loading of each blast hole including type of explosive, powder factors, sequence of initiating and delaying the blast and other details (such as uncharged collar length, subdrill length and stemming height) as required by the Company's Representative.
- (ii) The blast plans shall be submitted by the Contractor at least twenty four (24) hours prior to the requirement to commence charging the blast.
- (iii) The blast plan prepared shall be submitted to the Company's Representative and be identified by a number. Once satisfied with a blast plan, the Company's Representative will review by signing the blast plan as submitted or, after discussion with the Contractor, propose changes to the proposed type of explosive, weight of charges, delay sequence and any other details.

(d) Dispute Resolution Regarding Alterations to Drill and Blast Plans

The Contractor may raise objections to changes made by the Company's Representative to drill and blast plans. These objections are to be noted on the relevant plan. If the changes made by the Company's Representative to the plan lead to the Contractor suffering unreasonable hardship, the Parties may reach agreement as to compensation or refer the matter for resolution in accordance with clause 17 of this Agreement.

(e) Materials

- (i) The Company will ensure that all explosives and blasting accessories are within the manufacturers' specifications and the Contractor shall not utilise any product that is not within the recommended use by date.
- (ii) All blast holes are to be stemmed with screened crushed aggregate. Any blast holes that contain Ore or suspected Ore shall be stemmed with screened crushed Ore. The Company will make available stemming material of DSO or hematite for both Waste and Ore, The Contractor will only use DSO or hematite as stemming in Waste shots and DSO or hematite as stemming in Ore shots unless approved by the Company's Representative. The Contractor shall use reasonable endeavours to ensure that stemming material is used efficiently and not wasted. Wastage beyond 10% of the designed usage will be paid for by the Contractor to the Company at a cost of \$30 per tonne.
- (iii) Drill cuttings are not to be used for stemming without the authorisation of the Company's Representative.

(f) Charging Operations

The Contractor shall develop and implement procedures for the blasting operations that will be approved by the Company's Representative. The Contractor shall provide the proposed procedure which shall include but

not be limited to the following:

- (i) Storage, handling and management of explosives;
- (ii) management of magazines, including stock control and security;
- (iii) blast warning, clearance including guards and notification procedure;
- (iv) lightning risk;
- (v) misfire;
- (vi) licensing and statutory requirements;
- (vii) competency assessment and training;
- (viii) blast notification and communication;
- (ix) blast postponement, including security measures;
- (x) clean up methods; and
- (xi) QA/QC of drilling, charging and blasting programs.

The Company's Representative will electronically mark-up the boundaries between Ore and other material on the top of the blast after blasting has taken place. The Contractor acknowledges that any interruptions or delays that these activities may cause to its Mine Services operations and the overall costs are included within the Contract rates.

(g) Direction to Change Blasting Procedures

The Company's Representative may direct the Contractor to modify its procedures for the conduct of blasting operations and clearance of blasts if, in the Company's Representative's reasonable opinion, they:

- (i) do not ensure the safety of any people, plant, equipment, dewatering bores and permanent or temporary installations;
- (ii) do not comply with the requirements of the Mine Safety and Inspection Act 1994. and regulations or any Government Agency;
- (iii) cause unacceptable interference to the Company's other business activities;
- (iv) cause unacceptable interference to the local community;
- (v) do not meet acceptable QA/QC standards;
- (vi) cause unacceptable geotechnical consequences as a result of blasting damage; or
- (vii) cause unacceptable damage to Pit walls, batters, berms, ramps and hall roads.

(h) Blast Report

At the conclusion of each blast, the Contractor shall submit a blast report to the Company's Representative. The blast report shall contain:

- (i) a copy of the relevant blast approval notice;
- (ii) copies of the QA/QC sheets for the blast; and
- (iii) a blast summary detailing:
  - A. an assessment of the blast performance, specifically, muck pile profile and back break;
  - B. identification and location of known or suspected misfires;
  - C. identification and location of known or suspected oversize;
  - D. number and location of any holes not charged; and
  - E. identification of any issues that may relate to blast performance, geology, geotechnical structures, wall stability, digger productivity, oversize and other relevant matters.

The Company reserves the right to modify the minimum requirements of the blast report at any time.

- (i) Explosives Magazine and/or Manufacturing Facility
  - (i) The Contractor shall maintain the explosives magazines, including, but not limited to, the supply and maintenance of explosive magazine license, permits, fencing (magazine area already fenced), security, protective bunding, access roads, lightning protection, fire protection, clean up and disposal of packaging and explosive spillage, staff and visitor safety training and record-keeping associated with the magazines. The Contractor acknowledges that the Company is supplying the level pad, external fences with lightning earthing and the access roads (to and from) for the magazine compound.
  - (ii) The Contractor will obtain and maintain current for the duration of the Mine Services any licenses and permits required for the use of magazines on the Site as supplied by the Contractor. The Contractor shall provide a copy of any such license to the Company's Representative

### **13.9 Drilling and Blasting QA/QC**

- (a) No later than eight (8) weeks prior to the Commencement Date, the Contractor shall provide the Company's Representative with a Drilling & Blasting QA/QC programme for approval. The aim of the QA/QC programme is to:
  - (i) monitor the quality of the drilling and blasting activities;
  - (ii) correlate blast performance with blast design, digger productivity, quality of work and downstream effects within the processing plant(s); and

- (iii) maintain records for future production and cost analysis.
- (b) As a minimum, the programme shall contain the following:
  - (i) drilling and charging procedures that include measuring the hole depths after the drilling process, immediately prior to charging, post charging and post gassing (stemming depth);
  - (ii) recording of observational aspects of blasts (such as cavities, ground structures, drilling problems, slumped stemming and dropped detonator leads);
  - (iii) checks on burden and spacing accuracy, hole inclination and deviation from design etc;
  - (iv) tie in inspections and sign off;
  - (v) when requested by the Company's Representative, photographic and/or video records of each blast; and
  - (vi) a reconciliation of design versus actual powder factor, charge weight, blast volume.
- (c) The Company reserves the right to modify the minimum requirements of the QA/QC programme at any time.
- (d) A QA/QC report will be submitted to the Company's Representative as part of the blast report after each blast.
- (e) The Company's Surveyor may undertake as drilled collar check surveys for QA/QC purposes. The report of the as drilled collar positions versus design drill positions can be shared with the Contractor for continuous improvement purposes.

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## **14. Excavate, Load, Haul and Dump**

### **14.1 General**

- (a) The Contractor shall develop detailed operating procedures, for review by the Company's Representative, that ensure mining is conducted in a safe, efficient and practical manner. These procedures shall be in accordance with the requirements Work Health and Safety Act 2020, the Company, and the provisions of this clause and Best Industry Practice.
- (b) The Contractor shall selectively mine, haul and dump Ore into the Primary Ore Crusher at a production rate consistent with the Short Term Mine Plan and any amended rate of production that may be directed by the Company pursuant to the Agreement.
- (c) Ore shall be mined selectively following the boundaries of the blocks of the various types and classifications of Ore marked out on the bench prior to excavation.
- (d) The Contractor may only substitute alternative Ore excavating equipment with the approval of the Company's Representative and any such substitutions of Ore excavating equipment will not be a variation to the Contract.

- (e) Ore, sub grade and any other mineralised material designated to be crushed shall be delivered to the Primary Ore Crusher or Mine Stockpile areas or as directed by the Company's Representative.
- (f) It is the responsibility of the Contractor to haul and dump material at the correct location according to the Ore blocks as marked out and the associated Waste areas in the Pits. Any blocks or material incorrectly dumped shall be reloaded, hauled to and dumped at the correct location at no cost to the Company.
- (g) Stockpile areas will be constructed, levelled and trimmed by the Contractor and all works associated with dumping, construction or reclaiming of Stockpiles, the Contractor acknowledges that the cost of such work is included in the Contractor's rates.
- (h) Material within areas of muckpiles delineated as containing Fibrous Minerals will be excavated, hauled and dumped as outlined in the Company's procedures for the safe removal of Fibrous Minerals from the Mine.
- (i) It may be necessary for geotechnical or other safety reasons for the Company to restrict haulage on short stretches of pit ramps to one-way sections for dump trucks. The Contractor will not be entitled to additional payment or production relief for these situations unless significant stretches of pit ramp are restricted or the restriction is in place for a significant period of time.
- (j) All excavate, load, haul and dump activities are subject to the Company's policies or procedures and are undertaken at no additional cost.
- (k) The Company is responsible for the design of pits, waste dumps, stockpiles and roads. The Company has the right to modify pit, waste dump, stockpile or road designs if required.
- (l) The Company is responsible for providing the Short Term Mine Plan (three month plan updated monthly).
- (m) The Contractor is responsible for providing the Weekly Mine Plan (two week plan updated weekly), which must be approved by the Company.

## **14.2 Mining of Ore and Waste**

- (a) Selective Mining
  - (i) Ore mining will require selective mining to ensure a consistent crusher feed grade for the Primary Ore Crusher. It is a fundamental requirement of the Agreement that the Contractor conduct its mining operations in the zones requiring selective mining in such a way as to reduce, to a practical minimum, both the amount of dilution of Ore due to Waste and low-grade material included in Ore mined, and the amount of Ore included in Waste and low-grade material.
  - (ii) The Contractor shall provide for any delays and interruptions caused to its operations by all the activities carried out by the Company's Representative in the collection of geological data and direction of mining operations in the zone requiring

selective mining.

- (iii) The Contractor shall be responsible for maintenance of correct operating levels from bench marks developed with reference to the existing Mine survey control.
- (iv) All Ore boundaries will be mined following the approved procedure according to the direction and to the satisfaction of the Company's Representative (acting reasonably).

(b) Excavation Sequence and Scheduling

- (i) The Contractor, with the approval of the Company's Representative, shall determine the sequence of excavation in all areas. In general, on Ore boundaries all material shall be excavated in a series of strike-aligned cuts from the hanging wall to the footwall.
- (ii) The scheduling of the excavation of different parts of a blast may be dependent on the need for blending of crusher feed to meet head grade and throughput targets and other constraints such as space availability on the crusher pads and rehandling Stockpiles. This may require the Contractor to sequence its excavation plans for a blast to allow excavation of these parts to be delayed or brought forward or alternately to mine Ore from two separate locations concurrently for the purposes of blending the Ore feed from the pit to the primary crusher. The Contractor will accept to relocate an additional dig unit from the ROM to the Pit to allow for Ore mining from two separate locations concurrently if required for Ore feed blending. The Contractor's prices for excavate, load, haul and dump include an allowance for these requirements. The Company's Representative may direct the Contractor on the need for such modification of its excavation activities.
- (iii) During Primary Ore Crusher downtime, the Contractor shall not use the Ore mining fleet for Waste or Ore excavation without the Company's approval. The Contractor shall consider synchronizing the maintenance of the Ore mining fleet during this time. The standby time of equipment and personnel during this period is not taken into account.
- (iv) The Company has the right to modify the mining and dumping sequence if required.

### **14.3 Excavation Requirements and Tolerances**

(a) General

- (i) The method and standards of operation shall include control measures for the excavation to produce the finish, elevations, gradients and housekeeping specified for benches, ramps, drop cuts, batters, berms and other controlled excavation areas.
- (ii) Particular concern and attention shall be paid to the wall design specifications and each part of the wall shall be finished to the satisfaction of the Company's Representative before the next part is commenced.

- (iii) The Contractor shall be responsible for adhering to the line, level and dimensions of all workings as specified by the Company's Representative. The Company's Representative will make no payment for areas excavated outside the limits specified unless in accordance with clause 14.3(c).
  - (iv) The Company shall provide reasonable consideration to the working widths of the of the Contractor's approved mining equipment.
- (b) Excavation of Benches
  - (i) The Company's Representative shall specify the level of each bench, or shall define the elevations of the bench floor to be mined. The Contractor shall carry out maintenance of correct bench levels from benchmarks developed with reference to the existing Mine survey control.
  - (ii) In general, benches will be drilled, blasted and mined on twelve (12) metre heights unless otherwise directed or agreed to by the Company's Representative.
  - (iii) Benches shall be excavated to within plus or minus two hundred millimetres ( $\pm 200$  mm) of the level specified by the Company's Representative. All benches shall be excavated so as to prevent and manage ponding of water.
  - (iv) Mining floors shall be kept clean and clear of blast debris and spillage. Toe shall be removed from the Pit floor promptly and always within seven (7) days of its exposure. This shall be carried out by mechanical methods unless otherwise approved by the Company's Representative. All toe rectification will be at the Contractor's own cost unless the Contractor can demonstrate that the toe was due to a failure of the Company supplied explosives or a Company directed change to the Contractor's proposed blast design.
- (c) Excavation of Batters
  - (i) Toe position shall be excavated by the Contractor to within plus or minus three hundred millimetres ( $\pm 300$  mm) of the design in weathered material and plus or minus five hundred millimetres ( $\pm 500$  mm) in transitional and fresh material, both tolerance limits to be measured on a horizontal plane.
  - (ii) All batters shall be blasted and trimmed to design and finished so as to ensure that the batter face and crest is left clean and tidy with a smooth profile and free of loose rocks before mining of the following bench commences.
  - (iii) Where loose or potentially dangerous material remains outside of the designed Pit wall or berm, then the Contractor shall remove such material until a stable profile is obtained which is free from loose rocks. Any such works shall be only undertaken after consultation with the Company's Representative and must be approved. Any material in this case will be added to the volumes and shall be paid within the normal rates.

- (iv) Where the wall is free of loose materials and inside the design, the Company may accept this at its sole discretion as the final wall.
  - (v) The Contractor shall at its own cost provide excavation time to scale down walls and trim to designed batter angles and crest and toe positions to the satisfaction of the Company's Representative.
  - (vi) In some instances, the trimmed material may contain crusher feed material. Where the Company's Representative advises the Contractor of the presence of crusher feed material, the Contractor shall trim the batter, stack and load the trimmings in a manner which maximises recovery of the crusher feed material and minimises dilution with Waste.
  - (vii) At the direction of the Company's Representative, the Contractor shall load and haul all material generated by the cutting, trimming, and scaling of batters to the appropriate Ore or Waste Stockpile.
- (d) **Excavation of Berms**

Catch berms within both temporary and final open Pit walls shall be cut and graded to provide free drainage in order to prevent standing water and erosion of Pit batters by overspill and shall be maintained to provide clear pedestrian access at all times.
- (e) **Safety Berms**
  - (i) Safety berm (or catch berm) width and depth interval must suit ground conditions and Pit-wall slope design. The Company's general standard for Pit designs is 7 metre wide berms at 24 metre depth intervals. These design criteria may be adjusted as directed by the Company's Representative to accommodate geotechnical consideration of specific jointing and discontinuities at Pit margins and localised potential for wall instability.
  - (ii) At bench levels where Pit design requires a safety berm to be formed, all blasting (including no sub drilling on blastholes above a berm), scaling, trimming, pre-splitting, post-splitting and chaining of wall batters shall be completed to bench level. The intersection of the descending batter with the berm, the "toe" of the batter, shall be trimmed back to the designed position and the spoil cleared away to leave the berm width clear before commencing to cut the berm crest. All fly rock and other debris shall be cleared away from the berm width before the crest is set.
  - (iii) Any future berm cleaning works undertaken, if not through the fault of the Contractor, will be paid for in accordance with the appropriate items at dayworks rates.
- (f) **Safety Bunds and Windrows**
  - (i) Where any bench is trafficable and it is possible for vehicles to drive over a crest of more than five hundred millimetres



(500mm) in height, the Contractor shall place a temporary safety windrow at half the wheel height of the largest equipment to guard crests before the working place is vacated. Where clean-up is carried out for drilling purposes, a windrow shall be made against all open edges.

- (ii) When drilling is undertaken, appropriate signage, reflective safety cones, and/or safety windrows must be in place to guard or protect the drilling area acceptable to the Company's Representative. The Contractor acknowledges that the cost of safety bunds and windrows are included in the Contractor's rates.

(g) Minimising Material

- (i) The Contractor shall take all necessary precautions to minimise the amount of material which originated from a higher bench but is loaded and hauled on a lower bench (such as "side-cast" material or material lost over a crest during mining). Where this occurs, the material shall be paid for at the source bench RL using calculated survey volumes. The Company may elect to defer payment of estimated "lost" material until the material is mined.
- (ii) In addition, where Ore is irretrievably lost or diluted from such activities the Company's Representative may direct the Contractor to modify its operating procedures as necessary to prevent the problem reoccurring.

#### **14.4 Ore and Waste Haulage**

(a) Delivery of Ore and Waste

- (i) The Contractor shall develop procedures to ensure the safe and efficient haulage of Ore, mineralised Waste and Waste at all times and the Contractor must ensure that adequate speed limits are determined, advised, displayed and observed for all haulage and other vehicles.
- (ii) Ore and other material designated as Ore and Waste shall be delivered to the Primary Ore Crusher, dumps or relevant Mine Stockpile areas or as directed by the Company's Representative.
- (iii) It is the responsibility of the Contractor to haul and dump material from/to the correct location according to the Ore blocks as marked out and the associated Waste areas in the Pit. Any material incorrectly dumped shall be reloaded, hauled to and dumped at the correct location at no cost to the Company. Stockpile areas will be constructed, levelled, trimmed, maintained and watered by the Contractor and the Contractor acknowledges that the cost of such work is included in the Contractor's rates.

(b) Mining and Removal of Waste

The Contractor shall excavate, load, haul and dump Waste at a production rate consistent with Waste mining included in the Short Term Mine Plan. The Contractor shall direct the dumping of the various types of Waste to the designated dumping areas to maximum dump heights,

as directed by the Company's Representative.

(c) Waste Dumps

- (i) Waste dumps shall be limited to areas designated by the Company's Representative and as marked out, cleared and stripped of topsoil under direction of the Company's Representative. Waste dumps shall be limited to a maximum height above ground level to be specified by the Company's Representative.
- (ii) The Company has the right to modify the Waste Dump or Stockpile designs if required.
- (iii) The Contractor shall construct Stockpiles and Waste dumps in accordance with the Company's specifications and approved drawings. Waste dumps shall be maintained to the following standards and/or as approved by the Company's Representative:
  - A. dumps and Stockpiles shall always have an adequate tip head safety windrow for the dump trucks to back up to;
  - B. dump and Stockpile benches shall have a positive incline up to the dump edge of approximately one in twenty within twenty metres (20m) of the windrow;
  - C. except for the edge treatment described above, dump and Stockpiles shall be maintained generally level with adequate attention given to surface drainage. Drainage on dumps shall be controlled by design drainage systems that channel water to sumps as approved by the Company's Representative. All drainage shall be away from the dump face, except at designed drain locations where controls are implemented to prevent erosion of the Waste dump and dispersal of Waste dump material from the toe of the Waste dump.;
  - D. roads on dumps shall be defined with sufficient width for safe operations and kept watered and compacted. Traffic movements on dumps are to be confined to defined road alignments to reduce dust generation and provide traffic control; and the outer faces of the Waste dump will be constructed at the natural angle or rill and the dump height for each lift of the Waste dump will not exceed twenty metres (20m);
  - E. All drainage is to be directed to a final destination of a settlement dam, from which only clean water can be discharged to the environment. All drainage is to be protected to prevent erosion. Evaporation sumps can be used if consideration for overflow has been incorporated.
  - F. Sufficient drainage control will be provided on waste dumps to prevent uncontrolled discharge outside of

the footprint up to and including a 72-hour 100-year annual recurrence interval storm event.

(iv) The Contractor acknowledges that:

- A. the works as detailed in this clause are included in the Contractor's rates;
- B. re-profiling of batters of Waste dumps to an angle of seventeen degrees (17°) from the horizontal are included in the Contractor's rate for Waste dump rehabilitation in the Schedule of Rates;
- C. selective dumping and covering of any sulphide material to control acid water runoff is included in the Contractor's rates.

(d) Spillage

The Contractor shall take care in the loading of its trucks to prevent spillage of either Ore, low grade Ore, mineralised Waste or Waste. The Contractor shall promptly clean up any such spillage ensuring that crusher feed material is not mixed with mineralised Waste or Waste and the Contractor acknowledges that the overall costs are included within the Contractor's rates.

(e) Recording of Planned Haulage Destinations

The Contractor shall develop a procedure and mechanism that records and ensures that all material hauled is dumped at the planned destination for that material type and to report any deviation to the Company's Representative immediately. Records of loads hauled (including type, source, destination and haul distance) shall be made available at the end of each shift in a format that integrates into the Company's Manufacturing Execution Systems (MES).

(f) Haulage Routes and Traffic Management Plan

The Contractor shall develop, implement and maintain, in a format acceptable to the Company's Representative, a register containing all of the haulage routes together with a traffic management plan that are necessary for safe and efficient haulage.

(g) Overhaul

- (i) The Contractor acknowledges that the rates included in the overall excavate, load, haul and dump contract rates allow for haulage of Waste to dump locations and haulage of Ore direct to the Primary Ore Crusher and Ore and other mineralised material to Ore Stockpiles.

(ii) The Company may:

- A. direct the Contractor to deliver Waste to other areas for hard standing, Stockpile preparation, windrow or bund construction or otherwise;
- B. direct selected volume items from the Pit to various Stockpiles;
- C. vary the locations of the dumps and Stockpiles;

and the rates specified in the overall excavate, load, haul and dump Contract rates shall apply according to the haul profile involved.

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## **15. Crusher and Ore Handling**

### **15.1 Ore Supply Requirements**

- (a) Delivery to Primary Ore Crusher or Stockpiles
  - (i) The Contractor will ensure that all material is directed to the planned destination and will develop and implement a procedure to measure its compliance with this requirement. A report of this measurement will be included within the Contractor's daily report.
  - (ii) All Stockpiles will be constructed in accordance with the design provided by the Company.
  - (iii) The Contractor will develop and implement a procedure to manage safe dumping. No tipping over an edge is permitted without an approved windrow in place. Such a windrow will conform to the guidelines set out by all relevant Authorisations and other legislation as a minimum and as otherwise approved by the Company's Representative.
  - (iv) The Ore feeding rate from the Pit to the Primary Ore Crusher must achieve three thousand six hundred (3,600) to four thousand (4,000) dry tonnes per hour (15 – 17 truck loads per hour, based on truck payload with 240t).
- (b) Compliance With Specified Requirements

ROM Ore will be sufficiently compliant with the specifications in terms of size, quantity, Ore type and delivery sequence to allow the optimum (as determined by the Company's Representative in consultation with the Contractor) amount of Ore to be tipped directly from trucks into the Primary Ore Crusher dump pocket. Special care is to be taken to ensure that all Ore larger than the permitted maximum size and foreign material is removed from the Ore feed prior to delivery to the Primary Ore Crusher. The Company may request material other than Ore to be tipped into the Primary Ore Crusher and if so, such material shall be treated as Ore as contemplated by this Agreement.
- (c) Oversize Rock at Primary Ore Crusher or ROM Stockpiles
  - (i) The Contractor will develop and implement procedures that minimize oversize rock from entering the Ore stream at the mining face or Ore Stockpile. The maximum sizes of Ore are defined at item 13.4(a) of Schedule 2.
  - (ii) The Contractor will set aside any oversize material encountered during loading in the Pit or encountered during rehandling from Stockpiles.
- (d) Minimisation of Loss of Crusher Feed Material
  - (i) The Contractor will conduct its operation in such a way that

ensures that the loss or dilution of Ore (or other crusher feed material) is minimised, in particular during blasting and excavating, and secondary breakage of toe or by any other activity.

- (ii) The Contractor will conduct its operation in such a way that Ore (or other crusher feed material) is not lost or diluted during crusher feeding, stockpiling, re-handling, sorting of tramp material, secondary breakage, Waste dumping, stockpiling of low grade Ore or mineralised Waste, or by being made untreatable by contamination with hydrocarbon or any other pollutant.

(e) Secondary Breakage

- (i) The Contractor will sort all oversize material from all Ore or other crusher feed material including any crusher feed material reclaimed from low-grade Stockpiles. Oversize material will be re-sized by secondary breaking to a size that complies with the maximum Ore size requirement and to suit feed to the Primary Ore Crusher. All secondary breakage of oversize material will be by mechanical means and conducted during daylight hours unless approved by the Company's Representative. All secondary sorting and breaking will be at the Contractors own cost unless the Contractor can demonstrate that the oversize was due to a failure of the Company supplied explosives or a Company directed change to the Contractor's proposed blast design.
- (ii) Oversize material will not be allowed to accumulate in the Pit, Stockpiles, around crushers, or elsewhere on the Site. The Contractor will schedule its secondary breakage so that oversize is broken within seven (7) days of being sorted and either fed through the Primary Ore Crusher or otherwise removed as approved by the Company's Representative.
- (iii) The Contractor will pay particular care when secondary breaking oversize and toe in the open pit to ensure that Ore is broken separately to Waste. Loss and dilution of Ore and other crusher feed material will be minimised.

## 15.2 Crushing Plant

- (a) Ore, ranging in size up to a maximum of eight hundred millimetres (800 mm) measured in any dimension, will be loaded into haul trucks at the mine and transported to the Primary Ore Crusher.
- (b) The ROM pad design will accommodate the dump truck traffic movements during the discharge of Ore into the Primary Ore Crusher dump hopper. During periods of crushing downtime, Ore trucks waiting at the Primary Ore Crusher and Ore trucks loaded and on the way to the Primary Ore Crusher may dump on the ROM Stockpile for subsequent reclaim. However, once the first ore truck tips on the ROM Stockpile no more Ore trucks will be loaded unless approved by the Company's Representative.
- (c) Ore trucks queuing at the Primary Ore Crusher is priority, the Contractor shall not dump Ore to the ROM Stockpile without the Company's approval.

- (d) Reclaiming and haulage of Ore material from the ROM Stockpiles to the Primary Ore Crusher may only be undertaken when continuous feeding of Ore from the Pit cannot be achieved.
- (e) The Primary Ore Crusher will be available to receive Ore from the Mine at a rate of twenty point seven million (20.7M) dry tonnes per annum. Scheduled downtime for the Primary Ore Crusher is expected to be twelve (12) hours per week for maintenance, and three (3) days every six (6) weeks for liner and mantle changes. It is intended that the majority of the Ore will be direct tipped by haul truck into the Primary Ore Crusher dump pocket.
- (f) The Primary Ore Crusher will operate at three thousand six hundred (3,600) to four thousand (4,000) dry tonnes per hour and will need to be choke fed.
- (g) The Primary Ore Crusher will discharge to the secondary crusher circuit then onto a Crushed Ore Stockpile (**COS**).

### **15.3 Ore Stockpiles**

- (a) The surface of Ore Stockpile areas will be kept free draining so as to prevent ponding.
- (b) All Stockpiles will have a substantial windrow constructed and maintained when edge tipping by trucks is carried out. The Stockpile surface will be inclined upwards towards the windrow. Particular care will be taken when loading from Stockpiles to prevent undercutting the truck tip-head. Under no circumstances will haul trucks tip on the top of Stockpiles when a loader is reclaiming from the Stockpile. The Contractor must have a Company-approved management plan or procedure before loading from a Stockpile.

### **15.4 Tramp Material**

- (a) Sorting of tramp material contained within Ore or crusher feed material will be conducted so as to minimise the amount of Ore or crusher feed material lost with tramp material. The Contractor will use all reasonable endeavours to ensure that all tramp material is removed from all Ore or crusher feed material and this will be at its cost.
- (b) Sorted tramp material will immediately be removed from the open pit, crusher pads or other areas of the Site but will be properly disposed of as approved or directed by the Company's Representative.
- (c) At the Contractor's own cost, the Contractor will have in place procedures for the early warning of the loss of ground engaging tools from its drilling, loading and hauling equipment and will take all measures necessary to find any lost ground engaging tools and prevent the entry of such material into the Company's Primary Ore Crusher.
- (d) Without affecting the Company's rights under clause 15.5 of the Operative Provisions, if the Primary Ore Crusher becomes blocked or is damaged due to tramp material from any source or oversize crusher feed material, the Company may do any of the following:
  - (i) direct the Contractor to modify its operating procedures;
  - (ii) recover any costs incurred by the Company in clearing the blockage or repairing the damage from the Contractor;

- (iii) direct the Contractor to rectify the blockage at the Contractor's own expense.

## **15.5 In-pit Crushing and Conveying**

- (a) The Company may introduce in-pit crushing and conveying (**IPCC**) during the term of the Contract. The primary impact on the Contractor may be the requirement for fewer trucks than envisaged under the current haul to surface arrangement. The Contractor acknowledges that this option may be considered and agrees to investigate how best to assist the Company in realising the potential cost reductions of the system.
- (b) It is expected that such proposals would be based on the Company providing the IPCC; and
- (c) The Company will consider the possibility of the Contractor operating and maintaining the IPCC.

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## **16. Waste Mining**

### **16.1 Waste Removal**

The Contractor shall remove Waste and mineralised Waste in quantities as specified within the Company's Medium Term Mine Plan to allow for the timely removal of Ore. All Waste and mineralised Waste shall be directed to the respective dump or Stockpile for each mining area from which it is mined.

### **16.2 Rate of Waste Removal**

- (a) Unless instructed otherwise in writing by the Company's Representative, the Contractor shall not exceed the scheduled quantity for Waste and mineralised Waste to be removed in any month by more than 10%.
- (b) The Contractor shall maintain the capability to mine and make up the required Waste and mineralised Waste production in the event of unforeseen delays or delays caused during Ore definition.
- (c) The rate of Waste removal must be sufficient to avoid any restriction to mining of Ore at the required rate as defined within the Short Term Mine Plan.

### **16.3 Waste Dumps and Low-Grade Stockpile**

- (a) Dumps and Stockpiles
  - (i) Waste, mineralised Waste and low-grade material shall be transported and formed into dumps and Stockpiles in areas as directed by the Company's Representative. The Contractor shall ensure that all Waste including mineralised Waste and low-grade material is dumped at the locations directed by the Company's Representative. In the event that material is dumped in an incorrect location, the Contractor shall immediately reload, haul and dump the material at the correct location without cost to the Company.

- (ii) Dozing of Waste dumps, profiling of slopes, and deep ripping in preparation for rehabilitation shall be included in the Waste dump rehabilitation rate in the Schedule of Rates. All final batters will be dozed progressively as these become available and completed prior to demobilisation at the end of the Term, except for low grade which will be stabilised or processed.
  - (iii) The forming of dumps and Stockpiles shall be carried out in accordance with procedures generated by the Contractor and approved by the Company's Representative. Where edge tipping is to be carried out, dumps and Stockpiles shall have a windrow of approved height constructed of suitably competent material and the dump or Stockpile surface shall be inclined upwards towards the windrow. Stockpiles shall be levelled regularly using suitable equipment.
  - (iv) The Company may elect to arrange preparation of Waste dumps and mineralised Waste Stockpile areas in stages to best suit the Company's Medium Term Mine Plan and construction of facilities. The requirement to extend such dumps in stages is deemed to be incorporated into the Contractor's rates.
  - (v) The working surface of dumps and Stockpiles shall be formed and maintained so as to be free draining at all times and within five hundred millimetres (500 mm) of the level designated by the Company's Representative. All drainage on dumps shall be designed and controlled via drains and sumps. Roads on dumps and Stockpiles shall be designed and developed with reference to drawings approved by the Company's Representative.
  - (vi) If the Waste contains low proportions of PAF materials, these will be clearly identified during the Ore and Waste mark up process and will be dumped in pre-prepared containment cells within the Waste dumps. At the completion of each cell, or if so directed by the Company's Representative, it will be covered by suitable NAF material and dozed over. The Contractor acknowledges that the construction and completion of the PAF containment cells is included in the Contractor's rates.
  - (vii) The Contractor shall supply, erect and maintain all signs and markers necessary for the clear marking of dumps and Stockpiles.
- (b) Shaping of Waste Dumps
- (i) The Contractor shall form the outer batters of Waste dumps at a lower angle than the natural angle of repose of the dump to suit subsequent rehabilitation. The slope of the completed dump and Stockpile walls after rehabilitation sloping, shall be equal to or less than seventeen degrees (17°). The Contractor shall profile the batters and berms, establish the surface drainage and deep rip the dump as directed by the Company's Representative.
  - (ii) The Contractor shall schedule the profiling of the final outer face of the Waste dumps and establishment of surface



drainage to suit the rehabilitation programme for the Company. The Contractor acknowledges that all costs for battering dump slopes are included in the Waste dump rehabilitation rate in the Schedule of Rates.

(c) Rehabilitation of the Shaped Waste Dumps

Once the dumps have been shaped, and other earthworks have been carried out including the preparation of surfaces to be rehabilitated, the Contractor shall, if requested, spread subsoil and topsoil (on formed batters at no less than 100mm layer thickness) and, if requested to do so, any subsequent vegetation or other such work will be carried out at dayworks rates.

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## 17. Other Contractor Provisions

The Contractor must provide, construct and maintain in good working order (where applicable and appropriate) the following:

- (a) provide all hazardous material and controlled waste storage and dispensing and disposal facilities sufficient and necessary for Mine Services delivery the minimum standards required by applicable Australian Standards and Codes (Government Regulations) and relevant legislation and by the Company (acting reasonably);
- (b) provide all necessary personal protective equipment, safety equipment and other tools and gear necessary for the Contractor's personnel and subcontractors to perform the Mine Services;
- (c) provide any special equipment required for the maintenance of bench floor levels including high precision GPS;
- (d) provide and install plumbing for the Contractor's own infrastructure and facilities at the Mine and connect to the Company's supplied sewage treatment system;
- (e) construct and install power supply connection and distribution lines within the Contractor's Yard;
- (f) construct, install or otherwise provide internal telecommunications facilities and arrange and pay for external network connection as required in order to carry out the Mine Services;
- (g) construct and install non-potable water storage and distribution lines including a water truck filling facility as required in order to carry out the Mine Services;
- (h) contain all hydrocarbons within sealed bunded areas, and conduct all hydrocarbon transfers in contained areas;
- (i) install drainage and necessary sumps such that all potentially contaminated water, such as that flowing off equipment park up areas, is kept separate to clean storm water and contaminated water from the

workshop or washdown bay;

- (j) all areas of high hydrocarbon contamination potential such as washdown bay workshops or hydrocarbon storage or transfer areas shall have necessary controls installed to prevent contaminated water entering the natural ground and shall be processed via oil and water separators and silt traps;
- (k) ensure adequate security around the area of the Contractor's Yard;
- (l) all internal telephone, fax, mobile telephone requirements as may be required within the Contractor's Yard and other Contractor Site offices, workshops (if any) and in the field as reasonably required in order to perform the Mine Services; and
- (m) construct, install or otherwise provide all other items of plant, equipment and machinery (not otherwise mentioned in this Schedule 2 and excluding items to be provided by the Company under this Agreement) that are necessary for carrying out the Mine Services.

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## **18. Safety Management Plan (Clause 3.4(c))**

- (a) Notwithstanding the requirements of clause 3.4, the Safety Management Plan must include:
  - (i) a safe working and management system, based on risk management principles, for the performance of the Mine Services and the operation of the Mine;
  - (ii) a risk register that is continuously monitored and updated;
  - (iii) appropriate safety precautions and programs so as to prevent injury to persons or damage to property on, about or adjacent to the Site;
  - (iv) a program to train and instruct all employees of the Contractor and its Subcontractors in all safety regulations (including any Site-related safety regulations) and the Safety Management Plan;
  - (v) an emergency response plan;
  - (vi) a fatigue management plan based upon a risk management approach in accordance with government guidelines;
  - (vii) fitness-for-work management procedures including drug and alcohol management. The Company's fitness- for-work and drug and alcohol policies shall be the minimum requirement.
  - (viii) a program to undertake risk assessments and develop safety and emergency response plans, including supplying personnel for an emergency response team or teams from work crews capable of providing an adequate response to emergencies and develop a risk identification and reduction programme;
  - (ix) a maintenance program to ensure that all Contractor's

Plant and Equipment used in providing the Mine Services are maintained in a safe working order and in compliance with all statutory requirements; and

- (x) a Materials Register for the Site which must include comprehensive Safety Data Sheets (SDS) for all materials used or stored on the Site, particularly hazardous materials.
  - (b) The Contractor must prepare, obtain the Company's approval of, and issue to all employees, Subcontractors and their respective employees and ensure they comply with a "Contractor's Safety Handbook" which details safety rules, regulations and procedures applicable to the construction and operation of the Mine and the provision of Mine Services and the response to emergencies.
- 

## **19. Environmental Management Plan**

- (a) Notwithstanding the requirements of clause 3.6, the Contractor must implement an EMP that complies with the obligations of the EMS and the EMP any relevant Government Agency and is approved by the Company's Representative including the rehabilitation of land (on an on-going basis) to the standard outlined in the Company's Land Rehabilitation Procedure and Rehabilitation and Closure Plan and other relevant plans under the EMS as soon as possible after completion of mining in each area of the Mine;
- (b) The Environmental Management Plan (EMP) must be consistent with all relevant Authorisations and:
  - (i) comply with applicable environmental legislation and regulations applicable to the Site and its surrounds, the operation of the Mine and the provision of the Mine Services;
  - (ii) provide environmental controls and auditing;
  - (iii) have a system for dealing with environmental emergencies; and
  - (iv) provide training for relevant personnel.
- (c) The EMP must be prepared in consultation with the Company's Representative and incorporate work procedures, consistent with the Company's EMS, for the following:
  - (i) environmental monitoring;
  - (ii) water management including pit water;
  - (iii) blasting;
  - (iv) heritage and archaeological management;
  - (v) waste management and waste water treatment plant;
  - (vi) hydrocarbon and hazardous materials management;

- (vii) spoil rehabilitation and topsoil management;
  - (viii) vegetation clearing;
  - (ix) native flora and fauna management;
  - (x) bushfire prevention and response;
  - (xi) noise, vibration and dust control; and
  - (xii) management of weeds and feral animals.
- (d) The EMP must include a community complaint register and an environmental incident procedure.
- 

## **20 Rehabilitation Management Plan**

- (a) The Rehabilitation Management Plan must include:
- (i) slope and drainage design; and
  - (ii) timing of rehabilitation of slopes.
- (b) The Rehabilitation Management Plan must be consistent with the Company's Rehabilitation and Closure Plan and must comply with the requirements of all Authorisations at all times and must be submitted for review and approval by the Company no less than eight (8) weeks prior to the Commencement Date.
- 

## **21 Indigenous Peoples Plan**

- (a) The Indigenous Peoples Plan, which is subject to the review and approval of the Company and must be submitted for approval no less than eight (8) weeks prior to the Commencement Date, must include:
- (i) business opportunities for indigenous people;
  - (ii) employment opportunities for indigenous people;
  - (iii) education and training for indigenous people;
  - (iv) employee awareness sessions; and
  - (v) the Contractor's management liaison with the Company's personnel responsible for indigenous matters.
- (b) The Company must reimburse the Contractor for any additional costs (that is, costs not already provided for in this Agreement) incurred by the Contractor, with the prior consent of the Company, in conforming with the Indigenous Peoples Plan (other than any cost incurred in engaging indigenous persons or entities to perform work) except that the Contractor will not be reimbursed for time spent by its staff, management or employees in developing, implementing, complying with, monitoring and auditing that Plan.
-

## **22 Human Resources and Industrial Relations Management Plan**

The Contractor must supply this plan to the Company no later than eight (8) weeks prior to the Commencement Date for review and approval by the Company and will be bound to comply with any approved plan at all times, as amended from time to time as required.

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## **23 Quality Management Plan**

The Contractor must supply this plan to the Company no later than eight (8) weeks prior to the Commencement Date for review and approval by the Company.

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## **24 Asset Management Plan**

The Contractor must supply this plan to the Company no later than eight (8) weeks prior to the Commencement Date for review and approval by the Company

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## **25 Preparation of Plans**

Unless otherwise agreed with the Company, all plans referred to in this Schedule 2 must be prepared by the Contractor in consultation with the Company and submitted to the Company for approval in accordance with the timing requirements of those plans as contemplated in this Agreement. If the Company (acting reasonably) requires changes to a proposed plan before and/or after approving it the Contractor must revise the proposed plan and resubmit it as soon as possible. Any changes to an approved plan must be approved by the Company.

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## **26 Excluded Mine Services**

Unless otherwise specified in this Agreement the following works do not form part of the Mine Services:

- (a) Construction and maintenance of the Company's infrastructure and plant construction on Site.
- (b) Exploration drilling in the pit areas and on the Mining Titles.
- (c) Ore reserve delineation drilling in the pit area.
- (d) Management and operation of the Primary Ore Crusher.
- (e) Management and operation of the Processing Plant.
- (f) Construction materials to be provided by the Company related only to the Miscellaneous Works in Schedule 3.
- (g) Dewatering bores.
- (h) Geotechnical and ground stability drilling and monitoring.

### **Schedule 3 - Description of Mine Services (Explosive Supply and Management)**

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**1. SITE LOCATION**

The Mine Services, including train loading and miscellaneous works described in this Schedule 3 will be conducted at the Site.

**2. CONTRACTOR'S PRIMARY SERVICE OBLIGATIONS**

Refer to clause 3 of the Operative Provisions.

**3. COMPANY'S OBLIGATIONS**

Refer to clause 4 of the Operative Provisions.

**4. VARIOUS**

## Schedule 4 - Statutory Declaration (Clause 10)

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[Name of Contractor]

### Statutory Declaration

**This declaration** is made under the Oaths, Affidavits and Statutory Declarations Act 2005 at  
[ ] on  
[ ] by [ ] of [ ] in Western Australia of  
Western  
Australia, [occupation]:

In the matter of contract dated [ ] (**Contract**)

[ ]  
[ ] ABN (**Company**)

**between** [ ]

**and** [ ] ABN (**Contractor**)

I, the deponent named and described above, do solemnly and sincerely declare that:

1. I have knowledge of the relevant facts and am authorised by the Contractor to make this statutory declaration on its behalf.
2. This statutory declaration is made pursuant to clause [ ] of the Contract in relation to the payment of a progress certificate in respect of the Monthly Claim no. [ ] submitted by the Contractor on [ ];  
[Terms used in this declaration have the same meaning as in the Contract.]
3. All remuneration due and payable to employees of the Contractor for the provision of the Mine Services and the performance of the Contractor's other obligations under the Contract during the period from the date of commencement of any Mine Services to the date of this statutory declaration has been paid.
4. All amounts properly due and payable by the Contractor to consultants, suppliers and Subcontractors in respect of the Mine Services and the performance of the Contractor's other obligations under the Contract have been paid.

**This declaration** is true and I know that it is an offence to make a declaration knowing that it is false in a material particular.

\_\_\_\_\_  
**Signature of person making declaration**

In the presence of:

\_\_\_\_\_  
**Signature of authorised witness**

\_\_\_\_\_  
**Name of authorised witness**

\_\_\_\_\_  
**Address of authorised witness**

**Capacity in which authorised witness takes the statutory declaration**



**Schedule 5 – Contractor’s Personnel, Roles and Responsibilities**

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**SCHEDULE 5-A1 - KEY SITE MANAGEMENT, SUPERVISION & ADMINISTRATION PERSONNEL**

All Contractor Personnel to be employed at the Site will be employed in accordance with the Agreement and subject to the prior approval of the Company.

**Schedule 5-A1**

[To be proposed and presented by the Contractor]

**SCHEDULE 5-A2 - CONTRACT PERSONNEL LIST**

This table shows numbers of all Contractor personnel by position / title for each period that will be engaged to perform the Mine Services. There should be no numbers shown against the category of "other" or "tba", each position / title must be specified. The numbers should be the total personnel inclusive of any roster coverage.

The Company does not acknowledge or warrant that it believes the numbers herein are what is required to perform the Mine Services and the Contractor shall supply all personnel necessary to deliver the Mine Services under the Agreement.

[To be proposed and presented by the Contractor]

Table Schedule 5- A2 – Contract Personnel List

**SCHEDULE 5-A3 - CONTRACT PERSONNEL ORGANISATION CHART**

The below organisation chart shows the proposed reporting structure / linkages between all the Contractor Personnel position / titles described in Schedule 5-2.

Table Schedule 5-A3

[To be proposed and presented by the Contractor]

## **Schedule 6 - Company's Facilities**

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### **1. Site Facilities and Services**

#### **1.1 Site Facilities**

- (a) The Company will provide the following facilities, free of charge (unless otherwise specified anywhere in this Agreement), for use by the Contractor:
  - (i) an area on the Site for the Contractor to operate and maintain the Contractor's Yard including appropriate storage and other facilities that are necessary in order for it to provide the Mine Services. The Contractor will be responsible for maintaining and operating these facilities as per Schedule 6 clause 1.6;
  - (ii) the following facilities for use by the Contractor pursuant to clause 4.10:
    - A. Sleeping quarters for employees with individual ensembles;
    - B. Mess / wet mess facilities;
    - C. Laundry facilities; and
    - D. Recreation facilities.
- (b) The Company will be responsible for maintaining and operating the facilities specified in items 1.1(a)(ii) and for the provision of any further facilities it deems necessary for the safe and efficient conduct of the Mine Services. The Company makes no warranties as to the condition or suitability of the facilities for the continuing operation.

#### **1.2 Electricity Supply**

Without limiting the provisions of clause 4.7 of the Operative Provisions the Company will endeavour to supply a 415-volt, 3 phase 50 hertz electricity supply, available at the boundary of the Contractor's Yard.

#### **1.3 Water Supply**

Without limiting the provisions of clause 4.8 of the Operative Provisions the Company will endeavour to supply:

- (a) Non-potable water to a suitable storage location in the vicinity of the Contractor's Yard, for uses that do not require potable water, such as wash down or local dust suppression water. The Contractor will provide, operate and maintain the water storage facilities and all the appropriate and necessary equipment to draw the water for use as dust suppression including haul road dust suppression.
- (b) Potable water to the boundary of the Contractor's Yard adjacent to the Processing Plant. The Contractor will make its own arrangements for the distribution of potable water from that point to other areas around the Mine. The Contractor will only use potable water for uses

for which potable water is essential.

#### **1.4 Mine**

The Company will:

- (a) provide locations for Waste dumps, topsoil dumps, and all Stockpiles as shown in the LOM Mine Plan. The location and extent of additional Waste dumps, topsoil dumps and Stockpiles will be determined by the Company in consultation with the Contractor and will be subject to the approval of any relevant authorities;
- (b) provide delineation of zones requiring selective mining and Waste zones, including mark-up of zones of Ore, Waste and low-grade materials or any others as may be needed;
- (c) delineation of potentially acid forming materials requiring special handling and disposal;
- (d) provide grade control and geological mapping;
- (e) provide monitoring of dust levels; and
- (f) install any required permanent dewatering bores to limit groundwater inflow into the workings. The Contractor will be responsible for the pumping and reticulation required for the removal of water from these bores, including any upgrading, extension, replacement or removal of dewatering reticulation and fittings and these activities will be paid for on a time and materials basis.

#### **1.5 Surveying**

The Surveying function for all statutory and operational requirements will be responsibility of the Company.

The Company will supply surveying staff to perform the following activities in order to assist the Contractor to execute the Mine Services work:

- (a) Permanent RTK Survey Base Station to provided GPS corrections to the contractors' machine guidance system.
- (b) Establishment and maintenance of control stations around the Mine
- (c) Quantity surveys specific to the mining works, mining and other earthworks generally. This will include volume surveys of the Pit on a monthly basis as well as other relevant quantities to calculate total quantities of Ore and Waste removed in each period for the purposes of measurement of performance and payment.
- (d) Preparation of statutory plans for the Mine.
- (e) Topographic surveys for all mine planning and drilling planning purposes.
- (f) All as built survey services
- (g) Pit wall stability monitoring, as may be required.
- (h) Environmental related survey such as GD boundary Setout, topsoil pickups, PAF cell pickups etc

The contractor is required to have machine guidance on all their drill rigs, dozers,

graders and diggers etc.

The contractor is also required to provide their own GPS repeater radios sufficient to extend the GPS signal from the Company's Permanent Base Station to all their work areas. The Company shall have access to the repeater signal from the contractor's repeater radios.

The Company's Survey team will assist the contractor with ongoing machine guidance system calibration surveys.

## **1.6 Contractor's Yard**

The Company will make the existing Contractor's Yard available for use by the Contractor, on or around the Commencement Date (after demobilisation of the existing contractor), which comprises the following facilities:

- (a) Contractor Office Buildings.
- (b) Heavy Equipment Workshop.
- (c) Ablutions and Toilets.
- (d) Meal / Crib Building.
- (e) Warehouse and Stores Area.
- (f) Light & Heavy Vehicle Parking Areas.
- (g) Contractor's Yard Fencing.
- (h) Bulk Fuel Storage and Dispensing Facilities.
- (i) Bulk Lubricant Storage and Dispensing Facilities.
- (j) Equipment Washdown Facility.
- (k) Tyre Fitting and Storage Area.
- (l) Boilermaking Area.
- (m) Water, Power, Lighting and associated reticulation.
- (n) Sewerage and Waste Water Processing Facilities.
- (o) Power Distribution Facilities.
- (p) Communication Infrastructure and reticulation.

The Contractor shall, at its cost, operate and maintain the Contractor's Yard in good working condition throughout the Term. Upon completion of the Term, the Contractor shall vacate the Contractor's Yard and return it to the Company in good working condition.

The Company does not guarantee the provision of any facilities for the Contractor's use other than those existing on site, which are provided on an **"as is, where is"** basis.

The Company only provides the existing facilities and equipment on site that are owned by the Company, and applies the principle that the Contractor is responsible for maintaining the facilities and equipment it uses. The Contractor must conduct regular inspections and maintenance on all facilities and equipment within the Contractor's Yard, keep accurate and up-to-date maintenance records, and promptly address any issues identified to ensure ongoing compliance with all applicable laws and site requirements.

The Company will conduct periodic inspections of these facilities, and the Contractor must accept and implement any reasonable rectification actions identified by the Company arising from these inspections.

The Contractor shall, at its expense, operate and maintain the Contractor's Yard in good working condition for the Term. Upon completion of the Term, the Contractor shall vacate the Contractor's Yard and hand back the Contractor's Yard to the Company in good working condition.

The Company does not undertake to provide any facilities other than those already on site for the Contractor's use.

The Company only provides the existing facilities and equipment on site that are owned by the Company and adopts the principle of whoever uses it maintains it. The Company will conduct regular inspections of these facilities and if any suggestions for rectification are made, the Contractor must accept and implement them.

## **1.7 Explosives**

The Company will supply all explosives products to the Contractor required to undertake the Mine Services. This supply shall include:

- (a) Bulk explosives delivered to the blasthole by MPU.
- (b) Explosives accessories (detonators, downlines, surface connectors, packaged explosives, pre-splitting explosives, etc).
- (c) Bulk explosives manufacturing and storage compound.
- (d) Explosives magazines and compounds.

The Company will engage a Separate Contractor for the supply of explosives at the Site. The Contractor will cooperate and coordinate its activities with the Company's explosives supplier.

The Contractor will be responsible for the collection of explosives accessories from the explosives magazines, their safe and secure transport on the Site and the return of any unused explosives accessories to the magazines.

[Optional – to be supplied by the Contractor]

# Schedule 7 - Contractor's Plant and Equipment

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## SCHEDULE 7-A1 - CONTRACT PLANT LIST

All Contractor plant and equipment to be used at the Site will be employed in accordance with the Agreement and subject to the prior inspection and approval of the Company.

The numbers of each Contractor equipment by type, make & model for each period that will be used to perform the Services (i.e. one line for each unique make & model).  
The numbers should be the total units including any spare or backup equipment.

The Company does not acknowledge or warrant that it believes the equipment and numbers herein are what is required to perform the Mine Services and

For the purposes of this Agreement, this Schedule 7 comprises the information contained in Schedule 7-A1 and Schedule 7-A2. and the Contractor shall supply all equipment necessary to deliver the Mine Services under the Agreement.

Table Schedule 7-A1

[To be updated and presented by the Contractor]

**SCHEDULE 7 A2 - MAJOR CONTRACTOR PLANT PERFORMANCE**

All Contractor Plant to be used at the Site will be employed in accordance with the Agreement and subject to the prior inspection and approval of the Company.

The performance data by each Plant type that the Contractor assumed in its tender for this Agreement are stated below.

The Company does not warrant or acknowledge the below are appropriate and plant performance risk rests with the Contractor.

Table Schedule 7-A2

[To be updated and presented by the Contractor]

## Schedule 8 - Insurances

### 1. Contractor's Insurances

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- (a) The Contractor's Insurances are:
  - (i) public and third party liability insurance with an overall limit of fifty million dollars (AUD \$50,000,000) for any one occurrence and unlimited in any period of insurance (or such other amount or overall limit agreed by the Project Management Group) covering legal liability (except for those risks specifically excluded) in respect of:
    - A. damage to any real or personal property, including the property of the Indemnified Parties or any other third party; and
    - B. injury to, or death of, any person arising out of provision by the Contractor or its Subcontractors of the Mine Services and its other obligations under this Agreement;
  - (ii) property damage liability insurance covering all Contractor's Plant and Equipment owned, leased or hired by the Contractor used in connection with the Mine Services or the Contractor's other obligations under this Agreement with a limit of the indemnity value;
  - (iii) workers' compensation insurance in accordance with the requirements of the applicable law; and
  - (iv) comprehensive aircraft charterers insurance cover for at least twenty million dollars (\$20,000,000) per event. However, this cover is only required if the Contractor charters any aircraft for purposes connected with this Agreement.
- (b) The Contractor's obligation during the Term is, before being provided with access to the Site, and in any case, no later than eight (8) weeks before the Commencement Date, and at other times reasonably requested by the Company's Representative, to give to the Company's Representative a certificate of currency from the relevant insurer or insurers specifying for each insurance policy of the Contractor's Insurances sufficient information to enable the Company to confirm proof of currency and coverage of each insurance.
- (c) The Contractor must, in relation to the Contractor's Insurances, during the Term ensure that:
  - (i) the public and third party liability insurance provides protection to the Company arising out of the use of the Contractor's vehicles in addition to the Contractor and operates as if there was a separate policy of insurance covering the Company;
  - (ii) the public and third party liability insurance and the property damage liability insurance policies;
  - (iii) note the interest of the Company, and its directors, officers, employees and agents on those policies;
  - (iv) include a cross-liability clause in which the insurer agrees to waive all right of subrogation that it may have or acquire against the insured Parties with each such person being treated as if a separate policy of insurance had been issued to each of them;



- (v) the policies contain a provision that failure by any insured to observe and fulfil the terms of the policy does not prejudice the insurance of any other insured;
  - (vi) the policies contain provisions to the effect that a notice or disclosure to the insurer by one insured Party is deemed to be notice or disclosure by all insured Parties; and
  - (vii) the policies are primary policies and include provisions prohibiting underwriters from seeking contribution from the Company's insurers.
- (d) Whenever the Contractor fails to renew a policy or to pay the premium or a premium element in full when due, such failure shall be deemed to be a Termination Event under the Agreement. The Contractor is required to forthwith promptly provide notice to the Company's Representative of the Contractor's default.

## **1.2 Subcontractor's Insurances**

The Contractor will ensure that all its Subcontractors are covered by the Contractor's Insurances or effect and maintain insurances that are substantially similar to the Contractor's Insurances.

## **2. Company's Insurances**

The Company will be responsible for providing all insurance required for all property at the Site which is owned by the Company, including plant and equipment, buildings and other infrastructure, stockpiled Ore and any Ore in transit owned by the Company, Public Liability and Workers Compensation for the Company's employees.

## **Schedule 9 - Method of Measurement (Clause 10.2(a)(i))**

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### **1. Measurements for Payment Purposes**

#### **1.1 Clearing**

For the purpose of payment, the measurement of clearing will be the net area cleared, measured in units of hectares (**ha**).

#### **1.2 Topsoil Volume**

- (a) For the purpose of payment, the quantities excavated from insitu will be the volume of the void formed by the excavated topsoil measured in units of light cubic metres (LCM).
- (b) For the purpose of payment, the quantities excavated from Stockpiles will be the net difference between the volume of the Stockpiles before and after excavation as measured in stockpile cubic metres (scm).
- (c) If a surveyed volume is not able to be obtained, the measurement will be by truck counts and an assigned truck volume factor (as either LCM or scm per truck) as agreed between the parties.

#### **1.3 Ore and Waste Volume**

- (a) For the purpose of payment, the quantities excavated from insitu will be the net difference between the insitu volume of the voids formed by the removal of the Ore and Waste before and after excavation as measured in units of BCM.
- (b) Where the surface of the excavated voids exceeds in the vertical or horizontal planes the surface of the planned Pit as set out in the Medium Term Mine Plan, the surface applied for the purpose of payment will be that of the planned Pit, unless directed by the Company, in which case the total void surface will be used.
- (c) At the completion of any bench within a Pit shell/stage, as defined by the LOM Mine Plan, a reconciliation of all mining on that bench will be conducted by way of final bench survey. Any discrepancies discovered will be calculated and either paid or recovered by the Company with due consideration to the tolerances allowable in accordance with Schedule 2 clause 14.
- (d) If a surveyed surface to the excavated void is not obtained, the measurement must be either:
  - (i) the net difference between the volumes of the Stockpiles formed by the addition of the Ore and Waste before and after excavation as measured in scm and an assigned factor of BCM per scm as agreed between the parties; or
  - (ii) the number of truck loads hauled from the excavated void and an assigned factor of BCM per truck as agreed between the parties.

And any such payments must be recalculated and adjusted the first time a surveyed BCM can be obtained.

Where the contractor chooses to undertake their own check survey of the quantities for comparison against the Company's Survey quantities, the allowable variation between the 2 surveys is plus or minus five percent ( $\pm 5\%$ ).

#### **1.4 Drilling and Blasting Volume**

- (a) Payment for drilling and blasting will consist of the product of the relevant drill and blast rates and the quantity of drilled metres and number of holes drilled. The quantity of drilled metres and the number of holes drilled will consist of the lesser of the approved blast design and the actual achieved quantities.
- (b) No payment will be made for any holes that are drilled but not charged (unless this is directed or caused solely by the Company) and no payment will be made for any areas that must be refired (unless this is caused solely by the Company).
- (c) The drilling penetration rate refers to the average drilling penetration rate for each blast pattern, calculated using the formula of total actual metres drilled divided by working time. The working time refers to the time from the start of drilling a hole to the end of drilling a hole, including the time for the drill rig to travel from one hole to another hole and time for changing drill rod and drill bit. The working time does not include drill rig downtime, time for travelling between different blast patterns, time for refilling water and fuel etc. The Contractor must provide the Company with original drilling data in a timely manner each day.
- (d) The Contractor acknowledges that all costs associated with secondary breakage including (sorting, rehandling and any overheads), toe rectification, re-drilling of holes or flushing of holes are included in the rates for drilling and blasting. The Contractor will not be liable for secondary breakage that results from a failure of the Company supplied explosives product or a Company directed change to Contractor's proposed blast design.
- (e) At the completion of any bench within a Pit shell/stage, as defined by the LOM Mine Plan, a reconciliation of all blasting on that bench may be conducted. Any discrepancies discovered will be calculated and either paid or recovered by the Company with due consideration to the tolerances allowable in accordance with Schedule 2 clause 14.3.

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## **2. Measurement For Reporting Purposes**

### **2.1 General**

- (a) The Company will perform the surveys of the Mine to determine the total volume of Waste and Ore removed in BCM. Such survey results will form the basis for reconciling any reported material movements.
- (b) Geology will undertake a reconciliation to confirm the split between ore and waste volumes based on the block model/dig plan boundaries and the final as surveyed pit model at the end of each

month.

- (c) The Contractor must once each month (or at such other times as the Parties agree) determine the difference between the "actual" volume of Ore and Waste extracted based on the survey results, and the amounts reported by the Contractor based on truck volume factors in the reports referred to in clause 9.3. Any differences determined by such reconciliations will be added or deducted (as necessary to adjust reported quantities back to "actual" volumes determined by survey) as a "Calibrate to Survey" amount so that monthly totals reflect the survey results.
- (d) For the purposes of auditing and reconciliation of the Contractor's survey, all survey results and supporting documentation (including all field notes and work sheets) will be made available to the Company.

## **2.2 Waste**

- (a) During reporting periods Waste tonnes will be calculated daily by multiplying the number of loads of Waste transported by an agreed Waste tonnage per load factor for each type of truck used. These truck factors will be reconciled and adjusted on a monthly basis in accordance with the survey result.
- (b) All NAF and PAF waste material movements must be tracked and recorded separately.

## **2.3 Ore**

The tonnage of Ore mined and hauled by the Contractor from each mining block to a designated Stockpile each month will be estimated daily by multiplying the number of loads of each run of mine Ore type mined and transported and an agreed Ore tonnage per load factor for each truck type used. These factors will be reconciled and adjusted at the end of each month on the basis of the pit survey and geology reconciliation result.

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## **3. Measurement and Payment for Excavate, Load, Haul and Dump**

- (a) Payment for excavate, load, haul and dump will consist of the product of the excavate, load, haul and dump rates shown in Schedule 12 and the quantities determined by survey. This Schedule provides rates for Ore and Waste.
- (b) The quantities of materials excavated will be determined by the surveyed quantities with Ore determined from reconciled Ore quantities. The ratio of tonnes by material classification may be used to determine the volumes of Ore and the Waste volume will be determined by the remainder.
- (c) In addition to the above, the Company may carry out annual and final Pit volume checks by means of aerial surveys and subsequent volume calculations by a third party contractor. Prior to commencement of the Mine Services, the Contractor and the Company's Representative will agree on a methodology for reconciliation of aerial volume surveys to monthly ground survey volumes mined.

- (d) Material mined outside the boundaries or locations described in the Company's Medium Term Mine Plan, or other than as directed by Company, but in any case within the final Pit limits, will be paid for using the Contract rates, but payment may be deferred to the time the Company's Representative determines that the material would have been excavated according to the Medium Term Mine Plan. In addition, the Company will not be obliged to make payment for any material mined outside the final Pit limits, unless otherwise agreed between the Parties.
- (e) The Contractor is in no way relieved of the obligation to take such remedial action at its own cost as the Company decides is necessary to correct any situation arising from unauthorised over-excavation.
- (f) The Contractor shall record daily the source, destination and haul profile characteristics (distance, vertical extent, etc) applicable to all materials which shall be used to determine the relevant excavate, load, haul and dump prices from the matrices of prices in Schedule 12.
- (g) For determining the relevant excavate, load, haul and dump prices from the matrices of prices in Schedule 12, traveling along the Pit floor or dump surface is treated as flat, no rising factor is applied. All roads designed along the surface are considered to be horizontal roads including, the roads connecting the pit to the crusher and the pit to the entrance of the dump ramp. The gradient of ramps in the pit and dumping areas is designed to be 10%. Downhill loaded truck haulage is considered to be hauling on a flat road.
- (h) The horizontal distance for ore haul is the straight-line distance from the centre point of the pit bench to the entrance of the pit ramp, plus the length of the pit ramp, plus the length of the road from the ramp exit to the crusher. The rising height of the ore haul refers to the vertical height from the level of the pit floor to the exit of the pit as designed. The horizontal distance and rising height of ore haulage to the ROM are the same as those for ore haulage to the crusher, no additional rising height is applied.
- (i) The horizontal distance for waste haul is the straight-line distance from the centre point of the pit bench to the entrance of the pit ramp, plus the length of the pit ramp, plus the length of the road from the pit ramp exit to the entrance of the dump ramp, plus the length of the dump ramp, plus the straight-line length from the exit of the dump ramp to the centre point of the bench of the dump as designed. The rising height of waste haul refers to the vertical height from the level of the pit floor to the exit of the pit as designed, plus the vertical height from the entrance level of the dump ramp to the tipping level of the dump.

## Schedule 10 - Mine Planning and Production Requirements

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### 1. Mining Objectives

The Contractor will be required to feed the Primary Ore Crusher to the extent necessary to achieve the Production Requirements Range each operating Year during the Term as directed by the Company's Representative.

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### 2. Production Requirements Range

For the purposes of this Agreement, the Production Requirements Range is the amount of Ore and Waste planned to be extracted from the Mine, and delivered to the Primary Ore Crusher or ROM Stockpile as detailed in the LOM Mine Plan contained in Exhibit 1.

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### 3. Schedule of Mine Plans and Mining Schedules

Plan / Schedule	Contents	Responsibility	Revision timing
LOM Mine Plan	A plan and schedule for the life of mine but for the purposes of this Agreement only that part of the LOM Mine plan that corresponds with the Term is relevant.  Incorporates mining sequence plans and landform designs.	Company	updated every two (2) years or as required by the Company
Long-Term Mine Plan	A plan and schedule for the Term, or a period of five (5) to six (6) years, including estimated mining sequence plans, landform designs, and a schedule of Ore and Waste quantities and Ore qualities in quarterly periods.  The Long-Term Mine Plan must be consistent with the LOM Mine Plan.  <b>For the purposes of the Agreement, the Long-Term Mine Plan and the LOM Mine Plan are deemed to be the same plan.</b>	Company	updated half-yearly or as required by the Company
Medium-Term Mine Plan	A plan and schedule for a period of up to three (3) years, including mining sequence plans, landform designs, and a schedule of Ore and Waste quantities and Ore qualities in monthly periods.  The Medium-Term Mine Plan must be consistent with Long-Term Mine Plan.	Company	Updated quarterly or as required by the Company

Plan / Schedule	Contents	Responsibility	Revision timing
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Short-Term Mine Plan	A plan and schedule for a period of up to thirteen (13) weeks, including mining sequence plans, a schedule of Ore and Waste quantities and Ore qualities in weekly periods.  The Short-Term Mine Plan must be consistent with Medium-Term Mine Plan.	Company	Updated monthly
Weekly Schedule	A plan and schedule for a period of up to two (2) weeks, including mining sequence plans, a schedule of Ore and Waste quantities and Ore qualities in daily periods.  The Schedule must be consistent with the Short-Term Mine Plan.	Contractor	Updated weekly
Run plan	A plan and schedule for a period of up to one (1) day, which is consistent with the Weekly Schedule and details the shift quantities and qualities of Ore and the shift quantities of Waste.	Contractor	Updated daily

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#### 4. Varying Mine Plans and Mining Schedules

The Company may, from time to time, adjust the Short Term Mine Plan within a range of plus or minus fifteen percent ( $\pm 15\%$ ), on a mass basis (tonnes), from the corresponding period in the LOM Mine Plan by giving no less than one (1) month's prior notice of such adjustment to the Contractor. This Adjustment is not a Variation.

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#### 5. Mining Performance Criteria

##### 5.1 Monthly Movement

- (a) Unless otherwise agreed, in any period of three (3) consecutive months, the Contractor must deliver:
  - (i) more than ninety percent (90%) but less than one hundred and ten percent (110%) of the aggregate monthly mass of all material movements for those months; and
  - (ii) more than ninety five percent (95%) but less than one hundred and ten percent (110%) of the aggregate monthly mass of Ore movement for those months;

as contemplated by the Short Term Mine Plan.
- (b) Over any period of six (6) consecutive months, the Contractor must deliver:
  - (i) more than ninety five percent (95%), but less than one hundred and five percent (105%) of the aggregate monthly mass of all material movements for those months; and
  - (ii) more than ninety five percent (95%) but less than one hundred and five percent (105%) of the aggregate monthly

mass of Ore movement for those months;

as contemplated by the Medium Term Mine Plan.

- (c) If the Contractor fails to achieve the relevant minimum delivery levels under this clause 5.1 for a consecutive period of three (3) months, the Contractor must, within ten (10) Business Days of written notice from the Company, submit to the Company a remediation plan detailing the measures it will implement to address and rectify the underperformance.
- (d) If, following a further consecutive period of three (3) months after submission of the remediation plan under clause 5.1(c)(v), the Contractor continues to fail to achieve the relevant minimum delivery levels under this clause 5.1, the Company must issue a formal notice of underperformance to the Contractor. The issuance of such notice will trigger a review of this Agreement between the parties, to occur within the subsequent three (3) month period.
- (e) If, following the review period under clause 5.1(c)(vi), the Contractor continues to fail to achieve the relevant minimum delivery levels under this clause 5.1, and the Company elects to terminate this Agreement as a result of such continued underperformance relating to productivity or serious safety underperformance, any termination fee otherwise payable by the Company under this Agreement will not be payable, or will be reduced to the extent reasonably determined by the Company, to reflect the Contractor's continued underperformance and the impact on the Company.
- (f) In any case where the Contractor fails to achieve the relevant minimum delivery levels stated in this clause 5.1 the following adjustments will be made by the Company's Representative to payments made to the Contractor for the corresponding period:
  - (i) In the case of 5.1(a)(i), all payments that have been made or are due for the period, that are of a monthly nature as shown in Schedule 12-B3 "Monthly Management Fees" only, will be reduced in proportion to the shortfall of total mass against the minimum delivery level;
  - (ii) In the case of 5.1(a)(ii), all payments that have been made or are due for the period, that are of a monthly nature as shown in Schedule 12-B3 "Monthly Management Fees" only, will be reduced in proportion to the shortfall of Ore mass against the minimum delivery level;
  - (iii) The maximum of the adjustment amounts due under either clauses 5.1(c)(i) or 5.1(c)(ii) will apply to the period involved and these will not be cumulative, that is, the payment adjustment for the period can only be made for failure to deliver against one of the minimum delivery level targets in 5.1(a)(i) or 5.1(b)(ii) but not both; and
  - (iv) Where the Contractor fails to achieve the minimum delivery for a particular period under clause 5.1(b), this will constitute a material breach of this Agreement and this breach will continue until the Contractor has completed all the necessary corrective actions and the actual material movements are compliant to one hundred percent (100%) of the Medium Term Mine Plan.



- (d) The Company's Representative will perform any calculations necessary under this clause 5 including any allowance for Production Target Relief per clause 5.1(f).
- (e) Subject to clause 5.1(f) and clause 5.1(h), the payment adjustments contemplated under this clause 5.1, whether made or not, do not reduce the rights of the Company to demand that any shortfall be made up by the Contractor, with any additional costs incurred in doing so being borne by the Contractor.
- (f) In assessing any shortfall in delivery levels as stated in this Section 5 by the Contractor, reasonable regard shall be given to adverse impacts on the Contractor's performance due to matters beyond the Contractor's control and where justified, there shall be a corresponding reduction in the target delivery levels (Production Target Relief). Such Production Target relief will be provided where the Contractor can reasonably demonstrate to the Company that any of the following matters have occurred and which have unavoidably impacted the Contractor's ability to achieve the minimum delivery levels and where the Contractor receive the Company's approval:
  - (i) an act or omission of the Company (including Scheduled Downtime of the Primary Ore Crusher) that is inconsistent with regularly accepted mining practice or that is inconsistent with other rights of delay by the Company under this Agreement;
  - (ii) failure by the Company to supply, in a timely manner, sufficient quantity and quality of items that the Company is responsible to supply to the Contractor under this Agreement;
  - (iii) a Force Majeure Event;
  - (iv) a variation directed by the Company;
  - (v) dayworks or ad-hoc works directed by the Company which take primary equipment or personnel away from the Mine Services;
  - (vi) delay in the Contractor being granted access to the Site;
  - (vii) suspension directed by the Company other than a suspension directed due to a breach of this Agreement by the Contractor;
  - (viii) a Latent Condition is encountered;
  - (ix) an act or omission of any third party, not within the control of the Contractor, that is inconsistent with regularly accepted mining practice or which causes a delay that is not contemplated under this Agreement;
  - (x) encountering heritage sites or artefacts in the areas where Contractor is required to perform the Mining Services;
  - (xi) an event of environmental damage, health or safety on the Site that was not caused, or contributed to, by Contractor;
  - (xii) change of law, occurring after the Commencement Date,

which adversely impacts the Contractor's performance of the Mine Services; and

- (xiii) a delay to the Mine Services caused by a requirement or order of a government authority or regulator.
- (g) There will be no Production Target Relief granted to the Contractor if during any of the matters listed in clause 5.1(f) there was a concurrent cause, act or omission attributable to the Contractor which would have impacted its ability to achieve the target delivery levels anyway (e.g. a prime item of equipment was under repair, insufficient workforce available, etc).
- (h) In the event the Company issues a Catch-Up Direction following an event listed under clause 5.1(f), the Catch-Up Direction shall be limited to the capacity of the Contractor's Plant and Equipment.

## 6. Agreement Milestones (Clause 2(h))

The Milestones for this Agreement are:

<b>Commencement Date</b>	<b>[To be updated and inserted]</b>
<b>Date for Contractor Access to Site</b>	After the Contractor has provided the Performance Bond, Parent Company Guarantee and proof of insurances pursuant to Schedule 8.
<b>Date for Submission of the first Short Term Mine Plan to the Contractor by the Company</b>	No later than four (4) weeks prior to the Commencement Date.
<b>Date for Submission of Plans by the Contractor as required within this Agreement</b>	Generally, no later than eight (8) weeks before the Commencement Date, though refer specifically to the relevant clauses in the Agreement for each Plan.
<b>Date for Commencement of Mining</b>	The Commencement Date.
<b>Expiry of Initial Term</b>	<b>Five (5) years after the Commencement Date, subject to Contractor performance, the Company may renew the Contract for another (5) years.</b>

The Contractor will be required to provide a detailed programme to show all the activities required to be completed as part of mobilising and establishing the Agreement for the period from the Agreement award date to the end of the first month after the Commencement Date. The programme should be in the form of a time based Gantt chart showing all interlinked activities and highlighting the Critical Path.

Prior to the commencement of the mobilization to the site, the Contractor shall submit all documents as listed in Schedule 10-A to the Company for Company's approval and shall obtain the Company's approval.

Schedule 10-A

Item	Description
<b>1</b>	<b>Method Statement</b>
1.1	Please provide a method statement that describes how you will conduct the Services including, as a minimum, the following matters:
a	Procurement of Equipment, Materials, Parts & Supplies
b	Recruitment, Selection and Training of Labour
c	Environmental Issues
d	Health and Safety
e	Quality
f	Scheduling of the Services
g	Clearing, grubbing and topsoil removal
h	Drill and Blast
i	Excavate, Load, Haul & Dump
j	Rehandling of Ore Stockpiles to the Primary Crusher Bin
k	Waste Dump Construction and Profiling
l	Pit Floor, Ramp and Road Maintenance
m	Pit Dewatering
n	Secondary Breakage
o	Train Loading Services
p	Fleet Management System - Type, Operation & Maintenance
q	Disposal of Hazardous Waste
r	Contract Reporting & Administration
<b>2</b>	<b>Contractor Company Policies</b>
2.1	Health and Safety Policy - not required if supplied with prior Pre-Qualification
2.2	Environmental Policy - not required if supplied with prior Pre-Qualification
2.3	Fitness for Work Policy - not required if supplied with prior Pre-Qualification
2.4	Local Employment Policy - not required if supplied with prior Pre-Qualification
2.5	Quality Assurance Policy - not required if supplied with prior Pre-Qualification
<b>3</b>	<b>Management Plans (examples for the following)</b>
3.1	Health & Safety Management - not required if supplied with prior Pre-Qualification
3.2	Environmental Management - not required if supplied with prior Pre-Qualification
3.3	HR/ER Management - not required if supplied with prior Pre-Qualification
3.4	Mining Operations Management
3.5	Asset/Maintenance Management
3.6	Quality Assurance Management - not required if supplied with prior Pre-Qualification
3.7	Train Loading Management
<b>4</b>	<b>Standards &amp; Procedures</b>
4.1	Fatal Risk Standards
<b>5</b>	<b>Induction</b>
5.1	Copy of a Typical Site Induction in Use
<b>6</b>	<b>Other</b>
6.1	Are your Systems accredited by a third party certifier?
6.2	If so, please specify the Standard (e.g. ISO/AS/etc) and Systems accredited.
	- not required if supplied with prior Pre-Qualification

## **Schedule 11 - Mine Services Reporting Requirements**

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### **1. Daily Reporting**

From the commencement of the Term, the Contractor will provide the following daily information as a minimum in its daily reports to the Company:

- (a) All environmental and safety incidents reported;
- (b) Summary of site instructions and dayworks requests for the preceding 24 hours (Company to sign off prior to execution);
- (c) Formal claim requests for all claims the Contractor intends to make – including approved dayworks, approved site instructions and for any delays/approved extension of time (including nature, duration, planned work delayed, timing, cause, remedial and mitigation action taken);
- (d) Workforce/manning report (who is working where) broken down by work area (L&H, D&B etc) on a daily basis;
- (e) Copies of drill and blast reports including all actuals (including shotfirer report); and
- (f) Material movements as required by MES (run reports of ore block movements) through the operation.

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### **2. Weekly Reporting**

From the commencement of the Term, the Contractor will provide the following weekly information as a minimum in its weekly reports to the Company:

- (a) Corrective actions planned in order to correct any shortfall in actual progress including analysis of causes of any shortfall and consequent actions to remedy causes plus a status report of pre-existing corrective actions;
- (b) A cumulative summary of all daily claims on a weekly basis (submitted, rejected, approved and pending) in Excel format, if any, plus any claims the subject of a contractual variation (scope etc);
- (c) Any QA non-conformance related issues;
- (d) Progress against any identified HSE incidents from the week;
- (e) Cumulative production statistics including material movements, drilling and blasting quantities; and
- (f) Plant and equipment performance report (location, operating hours, availability, down time, standby).

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### **3. Monthly Reporting**

From the commencement of the Term, the Contractor will provide the following monthly information as a minimum in its monthly reports to the Company:

- (a) Monthly HSE summary report including progress against any open incidents and implementation of learnings;
- (b) Cumulative summary of the monthly progress against movement targets (STMP)

(total, ore and waste) for all mining activities together with reasons for any reduced performance;

- (c) Summary of monthly performance against any identified catch-up requirements (whether requested by the Company or initiated by the Contractor) in the month;
- (d) Monthly plant and equipment performance for each piece of plant (operating hours, availability, utilisation, stand down) report summary together with explanation, details of any rectification planned and progress against existing rectification;
- (e) Submission for the next month's manning numbers for approval plus rolling summary (graph) of manning levels each month;
- (f) Monthly claims and variations summary;
- (g) Review of formal correspondence and action register between the Parties to identify open issues;
- (h) Stocks of key inventory/material held on site.
- (i) Total personnel/manning list

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#### **4. Quarterly Reporting**

The Contractor and the Company will undertake a quarterly reconciliation of actual vs contracted manning levels.

## **Schedule 12 - Schedule of Rates**

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In this Schedule 12 all rates and prices:

- (a) Are exclusive of GST;
- (b) Allow for the cost of any item or quantity of work required for performing the Mine Services in accordance with the Agreement;
- (c) Include all costs, profits and overheads related to labour, personnel, plant and equipment and other items necessary and incidental to performing the Mine Services.

The Contractor is not entitled to claim or be paid any price, cost or on-cost whatsoever other than the rates set out in this Schedule 12.

For the purposes of this Agreement, the Rates are contained in Schedules 12-B1 to 12-B10 and Schedule 12-C.

Rise and Fall adjustments, under Schedule 13, will only apply to the Prices in Schedules 12-B1 to 12-B10 and Schedule 12-C.

**SCHEDULE 12 A1 - SUMMARY**

The amounts in the table below are for the purpose of providing an estimated total Agreement value.  
The actual payments made to the Contractor will be determined in accordance with the Agreement.

The Term of the Agreement is 5 years

Table Schedule 12-A1

To be updated and presented by the Contractor

## **SCHEDULE 12-B1 – MOBILISATION & ESTABLISHMENT**

The Rates in the table below are payments to be made to the Contractor for all activities associated with preparing its readiness to commence the Mine Services on the Commencement Date.

The Contractor will be paid for each item after it has been inspected and approved by the Company's Representative.

The existing Contractor's Yard (facilities) will be provided by the Company as indicated below.

CMS means all the Management Plans required to be prepared and established under the Agreement.

The Contractor shall enter full details of all items it will mobilise & establish for the Mine Services. Any item not listed that is required to undertake the Mine Services is assumed to be included elsewhere in the Prices. In the Description please specify, in addition to item type, the make & model of all Plant as appropriate.



Table Schedule 12-B1

[To be updated and presented by the Contractor]

**SCHEDULE 12-B2 – DEMOBILISATION & DISESTABLISHMENT**

The Rates in the table below are payments to be made to the Contractor for all activities associated with the end of the Agreement. The Contractor will be paid for each item after it has been released from the Site or completed the Mine Services to the reasonable satisfaction of the Company's Representative. Please note that items incorporated into the Mine Services remain the property of the Company.

The Contractor shall enter full details of all items it will demobilise & disestablish from the Site. Any item not listed is deemed to be included elsewhere in the Prices. In the Description please specify, in addition to item type, the make & model of all Plant & Equipment as appropriate.

Table 12-B2

[To be updated and presented by the Contractor]

**SCHEDULE 12-B3 - MONTHLY MANAGEMENT FEES**

The Rates in the table below are payments to be made to the Contractor for regular activities with the ongoing provision of the Mine Services under the Agreement. The Contractor will be paid for each item after it has been completed in accordance with the Agreement to the reasonable satisfaction of the Company's Representative.

These are required to cover all of the Contractor input costs associated with the management, supervision and administration of the Mine Services.

For the avoidance of doubt, mining equipment ownership costs are to be included elsewhere in Schedule 12.

Any item not specifically below is deemed to be included elsewhere in the Prices.

Table 12-B3

[To be updated and presented by the Contractor]

## SCHEDULE 12-B4 - DRILL & BLAST PRICES

The Rates in the table below are payments to be made to the Contractor for all regular activities related to drilling and blasting for the Mine Services under the Agreement. Redrilling of holes will be at the Contractor's expense unless the redrilling is directed by the Company.

The Contractor will be paid for each item after it is has been completed in accordance with the Agreement to the reasonable satisfaction of the Company's Representative.

Penetration Rate, PR shall be calculated separately, by hole diameter, as an average per blast.

Penetration Rate, PR = Actual Drill Metres ÷ Actual Drill Hours.

Claimable Drill Metres in 3 scenarios as given below:

1. If Actual Drill Metres is greater than the Approved Design Metres, Claimable Drill Metres = Approved Design Metres.
2. If Actual Drill Metres is lesser than the Approved Design Metres, Claimable Drill Metres = Actual Drill Metres.
3. If Actual Drill Metres is equal to the Approved Design Metres, Claimable Drill Metres = Actual Drill Metres.

If any drill hole has collapsed or caved in and not suitable for blast hole loading, Drill Metres are not claimable for such unloaded holes. In other words, Drill Meters are only claimable for loaded holes. Every attempt to be made to redrill such collapsed holes at the Contractor's expense to make them suitable for Explosive Loading to achieve Optimum Fragmentation.

"total drill working hours" or Actual Drill Hours shall be the time that the drill rig is on the blast pattern, engaged in drilling holes with a skilled operator at the controls and includes tramming between holes, setting up on the hole collar, changing drill bits, rod & hammer changes and flushing out holes being drilled but it excludes any time the drill rig is broken down, under repair, being serviced, being refuelled or filled with water or other tramming. Redrilling Hours should never be included in the calculation of Actual Drill Hours.

The Unit Rates for Collar Piping will be payable where the Company's Representative directs the Contractor to install it. In all other cases, the use of collar piping will be the Contractor's responsibility taking into account its general responsibility for the protection of drillholes.

Table 12-B4

[To be updated and presented by the Contractor]

## **SCHEDULE 12-B5 - EXCAVATE, LOAD, HAUL & DUMP VALUATION**

The Rates in the table below are derived from the relevant matrix of Rates in Schedule 12 B6, Schedule 12 B6Y and Schedule 12 B7.

The Contractor will be paid for each item once it has been completed in accordance with the Agreement to the reasonable satisfaction of the Company's Representative.

Payments under the Contract will be based on actual haul profile characteristics and reference to Schedule 12 B6, Schedule 12 B6Y and Schedule 12 B7.

This Schedule is self-calculating, using the relevant prices in Schedule 12 B6, Schedule 12 B6Y and Schedule 12 B7, and is not to be modified.

Table 12-B5

**[To be updated and presented by the Contractor]**

## **SCHEDULE 12-B6 - MATRIX OF PRICES FOR EXCAVATE, LOAD, HAUL & DUMP ORE**

The Rates in the table below are payments to be made to the Contractor for all regular activities associated with excavating, loading, hauling and dumping of Ore under the Agreement.

The Rates that applies is that in the cell which corresponds to the Horizontal One Way Haul Distance and the Vertical Rise, there is no interpolation between cells.

The Contractor will be paid for each item once it is has been completed in accordance with the Agreement to the reasonable satisfaction of the Company's Representative.

All distances are to be priced irrespective of quantity. Any item for Ore mining not specifically detailed elsewhere is deemed to be included in the Prices below.

### **NOTE**

1. The Matrix of Rates applicable to L&H operations are based on the actual Vertical Rise and Horizontal One Way Haul Distance of each haul route used by the Contractor as set out in the table below.
2. **Vertical Rise" distance and "Horizontal One Way Haul Distance" please see Schedule 8 3. (g) (h) (i).**

Table Schedule 12-B6

[To be updated and presented by the Contractor]

**SCHEDULE 12-B6Y - MATRIX OF PRICES FOR EXCAVATE, LOAD, HAUL & DUMP YELLOW ORE**

The Rates in the table below are payments to be made to the Contractor for all regular activities associated with excavating, loading, hauling and dumping of Yellow Ore under the Agreement.

The Rates that applies is that in the cell which corresponds to the Horizontal One Way Haul Distance and the Vertical Rise, there is no interpolation between cells.

The Contractor will be paid for each item once it is has been completed in accordance with the Agreement to the reasonable satisfaction of the Company's Representative.

All distances are to be priced irrespective of quantity. Any item for Yellow Ore mining not specifically detailed elsewhere is deemed to be included in the Prices below.

**NOTE**

- 1. The Matrix of Rates applicable to L&H operations are based on the actual Vertical Rise and Horizontal One Way Haul Distance of each haul route used by the Contractor as set out in the table below.
- 2. Vertical Rise” distance and "Horizontal One Way Haul Distance" please see Schedule 8 3. (g) (h) (i).

Table Schedule 12-B6Y

[To be updated and presented by the Contractor]

## **SCHEDULE 12-B7 - MATRIX OF PRICES FOR EXCAVATE, LOAD, HAUL & DUMP WASTE**

The Rates in the table below are payments to be made to the Contractor for all regular activities associated with excavating, loading, hauling and dumping of Waste under the Agreement.

The Rates that applies is that in the cell which corresponds to the Horizontal One Way Haul Distance and the Vertical Rise, there is no interpolation between cells.

The Contractor will be paid for each item once it is has been completed in accordance with the Agreement to the reasonable satisfaction of the Company's Representative.

All distances are to be priced irrespective of quantity. Any item for Waste mining not specifically detailed elsewhere is deemed to be included in the Prices below.

### **NOTE**

1. The Matrix of Rates applicable to L&H operations are based on the actual Vertical Rise and Horizontal One Way Haul Distance of each haul route used by the Contractor as set out in the table below.
2. "Vertical Rise" distance and "Horizontal One Way Haul Distance" please see Schedule 8 3. (g) (h) (i).

Table Schedule 12-B7

To be updated and presented by the Contractor



## **SCHEDULE 12-B8 - PRIMARY CRUSHER FEED REHANDLE PRICES**

The Rates in the table below are payments to be made to the Contractor for all regular activities related to primary crusher feed rehandle on the ROM Pad under the Agreement. The Contractor will be paid for each item once it has been completed in accordance with the Agreement to the reasonable satisfaction of the Company's Representative.

Ore feed to the Primary Ore Crusher is intended to be by direct tipping from the open pit mining. Rehandle of Ore from the ROM Pad will be that directed by the Company's Representative, any other rehandle will be deemed the Contractor's responsibility and expense.

Rehandle will be paid at the Rate per tonne as measured by the weightometer in the primary crusher feed circuit.

The management fee at item 1.1 is intended to cover the cost of any prime equipment dedicated to the primary crusher feed rehandle activities. It is expected that the Contractor will be able to undertake this ad-hoc activity at anytime.

Table Schedule 12-B8

**To be updated and presented by the Contractor]**

## **SCHEDULE 12-B9 - PRELIMINARY & ENABLING WORKS PRICES**

The Rates in the table below are payments to be made to the Contractor for all regular activities related to the items listed under the Agreement.

The Contractor will be paid for each item performed at the direction of the Company once it is has been completed in accordance with the Agreement to the reasonable satisfaction of the Company's Representative.

DT = largest dump truck nominated by Contractor.

Table Schedule 12-B9

**To be updated and presented by the Contractor]**

**SCHEDULE 12-B10 – Not used**

## **SCHEDULE 12-C – DAYWORKS & STANDBY PRICES**

The Rates in the table below are payments that may be made to the Contractor for any activity that is outside the scope of the Mine Services and which is directed by the Company's Representative.

The Rates for Standby are applicable only at the sole discretion of the Company's Representative and do not infer any automatic right on the part of the Contractor to receive payments for idle or standby time.

The markup Amount is the amount added to the Contractor's cost of supplying items that are outside the scope of the Mine Services and which are requested by the Company's Representative.

The Rates for Plant exclude the cost of an Operator but include everything else required for the Plant to be operational.

Table Schedule 12-C

[To be updated and inserted by the Contractor]

## Schedule 13 - Rise and Fall Adjustment

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### Rise and Fall Adjustment (clause 11.3)

#### (i) Conditions

The Contractor shall, after any required consultation with the Company, prepare and deliver to the Company's Representative a calculation for the rise and fall adjustment to apply together with copies of the supporting documentation including records of the indices stated below. The rise and fall adjustment calculation shall be reviewed and, if correct, will be approved by notice from the Company's Representative.

#### (ii) Prices Applicable for Adjustment

The rates stated in Schedule 12-B1 to Schedule 12-B10 and Schedule 12-C are subject to adjustment for rise and fall in accordance with the procedure set out in clause (iii) below. All other rates in the Agreement are fixed for the Term.

#### (iii) Procedure for Adjustment of Rates

- (a) For the initial month of the Commencement Date all rates are fixed.
- (b) On the first day of each subsequent calendar month after that in clause (iii)(a), each being a "date of adjustment", the applicable rates specified in clause (ii) are to be adjusted for that calendar month period.
- (c) The rates payable for the period after the date of adjustment are to be calculated by multiplying each of the applicable rates by the adjustment factor "**AF**" determined by the formula below, subject to the Contractor providing information to the Company's Representative to justify its calculation including written documentation and invoices.

The sum of the parameters a, b, c, d, e and f must equal 100%

[To be updated and inserted by the Contractor]

## Schedule 14 – Key Performance Indicators

### 1.1 KPI's General

KPI	Measure	Target	Frequency	Liquidated Damage
<b>Safety</b>				
TRIFR	Number of recordable injuries per million hours worked	Injuries/million hours < 5	Monthly	NA
Lost Time Injury Frequency Rate (LTIFR)	Number of lost-time injuries per million hours	Injuries/million hours 0–2	Monthly	NA
<b>Operational</b>				
Drill Metres per Rig per Shift	Drilling efficiency and equipment utilisation	m/rig/shift Benchmark against plan	Monthly	NA
Drilling penetration rate	The portion of the drilling penetration rate for 229mm and 165mm less than 17m/hour	shall not exceed 20%	Monthly	NA
Blast Compliance Rate	Adherence to drill & blast design	≥97%	Monthly	NA
Blasting performance:	Oversize rate less than	<2%	Monthly	NA
Crusher Downtime	The monthly primary crushing downtime KPI includes over size bridges downtime and green-light downtime.	Over size bridges downtime is no more than 6 hours, and green-light downtime is no more than 8 hours, totalling no more than 14 hours.		
Excavator Utilisation	Time spent productively vs available time	≥85%	Monthly	NA
Ore Excavator	Average Performance Rate Ore	3400t/hour for ore	Monthly	NA
Ore Excavator	Average Availability Ore	88%	Monthly	NA
Waste Excavator	Average Performance Rate Waste	3200-3400t/hour for waste	Monthly	NA
Waste Excavator	Average Availability Waste	88%	Monthly	NA
Other excavator	Average Availability	88%	Monthly	NA
Loading Time per Truck	Loading cycle time efficiency	min/load As low as practical	Monthly	NA
Haul Truck Payload Compliance	Payloads within optimum weight range	≥95% within target	Monthly	NA
Cycle Time (Load-Haul-Dump)	Average time per complete truck cycle	Minutes Match design cycle	Monthly	NA
Rock breaker	Average Performance Rate	Capacity >= 70t	Monthly	NA

Dump truck	Average Performance Rate	600t/hour	Monthly	NA
Drill rig	Average Performance Rate	Penetration rate >17m/hour	Monthly	NA
Mining support equipment	Average Performance Rate	85%	Monthly	NA
Rock breaker	Average Availability (%)	88%	Monthly	NA
Dump truck	Average Availability (%)	88%	Monthly	NA
Drill rig	Average Availability (%)	85%	Monthly	NA
Mining support equipment	Average Availability (%)	85%	Monthly	NA
Personnel	Qualified Employees (All VOC's complete, current licenses and tickets etc)	100% Qualified	Monthly	NA
Personnel	Average Availability (%)	95%	Monthly	
Fleet Availability	Equipment available for work vs total fleet	≥90%	Monthly	NA
Mean Time Between Failures (MTBF)	reliability of equipment	hours	Monthly	NA
Utilisation vs Availability Ratio	whether equipment is used efficiently	Close to 1:1 ratio	Monthly	NA
<b>Production</b>				
Ore Mined vs Plan	Actual ore tonnage vs production plan	≥100%	Monthly	
Waste to Ore Strip Ratio	Amount of waste removed per tonne of ore	Ratio Within budget range	Monthly	
Daily Material Movement	Total tonnes of ore + waste moved	tonnes/day Meet or exceed target	Monthly	

## 1.2 As per Schedule 10, Section 5, Mining Performance Criteria

### 5.1 Monthly Movement

- (a) Unless otherwise agreed, in any period of three (3) consecutive months, the Contractor must deliver:
  - (i) more than ninety percent (90%) but less than one hundred and ten percent (110%) of the aggregate monthly mass of all material movements for those months; and
  - (ii) more than ninety five percent (95%) but less than one hundred and ten percent (110%) of the aggregate monthly mass of Ore movement for those months; as contemplated by the Short Term Mine Plan.
- (b) Over any period of six (6) consecutive months, the Contractor must deliver:
  - (i) more than ninety five percent (95%), but less than one hundred and five percent (105%) of the aggregate monthly mass of all material movements for those months; and
  - (ii) more than ninety five percent (95%) but less than one hundred and five percent (105%) of the aggregate monthly mass of Ore movement for those months

## Schedule 15 - Not used

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Not Used



## Schedule 16 - Parent Company Guarantee

### Deed of Performance Guarantee

Dated

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### Parties

**Company**                      **Karara Mining Ltd ACN 070 871 831**  
of Level 2, 216 St. Georges Terrace, Perth, Western Australia 6000

**Guarantor**                **[ insert name ] ACN xxx xxx xxx**  
of [ address ]

**Contractor**              **[ insert name ] ACN xxx xxx xxx**  
of [ address ]

### Background

The Guarantor has fully informed itself of the obligations and liabilities of the Contractor under the Agreement and agrees to provide the guarantees and indemnities stated in this document in respect of the Agreement.

### Agreed terms

#### **1 Definitions and interpretation**

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##### **1.1 Definitions**

In this document:

<b>Term</b>	<b>Definition</b>
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**Agreement** means the Karara Mine, Mining Services [and Explosive Supply and Management Services] dated XX MONTH 20XX for services by the Contractor at the Karara mine.

**Business Day** means a day that is not a Saturday, Sunday or public holiday in the place where the Services are being performed.

**Controller** has the meaning it has in the Corporations Act.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Costs** include costs, charges and expenses, including those incurred in connection with advisers and any legal costs on a full indemnity basis.

**Encumbrance** means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or (2) of the PPSA, or any agreement to create any of them or allow them to exist.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in

- the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to its property;
  - (c) it is subject to any arrangement (including a deed of company arrangement or scheme of arrangement), assignment, moratorium, compromise or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the Company);
  - (d) an application or order has been made (and in the case of an application which is disputed by the person, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of the things described in any of the above paragraphs;
  - (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
  - (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which the Company reasonably deduces it is so subject);
  - (g) it is otherwise unable to pay its debts when they fall due; or
  - (h) something having a substantially similar effect to any of the things described in the above paragraphs happens in connection with that person under the law of any jurisdiction.

**PPSA** means the *Personal Property Securities Act 2009* (Cth).

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## **1.2 Interpretation**

In this document:

- (a) a singular word includes the plural and vice versa;
- (b) a word which suggests one gender includes the other gender;
- (c) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;
- (d) a reference to a party to this document or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns;
- (e) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (f) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;
- (g) a reference to this document includes the agreement recorded by this document;
- (h) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (i) if any day on or by which a person must do something under this document is not a Business Day, then the person must do it on or by the next Business Day;
- (j) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity; and
- (k) a reference to 'month' means calendar month.

This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself.

### **1.3 Guarantors' rights and obligations individual**

If more than one person is named as "Guarantor", each of them is liable for all the obligations under this document both individually and jointly with any one or more other persons named as "Guarantor".

## **2 Guarantee and indemnity**

### **2.1 Consideration**

The Guarantor acknowledges that the Company:

- (a) entered into the Agreement at the request of the Guarantor; and
- (b) is acting in reliance on the Guarantor incurring obligations and giving rights under this document.

### **2.2 Guarantee**

- (a) The Guarantor unconditionally and irrevocably guarantees to the Company the Contractor's compliance with the Contractor's obligations in connection with the Agreement, including each obligation to pay money.
- (b) The Guarantor agrees to comply with those obligations on demand from the Company (including an obligation to pay money) as if it were the Company obligor if:
  - (i) the Contractor does not comply with those obligations on time and in accordance with the Agreement (including an obligation to pay money);
  - (ii) an obligation the Contractor would otherwise have under the Agreement (including an obligation to pay money) is found to be void, voidable or unenforceable; or
  - (iii) an Ipso Facto Event occurs. An "**Ipso Facto Event**" means the Contractor is the subject of an announcement, application, compromise, arrangement, the appointment of a managing controller, administration or restructuring as described in section 415D(1), 434J(1), 451E(1) of 454N of the Corporations Act or any process which under any law with a similar purpose may give rise to a stay on, or prevention of, the exercise of contractual rights.

A demand may be made whether or not the Company has made demand on the Contractor.

### **2.3 Indemnity**

The Guarantor indemnifies the Company against, and agrees to reimburse and compensate the Company for, any liability or loss arising, and any Costs it incurs, if:

- (a) an obligation the Contractor or the Guarantor would otherwise have had under this document or the Agreement (including an obligation to pay money) is found to be void, voidable or unenforceable;
- (b) a representation or warranty by the Contractor in the Agreement is found to have been incorrect or misleading (including by omission) when made or taken to be made; or
- (c) a liquidator disclaims this document or the Agreement.

The Guarantor agrees to pay amounts due under this indemnity on demand from the Company.

### **2.4 Extent of guarantee and indemnity**

Each of the guarantee in clause 2.2 and the indemnity in clause 2.3 is a continuing obligation despite any intervening payment, settlement or other thing and extends to all of the Contractor's obligations in connection with the Agreement. The Guarantor waives any right it has of first requiring the Company to make demand, commence proceedings or enforce any other right against the Contractor or any other person before claiming from the Guarantor under this document.

## **2.5 Variations and replacements**

- (a) The Guarantor acknowledges that the Agreement may be varied or replaced from time to time.
- (b) The Guarantor confirms that the obligations guaranteed under clause 2.2 include any obligations under the Agreement as varied or replaced. The Guarantor confirms that this applies regardless of:
  - (i) how the Agreement is varied or replaced;
  - (ii) the reasons for the variation or replacement; and
  - (iii) whether the obligations decrease or increase or the Agreement is otherwise more onerous as a result of the variation or replacement.
- (c) This clause does not limit clause 6.

## **2.6 Acknowledgement**

The Guarantor acknowledges that, before entering into this document, it:

- (a) was given a copy of the Agreement (and all documents giving rise to an obligation of the Contractor in connection with the Agreement) and had full opportunity to consider their provisions; and
- (b) made itself aware of the financial position of the Contractor and any other person who guarantees any of the Contractor's obligations in connection with the Agreement.

## **3 Interest**

### **3.1 Obligation to pay interest**

The Guarantor agrees to pay interest on any amount under this document which:

- (a) is not paid on the due date for payment; and
- (b) is not otherwise incurring interest.

The interest accrues daily from (and including) the due date to (but excluding) the date of actual payment (both before and after judgment as an independent obligation) and is calculated on actual days elapsed and a year of 365 days. The Guarantor agrees to pay interest under this clause on demand from the Company.

### **3.2 Rate of interest**

The rate of interest applying to each daily balance is the rate 4% per annum above the 2 month Bank Bill Swap Mid Rate on the due date for payment (as made available to the public by ASX Benchmarks Pty Limited, or any other person who takes over the administration of that rate) or, if that rate is not available, another rate set by the Company in good faith.

### **3.3 Compounding**

Interest accrued but which has not been paid under clause 3.1 is added to the overdue amount at the end of each period of 30 days (or any other period the Company reasonably chooses). The first period begins on (and includes) the date for payment of the overdue amount. Interest is payable on the increased overdue amount at the rate set out in clause 3.2 and in the manner set out in clause 3.1.

## **4 Payments**

The Guarantor agrees to make payments under this document to the Company (or to a person nominated by the Company in a notice to the Guarantor):

- (a) in full without set-off or counterclaim, and without any deduction; and
- (b) in the currency in which the payment is due, and otherwise in Australian dollars in immediately available funds.

## **5 No merger**

This document does not merge with or adversely affect, and is not adversely affected by, any of the following:

- (a) any other guarantee, indemnity, Encumbrance or other right, power or remedy to which the Company is entitled; or
- (b) a judgment which the Company obtains against the Guarantor, the Contractor or any other person in connection with the Agreement.

The Company may still exercise its rights under this document as well as under the judgment, guarantee, indemnity, Encumbrance or the right, power or remedy.

## **6 Rights of the Company are protected**

The Guarantor agrees that rights given to the Company under this document, and the Guarantor's liabilities under it, are not affected by any act or omission or any other thing which might otherwise affect them under law or otherwise. For example, those rights and liabilities are not affected by:

- (a) any act or omission:
  - (i) varying, replacing, supplementing, extending or restating in any way and for any reason any agreement or arrangement under which the obligations guaranteed under clause 2.2 are expressed to be owing;
  - (ii) releasing the Contractor or giving the Contractor a concession (such as more time to pay);
  - (iii) releasing any person who gives a guarantee or indemnity in connection with any of the Contractor's obligations;
  - (iv) by which a person becomes a Guarantor after the date of this document;
  - (v) by which the obligations of any person who guarantees any of the Contractor's obligations (including under this document) may become unenforceable;
  - (vi) by which any person who was intended to guarantee, or provide a security interest securing, any of the Contractor's obligations does not do so, or does not do so effectively; or
  - (vii) by which a person who is co-surety or co-indemnifier is discharged under an agreement or by operation of law;
- (b) a person dealing in any way with the Agreement or this document;
- (c) any transfer of a right of the Company;
- (d) the death, mental or physical disability, or Insolvency of any person including the Guarantor or the Contractor;
- (e) changes in the membership, name or business of any person;
- (f) acquiescence or delay by the Company or any other person; or
- (g) a liquidator disclaiming the Agreement.

## **7 Guarantor's rights are suspended**

As long as any obligation is required, or may be required, to be complied with in connection with the Agreement or this document, the Guarantor may not, without the Company's consent:

- (a) reduce its liability under this document by claiming that it or the Contractor or any other person has a right of set-off or counterclaim against the Company;
- (b) claim, or exercise any right to claim, to be entitled (whether by way of subrogation or otherwise) to the benefit of another guarantee, indemnity (or another assurance against loss similar to a guarantee or indemnity) or Encumbrance given in connection with the Agreement or any other amount payable under this document;
- (c) claim an amount from the Contractor, or another guarantor (including a person who has signed this document as a "Guarantor"), under a right of indemnity or contribution; or
- (d) claim an amount in the Insolvency of the Contractor or of another guarantor of any of the Contractor's obligations (including a person who has signed this document as a "Guarantor").

This clause continues after this document ends.

## **8 Reinstatement of rights**

Under law relating to Insolvency, a person may claim that a transaction (including a payment) in connection with this document or the Agreement is void or voidable. If a claim is made and upheld, conceded or compromised, then:

- (a) the Company is immediately entitled as against the Guarantor to the rights in connection with this document or the Agreement to which it was entitled immediately before the transaction; and
- (b) on request from the Company, the Guarantor agrees to do anything (including signing any document) to restore to the Company any Encumbrance (including this document) held by it from the Guarantor immediately before the transaction.

The Guarantor's obligations under this clause are continuing obligations, independent of the Guarantor's other obligations under this document and continue after this document ends.

## **9 Costs**

### **9.1 Costs**

The Guarantor agrees, within 5 Business Days of demand, to pay or reimburse:

- (a) the Company's reasonable Costs in connection with the preparation, negotiation, execution and registration of this document, and giving and considering and obtaining consents, approvals, waivers, variations, discharges and releases and providing documents and other information in connection with this document; and
- (b) the Company's Costs of exercising, enforcing or preserving rights, powers or remedies (or considering doing so) in connection with this document, or doing anything in connection with any enquiry by an authority involving the Guarantor, its assets, this document or anything in connection with them.

The Guarantor agrees to pay for anything that it agrees to do under this document.

### **9.2 Stamp duty and registration fees**

The Guarantor:

- (a) agrees to pay or reimburse all stamp duty, registration fees and similar taxes payable or assessed as being payable in connection with this document or any other transaction contemplated by this document (including any fees, fines, penalties and interest in connection with any of those amounts); and
- (b) indemnifies the Company against, and agrees to reimburse and compensate it for, any liability in respect of stamp duty under clause 9.2(a).

The Guarantor agrees to pay amounts due to the Company under this clause within 5 Business Days of demand from the Company.

## **10 Dealing with interests**

The Company may assign or otherwise deal with its rights under this document in any way it considers appropriate. If the Company does this, the Guarantor may not claim against any assignee (or any other person who has an interest in this document) any right of set-off or other rights the Guarantor has against the Company.

## **11 General**

### **11.1 Amendments**

This document may only be amended by written agreement between all parties.

### **11.2 Assignment**

A party may only assign this document or a right under this document with the prior written consent of the other party and not otherwise.

### **11.3 Counterparts**

This document may be executed in any number of counterparts. All counterparts together make one instrument.

### **11.4 No merger**

The rights and obligations of the parties under this document do not merge on completion of any transaction contemplated by this document.

### **11.5 Entire agreement**

- (a) This document supersedes all previous agreements about its subject matter and embodies the entire agreement between the parties.
- (b) To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion, has no effect except to the extent expressly set out or incorporated by reference in this document.

### **11.6 Further assurances**

Each party must do all things necessary to give effect to this document and the transactions contemplated by it.

### **11.7 No waiver**

- (a) The failure of a party to require full or partial performance of a provision of this document does not affect the right of that party to require performance subsequently.
- (b) A single or partial exercise of or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
- (c) A right under this document may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.

### **11.8 Governing law and jurisdiction**

- (a) This Agreement will be governed by and construed in accordance with the Laws of Western Australia.
- (b) Each party irrevocably submits to the exclusive jurisdiction of the Western Australian courts and courts competent to hear appeals from those courts.

### **11.9 Severability**

A clause or part of a clause of this document that is illegal or unenforceable may be severed from this document and the remaining clauses or parts of the clause of this document continue in force.

### **11.10 Notice**

- (a) A notice, consent or communication under this document is only effective if it is:
  - (i) in writing, signed by or on behalf of the person giving it;

- (ii) addressed to the person to whom it is to be given; and
  - (iii) given as follows:
    - (A) delivered by hand to that person's address;
    - (B) sent by prepaid mail (and by prepaid airmail if the person is overseas) to that person's address; or
    - (C) sent by fax to that person's fax number where the sender receives a transmission confirmation report from the despatching machine indicating the transmission has been made without error and showing the relevant number of pages and the correct destination fax number or name of recipient.
- (b) A notice, consent or communication delivered under clause 3.10(a) is given and received:
- (i) if it is hand delivered or sent by fax:
    - (A) by 5.00pm (local time in the place of receipt) on a Business Day – on that day; or
    - (B) after 5.00pm (local time in the place of receipt) on a Business Day, or at any time on a day that is not a Business Day – on the next Business Day; and
  - (ii) if it is sent by post:
 

within Australia – 3 Business Days after posting; or

to or from a place outside Australia – 7 Business Days after posting.
- (c) A person's address and fax number are those set out below, or as the person notifies the sender:
- (i) **Company**

Level 2, 216 St. Georges Terrace

Perth, Western Australia 6000

Attn: Chief Executive Officer
  - (ii) **Contractor**

[ insert address & contact numbers ]

Attn:
  - (iii) **Guarantor**

[ insert address & contact numbers ]

Attn:



Execution

EXECUTED as a deed

Executed by

[ **Guarantor name** ] ACN xxx xxx xxx by:

☐ Director

☐ Director/Secretary

☐ Full name of Director

☐ Full name of Director/Secretary

Executed by

[ **Contractor name** ] ACN xxx xxx xxx  
by:

☐ \_\_\_\_\_  
Director

☐ \_\_\_\_\_  
Director/Secretary

\_\_\_\_\_

☐ \_\_\_\_\_  
Full name of Director

☐ \_\_\_\_\_  
Full name of Director/Secretary

Executed by

**Karara Mining Ltd** ACN 070 871 831 by:

☐ \_\_\_\_\_  
Director

☐ \_\_\_\_\_  
Director/Secretary

\_\_\_\_\_

☐ \_\_\_\_\_  
Full name of Director

☐ \_\_\_\_\_  
Full name of Director/Secretary

## Schedule 17 – Performance Bond

### Form of Performance Bond

TO: [ Insert Company / Company Name  
, address ]

**IN CONSIDERATION** of ..... [ insert company name ] ..... ("the Company") at the request of the (*Name and address of Bank*) ("the Bank") (which request is testified hereby) accepting this Undertaking in lieu of requiring ..... whose registered office is situated at ..... a contractor with the Company ("the Contractor") to provide the Company with a security deposit in another form in relation to a contract which has been made between the Company and the Contractor in respect of (*short description of contract works*) being Contract No. ...., the Bank hereby undertakes that on demand made in writing by the Company from time to time and at any time after the date hereof (until such time as the Company, by notice in writing to the Bank under the hand of its Authorised Legal Officer, advises the Bank that it is released from its obligations hereunder), the Bank shall pay to the Company a sum or sums not exceeding **Six Million Australian Dollars (AUD[●])** in the aggregate.

Payment will be made by the Bank without any reference by the Bank to the Contractor and irrespective of any notice to the Bank by the Contractor not to pay any moneys hereunder to the Company and irrespective of the performance or non-performance by either the Contractor or the Company of the said Contract or of any variation thereof or of any contract substituted therefore provided always the Bank may at any time terminate this Undertaking by payment to the Company of the sum of **Six Million Australian Dollars (AUD[●])** in the aggregate.

**IN WITNESS WHEREOF** the (*NAME OF BANK*) has executed these presents this.....day of.....2025.

THE COMMON SEAL of )  
(**Name of Bank**) )  
was hereto affixed in accordance )  
with its Articles of Association in )  
the presence of: )

.....  
Director

.....  
Secretary

## Schedule 18 – Company’s Procedures and Standards

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The Contractor shall comply with, and the Mine Services shall be performed in accordance with, all of the Company’s standards and procedures including those listed in the table below. An electronic copy of these documents forms a part of this Agreement.

Document No.	Title
CORP-AD-FRM-1050	PERSONNEL COMPLIANCE VERIFICATION FORM
CORP-EN-FRM-1009	VEHICLE AND MOBILE EQUIPMENT WEED INSPECTION FORM
CORP-EN-PLN-1008	FAUNA MANAGEMENT PLAN
CORP-EN-PLN-1010	ENVIRONMENTAL PLAN - DUST MANAGEMENT PLAN
CORP-EN-PLN-1011	FLORA AND VEGETATION HEALTH MANAGEMENT PLAN
CORP-EN-PLN-1013	ENVIRONMENTAL WASTE MANAGEMENT PLAN
CORP-EN-PLN-1020	ENVIRONMENT MANAGEMENT PLAN
CORP-EN-PRO-1002	ENVIRONMENTAL PROCEDURE - LAND REHABILITATION
CORP-EN-PRO-1004	APPROVAL REQUESTS AND GROUND DISTURBANCE
CORP-HS-FRM-1026	EXCAVATION PERMIT
CORP-HS-FRM-1053	MOBILE PLANT, EQUIPMENT AND LIGHT VEHICLE ACCESS REQUEST, INSPECTION AND RISK ASSESSMENT
CORP-HS-FRM-1085	HSE CONTRACTOR PRE-QUALIFICATION QUESTIONNAIRE
CORP-HS-PLN-1001	OCCUPATIONAL HEALTH & SAFETY MANAGEMENT PLAN
CORP-HS-PLN-1003	EMERGENCY MANAGEMENT PLAN
CORP-HS-PLN-1008	TRAFFIC MANAGEMENT PLAN - MINING OPERATIONS
CORP-HS-PLN-1011	HEALTH, SAFETY & TRAINING PRE-MOBILISATION REQUIREMENTS
CORP-HS-POL-1001	KARARA HEALTH & SAFETY POLICY
CORP-HS-PRO-1008	MOBILE PLANT, EQUIPMENT AND LIGHT VEHICLE PROCEDURE
CORP-HS-PRO-1015	EXCAVATION PROCEDURE
CORP-HS-PRO-1022	SITE ENTRY AND SECURITY PROCEDURE
CORP-HS-PRO-1027	FITNESS FOR WORK PROCEDURE
CORP-HS-PRO-1041	OH&S RISK MANAGEMENT PROCEDURE
CORP-HS-STD-1020	BARRICADES AND BARRIERS STANDARD
CORP-HS-STD-1042	STORAGE AND USE OF HAZARDOUS SUBSTANCES STANDARD
CORP-CI-SPC-1001	MINE SITE EARTHWORK AND ROADWORK SPECIFICATION
CORP-QA-SPC-1003	CONTRACTOR QUALITY REQUIREMENTS SPECIFICATION
1000-PC-SPC-1002	CONTRACTOR PROGRESS REPORTING AND PLANNING SPECIFICATION
1000-HS-FRM-1011	(CRAW) KIOP CRITICAL RISK ASSESSMENT REGISTER
CORP-HR-POL-1013	SITE COMMUTE AND REGIONAL TRAVEL POLICY
CORP-HS-POL-1031	FATIGUE MANAGEMENT POLICY
1570-RL-PRO-1003	TRAIN LOADOUT PROCEDURE

## Schedule 19 - Pre-Contract Information

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For the purposes of this Agreement, this comprises the information listed in Schedule 19 of the Pricing & Information Schedules.

*[Drafting note: Pre-Contract Information is to be inserted by the parties.]*

## Exhibit 1 – LOM Mine Plan

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*[Drafting note: KML is to provide the Contractor with the LOM Mine Plan.]*