

1 Interpretation

- 1.1 Subject to the terms of any contract, deed or agreement, these standard terms and conditions for the supply of goods in Australia apply when NTU issues a Purchase Order to a vendor for the supply of goods only after which a contract is formed made up of the Purchase Order, these purchase order terms and conditions for the supply of goods and (if any) schedules (including any annexures to any schedules) or other specified documents.
- 1.2 In these terms and conditions, unless the context requires otherwise:
- (a) **"Contractor"** means the entity providing the Goods.
 - (b) **"Date/s for Delivery"** means the latest acceptable date(s) for the delivery of the goods to the Delivery Point being the dates detailed in the 'Date Required' field detailed in the Purchase Order form to which these Purchase Order Conditions are attached.
 - (c) **"Defective"** means the Goods are not in accordance with the Purchase Order or are damaged, deficient or faulty or there is an inadequacy in the design, performance, workmanship, quality or makeup of the Goods, and **"Defect"** will be interpreted accordingly.
 - (d) **"Delivery Point"** has the meaning ascribed to it in the Purchase Order form to which these Purchase Order Conditions are attached.
 - (e) **"Goods"** means the goods described in the 'Description' and 'Vendor Stock Number' columns of the Purchase Order form to which these Purchase Order Conditions are attached.
 - (f) **"GST"** means the tax payable on Taxable Supplies under the GST Law.
 - (g) **"GST Law"** has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
 - (h) **"Incoterms®"** means the International Chamber of Commerce Publication No. 715E titled *Incoterms® 2010*.
 - (i) **"Incoterms® Rule"** means a defined trading term rule contained in *Incoterms®* and specified on the Purchase Order.
 - (j) **"Law"** means:
 - (i) any legislation, ordinance, regulation, by-law, order, rule, legislative instrument, award, proclamation or Australian industry standard published by Standards Australia; and
 - (ii) any certificates, licences, consents, permits, approvals, authorisations and requirements of any government or governmental agency or body.
 - (k) **"NTU"** means Northern Minerals Limited ABN 61 119 966 353 of Level 1, 675 Murray Street, West Perth in the State of Western Australia.
 - (l) **"Price"** means the price in the 'Total' column detailed in the Purchase Order form to which these Purchase Order Conditions are attached.

- (m) **"Purchase Order"** means a purchase order issued by NTU to the Contractor and / or (as the context may require) the contract between NTU and the Contractor that consists of the documents described in clause 1.1.

2 Delivery

- 2.1 The Contractor must deliver the Goods to the Delivery Point by the Date for Delivery or Dates for Delivery if more than one.
- 2.2 If it appears to the Contractor that all or any of the Goods will not be ready and available for delivery to NTU at the Delivery Point by the Date for Delivery of the relevant Goods, the Contractor will immediately notify NTU stating the anticipated delay, the reason for the delay and the Contractor's revised delivery time. On receipt of such notice (or in the absence of such notice, if the Goods are not delivered by the Date for Delivery):
- (a) NTU may exercise its rights under clause 12.1 and / or purchase alternative goods from another source, in which case NTU will not be responsible to the Contractor for the cost for the Goods and the amount of any additional costs NTU incurs as a result will be a debt due from the Contractor to NTU;
 - (b) NTU may agree to a new Date for Delivery, or dates for delivery, by issuing a written notice to the Contractor; or
 - (c) if the delay has been caused by an act or omission of NTU, then NTU shall extend the Date for Delivery, having regard to the delay, and shall advise the Contractor of the revised Date for Delivery.
- 2.3 The address of the Delivery Point may only be varied by agreement in writing between the parties.
- 2.4 Goods will not be accepted by NTU unless accompanied by a delivery docket quoting the Purchase Order number, part number/specification, a description of the Goods and any certificates or other things required under the Purchase Order.
- 2.5 The Contractor shall, at the time of delivery, obtain from NTU, or NTU's authorised agent, or the carrier who will procure delivery on behalf of NTU, a written acknowledgement of delivery. Acknowledgement will normally be in the form of a signed delivery docket which shall state the date ("**Date of Delivery**") and time at which NTU, or NTU's authorised agent, takes delivery of the Goods.
- 2.6 Signed delivery dockets shall be evidence of delivery on the Date of Delivery only and shall not mean acceptance of the Goods by NTU.
- 2.7 The Price is inclusive of any costs incurred by the Contractor in delivering the Goods to NTU at the Delivery Point.
- 2.8 **Incoterms®**
- (a) Subject to clause 2.8(b), the Goods will be delivered in accordance with any *Incoterms®* Rules specified in the Purchase Order.
 - (b) Where the Purchase Order provides that the Goods are to be delivered in accordance with an

Incoterms® Rule, the rules and definitions applicable to that term in Incoterms® will apply, except to the extent that they conflict with any other provisions of the Purchase Order.

2.9 Any failure to comply with this clause 2 may result in the Goods being rejected and returned at the Contractor's expense.

3 Standard of Goods

3.1 The Goods must:

- (a) comply with the requirements of the Purchase Order;
- (b) comply with all relevant Law; and
- (c) be suitably packed to avoid damage in transit or in storage and in such a way to comply with the requirements of the Purchase Order and any applicable Laws, including (but not limited to):
 - (i) observing all requirements for the carriage of dangerous goods;
 - (ii) including with the Goods the relevant material safety data sheets; and
 - (iii) quoting the Purchase Order number on all packages and delivery dockets.

4 Inspection and audit

4.1 NTU shall have the right of access to the Contractor's premises, and the Contractor will arrange access for NTU to any other premises where the Goods are being stored or manufactured or held, upon request, to inspect the Goods in the process of, or after manufacture.

4.2 NTU may inspect the Goods within a reasonable time after their delivery to NTU. NTU reserves the right prior to acceptance of the Goods:

- (a) to sample and inspect the Goods for conformity with the Purchase Order;
- (b) if the Goods are packaged, to open and inspect them as they are used;
- (c) to require the Contractor to send all certificates of analysis, documents relating to the identity and quality of goods to an authorised purchasing representative of NTU prior to arrival of the consignment at the Delivery Point; and
- (d) to audit the quality system of the Contractor and inspect the production of the Goods at the Contractor's premises using recognised auditing procedures.

4.3 No such inspection of the Goods by NTU in any way alters the Contractor's responsibility to comply with its obligations under the Purchase Order.

4.4 When requested by NTU, the Contractor will issue to NTU regular reports on the progress of the supply of the Goods.

4.5 The Contractor will maintain proper records relating to the Purchase Order for a period that is consistent with good industry practice and will make these available for inspection by NTU.

5 Acceptance and rejection

5.1 NTU will have accepted the Goods when:

- (a) NTU has had a reasonable opportunity to examine the Goods after delivery. Unless otherwise agreed by NTU, a reasonable opportunity will be a period of not less than seven (7) days; and
- (b) NTU indicates to the Contractor that it has accepted the Goods, or when NTU pays for the Goods in full in accordance with clause 9.

5.2 If upon inspection NTU discovers the Goods are Defective, then NTU may direct the Contractor to remove the Goods or any part and replace them with Goods that are free from Defects. In the event that the Contractor fails to comply with such a direction within the time specified by NTU, then NTU may have the work of removal and replacement carried out by other persons and the cost of doing so shall be a debt due from the Contractor to NTU.

6 Care of the Goods

6.1 Subject to any applicable Incoterms® Rules and the terms of the Purchase Order, the Contractor shall be responsible for the care of the Goods up to the time of delivery of the Goods to NTU as evidenced by written acknowledgement under clause 2.5. Upon such delivery, risk in the Goods will pass to NTU.

7 Warranties

7.1 In addition to NTU's rights under clause 5.2 to reject the Goods, if the Goods are found to be Defective for any reason within the warranty period specified in the Purchase Order (or if no such period is specified the warranty period will be two years from the Date of Delivery) ("**Warranty Period**"), NTU will be entitled to return the Defective Goods to the Contractor and at the Contractor's expense, the Contractor will (at NTU's option) either replace or repair the Goods or reimburse to NTU the cost of replacing or repairing the Goods. Where the Contractor has repaired or replaced any Goods under this clause, the repaired or replaced Goods will be subject to the same Warranty Period as the original Goods, from the date the Contractor repaired or replaced the Goods.

7.2 The Contractor warrants to NTU in respect of the Goods that:

- (a) it has complete ownership of the Goods, free of any security interests, charges, encumbrances or liens of any nature and will provide the Goods to NTU on that basis and that NTU will be entitled to clear, complete and quiet possession of the Goods;
- (b) the Contractor is aware of the purpose for which NTU is acquiring the Goods, and that the Goods will be, at the Date of Delivery, and will remain, for the Warranty Period, suitable and fit for that purpose, of good and merchantable quality and free from all Defects;
- (c) the Goods will conform at the Date of Delivery and throughout the Warranty Period in all respects with drawings, specifications, and samples provided or notified by the Contractor to NTU and will comply with the functional and performance criteria set out in the Purchase Order and relevant Australian standards and codes;

- (d) NTU will have the full benefit of any manufacturer's warranties that apply to the Goods or any part of the Goods (or any of their component parts);
 - (e) the Goods do not infringe any patent, trademark, copyright or other intellectual property rights of any nature or interests of any third party;
 - (f) all relevant consumer safety standards relating to the Goods have been complied with;
 - (g) should any safety improvement(s) be made to the Goods, or other items, supplied by the Contractor as part of this Purchase Order, then the Contractor shall provide notice to NTU detailing the:
 - (i) safety improvement(s) made to the Goods or other items;
 - (ii) reason(s) that the improvement(s) were required; and
 - (iii) indicative cost of implementing the improvement(s);
 - (h) the notification by the Contractor under clause 7.2(g) must be made to NTU within 14 days of the Contractor becoming aware of the safety improvements. This warranty shall survive any termination or expiration of this Purchase Order; and
 - (i) the Contractor complies with all applicable anti-bribery and anti-corruption Laws.
- 7.3 The above warranties apply and continue to apply regardless of whether the Goods comply or do not comply (as the case may be) with the Purchase Order and even though NTU may have accepted the Goods or may examine or may have had the opportunity to inspect or test the Goods or part of the Goods and irrespective of whether or not the examination reveals or ought to have revealed the existence of Defects.
- 7.4 The above provisions do not in any way restrict or diminish any other rights or remedies that NTU may have in respect of the Goods and are in addition to any other warranties or conditions whether express or implied or whether granted by Law or otherwise.

8 Liability and indemnities

- 8.1 The Contractor:
- (a) acknowledges that if the Contractor enters NTU's premises, the Contractor does so at its own risk; and
 - (b) must ensure that its employees, agents, contractors and subcontractors are also aware that they enter NTU's premises at their own risk.
- 8.2 To the extent permitted by Law, the Contractor is liable for and must indemnify NTU and keep NTU indemnified from and against any liability and/or any loss or damage of any kind whatsoever, arising directly or indirectly from:
- (a) any breach of any warranty or any of the terms and conditions of this Purchase Order by the Contractor;
 - (b) the illness, injury or death of any of the Contractor's employees, agents, contractors and/or subcontractors arising out of the performance, purported performance or non-performance of, or in connection with this Purchase Order;
- (c) any loss or damage arising out of, or in connection with, any personal injury, illness or death to any person or any loss or damage to, or destruction of, any property or any other loss or damage of any kind whatsoever caused or contributed to by:
 - (i) the Goods; and/or
 - (ii) if the Contractor enters NTU's premises, the entry onto, and the activities undertaken on and in, NTU's premises by the Contractor and/or the Contractor's employees, agents, contractors and/or subcontractors;
 - (d) any criminal act, fraud, negligence or wilful act or omission by the Contractor and/or any of the Contractor's employees, agents, contractors and/or subcontractors arising out of the performance, purported performance or non-performance of or in connection with this Purchase Order;
 - (e) any claim made against NTU by any of the Contractor's employees, agents, contractors and/or subcontractors in respect of any relevant Law concerning income tax, workers compensation, annual leave, long service leave, superannuation or any applicable award, determination or order of a competent industrial tribunal;
 - (f) any fine or penalty imposed for breach of an applicable Law in connection with the supply of the Goods by the Contractor;
 - (g) loss or damage to any plant, equipment, tools, appliances or other property owned, rented or hired by the Contractor and/or the Contractor's employees, agents, contractors and/or subcontractors and used in connection with this Purchase Order; and
 - (h) any claim that the Goods, or anything the Contractor does in supplying NTU with the Goods, or NTU's use of the Goods, infringes or allegedly infringes the intellectual property rights (however described) of any person.
- 8.3 The Contractor is not liable under clause 8.2 to the extent that the losses, damages and/or liabilities were caused or contributed to by a negligent act or omission of or wilful misconduct by NTU or any negligent act or omission of or wilful misconduct by any person in respect of which NTU is vicariously liable.
- 8.4 Every indemnity, exemption, limitation, defence, immunity or other benefit (including any benefit arising from the insurances) contained in this Purchase Order to which NTU is entitled is held by NTU for the benefit of, and extends to protect, each of NTU's directors, employees (past and present), agents, contractors and subcontractors (excluding the Contractor and the Contractor's directors, employees (past and present), agents, contractors and subcontractors) and NTU's related bodies corporate, as defined in the *Corporations Act 2001* (Cth), and their employees (past and present), agents, contractors and subcontractors (excluding the Contractor and the Contractor's employees (past and present), agents, contractors and subcontractors).
- 8.5 Each indemnity in this Purchase Order is a continuing obligation separate and independent from the Contractor's

- other obligations and not in any way limited by the Contractor's and the Contractor's employees', agents', contractors' and subcontractors' entitlement to be indemnified under any one or more of the Contractor's insurance policies and survives termination of this Purchase Order.
- 8.6 It is not necessary for NTU to incur expense or make payment before enforcing a right of indemnity conferred by this Purchase Order.
- 8.7 Notwithstanding anything to the contrary in this Purchase Order, whether express or implied, and notwithstanding any breach of contract, negligence or other breach of duty on the part of NTU or the Contractor or any person or persons for whom they may be responsible, NTU and the Contractor shall not be liable to each other in respect of any loss or liability for:
- (a) loss of use of property which has not been physically lost, damaged or destroyed; or
 - (b) business interruption, loss of actual or anticipated revenue, income or profits however arising, unless caused by wilful default or an act or omission done with reckless disregard for the consequences.

9 Payment

- 9.1 NTU shall, subject to the Contractor complying with its obligations under the Purchase Order, pay to the Contractor the Price in accordance with this clause 9.
- 9.2 The Contractor must render a tax invoice to NTU for the Goods delivered to NTU within seven (7) days after delivery of the Goods to NTU. Each tax invoice must detail the:
- (a) description and quantity of Goods delivered to NTU;
 - (b) Price and appropriate GST; and
 - (c) Purchase Order number issued by NTU in respect of the Goods,
- and should the tax invoice not comply with the requirements of this clause 9.2:
- (d) NTU will not be obliged to pay that tax invoice; until
 - (e) it receives a replacement tax invoice that complies with this clause 9.2 and then clause 9.4 applies to the replacement tax invoice.
- 9.3 All tax invoices provided by the Contractor to NTU must be marked to the attention of:
- Northern Minerals Limited, Accounts Payable
PO Box 669
WEST PERTH WA 6872,
or by electronic mail to the address:
accountsnm@northernminerals.com.au.
- 9.4 Subject to clauses 9.2, 9.6 and 9.7, and unless otherwise agreed between NTU and the Contractor:
- (a) if NTU receives a tax invoice on or before the fifth (5th) day of the month immediately following the month in which the Goods were supplied ("**Relevant Month**"), that tax invoice will be paid within 30 days of the end of the Relevant Month; or alternatively,
 - (b) if a tax invoice is received after the fifth (5th) day of the Relevant Month that tax invoice will be paid

- within 30 days of the end of the month that immediately follows the Relevant Month.
- 9.5 Payments by NTU under the Purchase Order shall be made by direct electronic deposit to a bank account advised by the Contractor.
- 9.6 If NTU disputes any amount purportedly owed by it to the Contractor under the Purchase Order, NTU must nevertheless pay the amount (if any) which is not disputed and notify the Contractor of the amount in dispute and the reasons for disputing the amount. The Contractor must provide a credit invoice for the amount in dispute.
- 9.7 NTU will not be obliged to pay for the Goods until the Goods have been accepted in accordance with clause 5.
- 9.8 NTU may deduct from monies otherwise due to the Contractor any:
- (a) debt or other monies due from the Contractor; or
 - (b) claim to money which NTU may have against the Contractor whether for damages or otherwise relating to the Purchase Order.
- 9.9 Unless specifically agreed otherwise, NTU shall not be obliged to pay a tax invoice which the Contractor submitted more than 90 days after the date for submitting a tax invoice pursuant to clause 9.2.

10 Transfer of title

- 10.1 Title in the Goods will pass from the Contractor to NTU free of any security interests, charges, encumbrances or liens of any nature at the time of delivery of the Goods to NTU.

11 Confidential information

- 11.1 The Contractor must not, at any time, without the consent of NTU, divulge to any person any information concerning the Purchase Order or the operations, dealings, transactions, contracts or commercial affairs of NTU.

12 Termination

- 12.1 If the Contractor breaches the Purchase Order and fails to remedy such breach after receiving seven (7) days written notice from NTU to do so NTU may terminate the Purchase Order, provided that if the Contractor gives NTU a notice under clause 2.2 or the Goods are not delivered by the Date for Delivery NTU may terminate the Purchase Order immediately.
- 12.2 NTU may at any time, in its absolute discretion, terminate this Purchase Order in whole or in part by giving the Contractor 14 days' written notice to that effect.
- 12.3 If the Goods are not required to be manufactured or fabricated by the Contractor specifically for NTU, upon termination of the Purchase Order under clause 12.2, NTU will have no obligation to pay for the Goods which have not been delivered to NTU at the time of termination of this Purchase Order.
- 12.4 If the Contractor is required to manufacture or fabricate Goods specifically for NTU, upon termination of the Purchase Order under clause 12.2, the Contractor must immediately stop all work in respect of the Goods and NTU must pay to the Contractor on demand the reasonable direct costs incurred by the Contractor in

respect of those Goods the Contractor was required to manufacture or fabricate up until the time it is required to stop all work. The Contractor will not be entitled to any other costs, expenses, loss or damage, including for loss of profit.

- 12.5 In the event of Termination of the Purchase Order by NTU under clause 12.1, NTU will have no obligation to pay for the Goods (even if manufactured or fabricated specifically for NTU), nor any costs, expenses, losses or damages of any nature incurred by the Contractor in respect of such termination.

13 Civil Liability Act

- 13.1 Part 1F of the *Civil Liability Act 2002* (WA) is hereby excluded from application to this Purchase Order.

14 Intellectual property

- 14.1 The Contractor grants to NTU an irrevocable, perpetual, royalty - free licence to use, copy and amend any drawings, documents and technical information in any form provided or created by the Contractor in connection with this Purchase Order.

15 Asbestos

- 15.1 The Contractor shall not provide any asbestos or asbestos containing Goods to NTU.

16 e-Marketplace

- 16.1 Should NTU request that the Contractor transact with NTU via an electronic marketplace (e-Marketplace), the Contractor agrees to adopt this method of transacting and acknowledges that it will do so in accordance with the method and timing specified by NTU, at the current rates contained in the Purchase Order, without any other compensation, amendment to the terms of the Purchase Order or additional cost to NTU.

17 Governing law

- 17.1 This Purchase Order and any dispute arising out of or in connection with it or its subject matter or formation (including non-contractual disputes) will be governed by, construed and take effect in accordance with the law in force in Western Australia.
- 17.2 The parties agree that the United Nations Convention on Contracts for the International Sale of Goods (adopted at Vienna on 10 April 1980) does not apply in any respect to this Purchase Order.