

These Purchase Order Terms & Conditions (**Conditions**) apply each Purchase Order unless the Purchase Order refers to and provides details of a separate executed formal written agreement that applies to the provision of the Supplies.

1. Defined terms & interpretation

In this document:

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Perth, Western Australia.

Contract means the contract between the Supplier and the Customer consisting of:

- (a) any Special Conditions;
- (b) these Conditions; and
- (c) the Purchase Order;
- (d) all other documents identified in the Purchase Order including Specifications for the Supplies ordered (excluding any terms and conditions of the Supplier).

Contract Price means the Firm Price detailed in clause 3.1.

Controller means, in relation to a person:

- (a) a controller (as defined in the Corporations Act), receiver, receiver and manager, administrator, liquidator (whether provisional or otherwise) of that person or that person's property or any other person (however described) holding or appointed to an analogous office or acting or purporting to act in an analogous capacity; or
- (b) anyone else who (whether or not as agent for the person) is in possession, or has control, of that person's property to enforce an encumbrance;

Consequential Loss means any indirect or consequential loss, however caused or arising, including any loss of revenue, profit or anticipated profit, loss of or deferral of production, loss of opportunity, loss of goodwill, loss of contract, loss of use or anticipated use, and exemplary or punitive damages, whether or not foreseeable.

Corporations Act means the *Corporations Act 2001* (Cth).

Customer means the entity named in the Purchase Order as the Customer.

Delivery means delivery of Products to the Destination and/or the completion of the Services.

Delivery Date means the delivery date identified in the Purchase Order.

Destination means the place of delivery identified in the Purchase Order.

Documents means the documentation to be provided by the Supplier referred to in clause 13.1 and in the Purchase Order and includes Specifications and drawings.

Encumbrance means any restriction, condition, covenant, lien, charge, mortgage, security interest, claim by a third party or encumbrance of any nature.

Good Working Order in respect of a Supply means that the Supply performs in accordance with the relevant Specifications for that Supply.

Gross Negligence means reckless conduct in disregard for the harmful, foreseeable and avoidable consequences which may result from that conduct.

GST has the meaning given to it in the GST Act.

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

Insolvency Event means, in respect of a party, the occurrence of any one or more of the following events or circumstances:

- (a) its winding up, liquidation or provisional liquidation;
- (b) the appointment of an administrator under the Corporations Act;

- (c) the appointment of a Controller or analogous person to it or any of its property;
 - (d) being deregistered as a company or other body corporate or otherwise dissolved;
 - (e) being unable to pay any of its debts as and when due and payable or being deemed to be insolvent under any Law;
 - (f) seeking protection from its creditors under any Law or entering into a compromise, moratorium, assignment, composition or arrangement with, or for the benefit of, any of its members or creditors;
 - (g) any director of the party takes steps to develop or take a course of action that is reasonably likely to lead to a better outcome for the party than proceeding to its immediate administration or liquidation, so that section 588GA(1) of the Corporations Act (about a safe harbour for directors taking certain courses of action) applies;
 - (h) it otherwise becomes a Chapter 5 body corporate, as defined in the Corporations Act;
 - (i) if the party is an individual, they commit an act of bankruptcy within the meaning of section 40 of the *Bankruptcy Act 1966* (Cth) or they are or become bankrupt within the meaning of section 5 of that Act;
 - (j) where the party enters into the Contract as the trustee or a co-trustee of a trust (whether disclosed or not):
 - (i) the beneficiaries of the trust resolve to wind up the trust, the trustee is required to wind up the trust under the terms of the trust or any applicable Law, or the winding up or termination of the trust commences or occurs for any reason;
 - (ii) an external administrator is appointed to the trust or the assets of the trust; or
 - (iii) for any reason the trustee is not or ceases to be entitled to be indemnified out of, or to have a lien over, the assets of the trust for all of its obligations and liabilities, or that right of indemnity is reduced, restricted, or does not have priority over the rights of the beneficiaries of the trust;
 - (k) an analogous event or circumstance to any listed above occurs in any jurisdiction;
 - (l) suspending or threatening to suspend payment of its debts as and when they become due;
 - (m) ceasing or threatening to cease to carry on business; or
 - (n) taking any step or being the subject of any action that is preparatory to, or reasonably likely to result in, any of the above,
- unless such event or circumstance occurs as part of a solvent reconstruction, amalgamation, compromise, arrangement, merger or consolidation approved by the Customer (which approval is not to be unreasonably withheld or delayed).
- Law** includes any Act, statute, constitution, treaty, decree, convention, regulation, rule, ordinance, proclamation, subordinate legislation, delegated legislation, by-law, judgment, rule of common law or equity, rule, ruling, guideline, code of practice, or lawful requirements of public and other authorities in any exercising jurisdiction in the relevant matter.
- Mines Safety Management System** has the same meaning as in the WHS Mines.
- Notifiable Incident** has the same meaning as in the WHS Act.

Product means a Supply that consists of material, goods or other items.

Purchase Order means the document titled "Purchase Order" provided by the Customer to the Supplier.

Related Body Corporate means a body corporate that is a holding company of another body corporate, a direct or indirect subsidiary of another body corporate or a subsidiary of a holding company of another body corporate. A body corporate is a subsidiary of another company if the company controls the composition of the subsidiary's board or controls directly or indirectly more than one half of the voting shares in the subsidiary.

Reportable Incident has the same meaning as in the WHS Mines Regulations.

Service means the services to be provided by the Supplier under the Contract, including services to install or ensure that the Supplies are in Good Working Order at and after Delivery in accordance with clause 7.3.

Site has the meaning set out in clause 12.2.

Special Conditions means any terms and conditions set out in the Purchase Order or agreed in writing between the Customer and the Supplier, which are incorporated into and form part of this document pursuant to clause 19.

Specifications means, in relation to a Supply, all relevant Supplier Specifications, Standards, Warranties and all other specifications provided to the Supplier by the Customer, including without limitation the purposes, requirements, and service levels, stated or referred to in the Purchase Order for the Supplies.

Supply/Supplies means any Product or Service listed in the Purchase Order to be provided by the Supplier under the Contract.

Supplier means the party specified in the Purchase Order as the supplier who will provide the Supplies.

Supplier Personnel means the Supplier and its Related Bodies Corporate and their respective directors, officers, employees, agents, consultants, contractors and subcontractors.

Supplier Specifications means the Supplier's published descriptions of and technical specification for the Supplies.

Standards means any governmental regulations and standards applicable to the Supplies and any other standards specified in the Purchase Order.

Tax Invoice has the meaning given to it in the GST Act.

Warranties means the warranties for the Supplies set out in clause 7.3.

Wilful Misconduct means any intentional act or omission carried out with disregard for its foreseeable and harmful consequences, but does not include an error of judgement, mistake, or an act taken or omission made in good faith.

Worker has the same meaning as in the WHS Act.

WHS Act means the *Work Health and Safety Act 2020* (WA).

WHS Mines Regulations means the *Work Health and Safety (Mines) Regulations 2022* (WA).

2. Contract

- (a) In consideration of payment of the Contract Price by the Customer, the Supplier must supply to the Customer the Supplies in accordance with the Purchase Order which includes these Conditions.
- (b) To the extent that the Supplier's terms and conditions of supply are supplied to the Customer (including as printed on quotations, consignment notes, invoices, acknowledgement of the Purchase Order or

- other Documents), those terms and conditions will be of no legal effect and will not constitute part of the terms and conditions applying to the Supply (even if any representative of the Customer signs those terms and conditions or annexes those terms and conditions to this Purchase Order).
- (c) The Purchase Order, when issued by the Customer and bearing an order number allocated by the Customer and incorporating these Conditions by reference is the only form which will be recognised by the Customer as authority for charging Supplies to its account.
- (d) The Contract does not create any exclusive supply relationship between the Supplier and the Customer. The Customer is not obliged to procure any minimum level of supply from the Supplier.

3. Price

3.1 Firm Price

The total value specified in the Purchase Order is:

- (a) firm and is not subject to increase;
- (b) inclusive of all costs incurred by the Supplier in the supply of the Supplies including all charges for testing, inspection, insurance, labelling, packing, charges for freight, delivery to and off-loading at the Destination and the costs of any items used or supplied in the performance of the Supplies; and
- (c) inclusive of all taxes and duties except GST, **(Firm Price)**.

3.2 ABN

The Supplier confirms that its ABN is as set in the Purchase Order.

4. GST

4.1 Definitions

For the purposes of this clause 4:

- (a) the expressions Consideration, GST, Input Tax Credit, Recipient, Supply and Taxable Supply have the meanings given to those expressions in the GST Act; and
- (b) Supplier means any party treated by the GST Act as making a Supply under the Contract.

4.2 Consideration is GST exclusive

Unless otherwise expressly stated, all prices, rates or other sums payable or Consideration to be provided under or in accordance with the Contract are exclusive of GST.

4.3 Payment of GST

- (a) If GST is imposed on any Supply made under or in accordance with the Contract, the Recipient of the Taxable Supply must pay to the Supplier an amount equal to the GST payable on or for the Taxable Supply, subject to the Recipient receiving a valid Tax Invoice in respect of the Supply at or before the time of payment.
- (b) Payment of the amount must be made at the same time and in the same way as payment for the Taxable Supply is required to be made in accordance with the Contract.

4.4 Reimbursement of expenses

If the Contract requires a party (**First Party**) to pay for, reimburse, set off or contribute to any expense, loss or outgoing (**Reimbursable Expense**) suffered or incurred by the other party (**Other Party**), the amount required to be paid, reimbursed, set off or contributed by the First Party will be the sum of:

- (a) the amount of the Reimbursable Expense net of Input Tax Credits (if any) to which the Other Party is entitled in respect of the Reimbursable Expense (**Net Amount**); and

- (b) if the Other Party's recovery from the First Party is a Taxable Supply, any GST payable in respect of that Supply,

such that after the Other Party meets the GST liability, it retains the Net Amount.

4.5 Supplier ABN

The Supplier confirms that its ABN is as set in the Purchase Order.

5. Invoicing and payment

5.1 Payment claims

The Supplier must, upon Delivery or at the intervals identified or on the dates specified in the Purchase Order, submit to the Customer (by email to accounts@karoraresources.com.au) payment claims accompanied by a valid Tax Invoice clearly showing:

- (a) the Contract Price of the Supplies supplied within the preceding interval since the previous payment claim;
- (b) the Purchase Order number detailed on the Purchase Order; and
- (c) any other reasonable information requested by the Customer from time to time to assist the Customer in assessment of the Supplier's payment claim.

5.2 Payment

- (a) The Customer will pay a valid Tax Invoice submitted by the Supplier after Delivery within 30 days after the end of the month in which the Tax Invoice is received, or such other timeframe as may be specified in the Purchase Order or agreed in writing between the Customer and the Supplier.
- (b) The amount which will be paid by the Customer is the Contract Price payable for Products delivered to, and Services performed for, the Customer.
- (c) The Customer may deduct from any amount payable to the Supplier under the Contract any amount which is, or in the opinion of the Customer is likely to become, payable by the Supplier to the Customer under the Contract or otherwise.
- (d) Payment by the Customer is on account only and does not evidence the Customer's acceptance of the Products or Services supplied by the Supplier or of any liability to the Supplier.

6. Delivery

- (a) The Supplies must be delivered to the Destination by the Delivery Date. The Supplier will be responsible for packing, protecting and transporting any Products to the Destination in accordance with all applicable Laws and good industry practice and will be liable for all costs up to and including the Products acceptance by the Customer at the Destination.
- (b) The Supplier acknowledges that time is of the essence in effecting Delivery of the Supplies and no variation or extension given by the Customer shall be treated as a waiver of this condition.

7. Title, inspection, acceptance, quality and rejection

7.1 Title and risk

- (a) Title to and property in a Supply, free of all Encumbrances passes to the Customer on payment of the Contract Price for that Supply.
- (b) The Supplier bears all risk of loss and damage to the Supplies until final acceptance by the Customer in accordance with clause 7.2 of these Conditions.

7.2 Inspection and acceptance

- (a) The Customer has the right to inspect, test or reject the Supplies at any time.
- (b) Any inspection or test or rejection carried out by the Customer does not relieve the Supplier from any of its responsibilities and obligations under the Contract.
- (c) Without limiting any other right or remedy the Customer may have under the Contract, if the Customer receives a Supply that is incorrect, defective or otherwise fails to comply with the terms of the Contract (including any breach of warranty under clause 7.3 in respect of the Supply), the Customer may give the Supplier notice of non-acceptance (**Notice**) of that Supply (**Rejected Supply**) as soon as reasonably possible after the Customer becomes aware of that defect or non-compliance.
- (d) The Supplier must, at its own cost and within 5 Business Days (or any longer period allowed by the Customer), of receiving the Notice from the Customer:
- collect the Rejected Supply from the Customer or other location where the Rejected Supply is located at that time (as directed by the Customer); and
 - supply a replacement Supply to the Customer at no additional charge to the Customer. Such replacement must comply in all respects with the Contract.
- (e) Acceptance by the Customer does not waive any of its rights under the Contract. If the Customer accepts any Supplies, this does not extinguish any rights of the Customer if the Supplies do not comply with the Contract.

7.3 Quality warranty

The Supplier warrants that the Supplies:

- (a) match the description referred to in the Purchase Order;
- (b) are in Good Working Order and fit for the purpose for which supplies of the same kind are commonly supplied or bought and for any other purpose specified by the Customer and made known to the Supplier;
- (c) where the Supplies are Products, the Products:
- conform to the Specifications;
 - are of merchantable quality and condition and, unless otherwise specified in the Purchase Order, are new;
 - will be free from contamination or defects in design, material and workmanship; and
 - (including content, labelling, marking and packaging) comply with the Law in the country in which they were manufactured and Australia and any relevant Australian State or Territory in which they are to be delivered; and
 - are free from all Encumbrances; and
- (d) where the Supplies are Services, in carrying out the Services, the Supplier will exercise all due skill, speed, care and diligence and carry out the services in accordance with the Contract, all then current applicable Laws and industry codes of practice and to the standard expected of a suitably qualified, experienced and skilled contractor who carries out similar services. The Supplier acknowledges that the Customer has engaged the Supplier to carry out the Services in reliance upon the expertise of the Supplier in carrying out such services.

8. Defects liability

Without limiting clause 7.2, should any Supply or part of any Supply fail or prove not to be in Good Working Order or otherwise be defective within the defects liability period identified in the Purchase Order (or, where no defects liability period is identified, within 12 months) from the date of Delivery or installation of the Product (whichever occurs later) or from the date on which the Service is performed, the Supplier shall promptly repair or replace that Supply upon request to do so by the Customer at the Supplier's cost and the Customer may require the Supplier to reimburse the Customer for any expenses incurred by the Customer in repairing, re-performing or making good (as the case may be) such defective Supplies. Repairs and replacements shall themselves be subject to the above obligations in this clause 8 for a further period of 12 months from the date of delivery, re-installation or passing of tests.

9. Intellectual property rights

9.1 No infringement

The Supplier warrants that the Supplies, and the Customer's reasonably foreseeable use of them, will not infringe any intellectual property rights or moral rights of any person. The Supplier indemnifies and shall keep indemnified the Customer (and its successors in interest) against breach of this warranty and any loss or damage (including legal fees and costs) arising from breach of this warranty or prevention or hindrance of use of the Supplies.

9.2 Ownership of Intellectual Property

- (a) The Customer will own all intellectual property rights created in the provision of the Supply or performance of the Services for the Customer. The Supplier hereby assigns such rights to the Customer and agrees to execute any document reasonably required by the Customer to evidence or perfect such ownership.
- (b) The Supplier grants the Customer a non-exclusive, transferable, sublicensable, perpetual, irrevocable, royalty free, worldwide licence of to use any intellectual property to the extent such licence is required to enable the Customer to lawfully use, modify, maintain and repair the Products or enjoy the benefit of the Services.

9.3 Confidential information

The Supplier must ensure that its officers, employees, contractors and agents keep confidential all information of the Customer or relating to the Contract, and not use or disclose that information except to fulfil its obligations under the Contract. All confidential information supplied by the Customer shall be returned to it by the Supplier on completion of the Contract.

The obligations of confidentiality under this clause 9.3 do not apply to any information that is generally available to the public (other than by reason of a breach of the Contract) or is required to be disclosed by any applicable Law.

10. Indemnities and insurance

10.1 Indemnities

The Supplier is liable for and must indemnify and keep indemnified the Customer and its Related Bodies Corporate and their respective directors, officers, employees, agents, and the successors and assigns of each of them (**Indemnified Parties**) against all claims, suits, actions, proceedings, litigation, demands, investigations, fines, penalties, liabilities, loss, judgments, costs (including legal costs on a full indemnity basis) or damages whether ordinary, special or consequential arising directly or

indirectly from or in connection with:

- (a) any negligence, breach of Law, wrongful act or omission or Wilful Misconduct of the Supplier or Supplier Personnel;
- (b) any death, personal injury, illness, or physical loss or damage caused by or to the Supplier Personnel;
- (c) a breach by the Supplier of any of the Supplier's warranties or any other terms of the Contract;
- (d) a claim that any Product or Service supplied to the Customer infringes upon or misappropriates any intellectual property rights of a third party; and
- (e) a claim of any Encumbrance made by a third party,

except that the Supplier's liability will be reduced proportionately to the extent that any such liability result from the negligence of an Indemnified Party.

10.2 Insurance

- (a) In addition to any insurance the Supplier is obliged to effect under all applicable Laws, the Supplier shall effect and maintain, at its own expense, with reputable and financially secure insurers (S&P rating or equivalent of "A-" or better), the insurances set out in Annexure A.
- (b) The Supplier must provide evidence of such insurances, including certificates of currency, to the Customer on request.
- (c) The Supplier must ensure that every subcontractor it engages in respect of the Purchase Order effects and maintains equivalent policies of insurance.
- (d) This clause 10.2, and the effecting of insurance as required by it, shall not limit the Supplier's liability under the Contract or at law.
- (e) The Supplier must ensure that, except where prohibited by any applicable Law, each insurance policy it or any subcontractor is required to procure under the Contract is deemed primary to any insurance effected by the Company for the acts and omissions of the Supplier or Supplier Personnel, so that the Company's insurance will operate only in excess of the Supplier's insurance in respect of that liability, and that each insurance policy is endorsed accordingly.

10.3 Liability cap

Subject to clause 10.5, the Customer's liability under the Contract shall not exceed the Contract Price.

10.4 Consequential loss

Subject to clause 10.5, neither Party is, in any circumstance, liable to the other for any Consequential Loss, howsoever arising, and release each other from any claims for Consequential Loss arising under or in respect of the Contract.

10.5 Exclusion from liability limitations and cap
Clauses 10.3 and 10.4 do not apply to the extent that:

- (a) the liability or obligation of the Supplier to the Customer relates to an insured liability under a policy of insurance required by the Contract to be maintained by the Supplier or Supplier Personnel;
- (b) the Supplier or Supplier Personnel are able to recover or should, using reasonable endeavours, be able to recover, any payment or other benefit for any third party in respect of the Supplier's liability to the Customer;
- (c) the liability cannot be limited or excluded at Law;
- (d) the liability arises out of a breach by the Supplier or any intellectual property rights or confidentiality obligation; or

- (e) the liability arises out of or is caused or contributed to, directly or indirectly, by the Gross Negligence, Wilful Misconduct, fraud or criminal conduct of the Supplier or Supplier Personnel.

10.6 Civil Liability Act

All provisions comprising Part 1F of the *Civil Liability Act 2002* (WA) are hereby expressly excluded from and do not form part of the Contract.

11. Cancellation and termination

11.1 With cause

In the event:

- (a) of the failure of the Supplier to remedy any breach of the Contract within 5 Business Days of the Customer providing the Supplier with written notice of the failure;
- (b) that the Supplier is the subject of an Insolvency Event;
- (c) that a change in control occurs in relation to the Supplier without the consent of the Customer which in the Customer's opinion may affect the quality or delivery of the Products or Services;
- (d) that any representation, warranty or statement made or repeated by the Supplier in or in connection with the Contract is untrue or misleading in any material respect (including by omission) when so made or repeated;
- (e) the Supplier or any of its directors is convicted of a criminal offence;
- (f) the Supplier or Supplier Personnel, in the Customer's opinion, wilfully or recklessly injures a person or damages the Customer's property;
- (g) the Supplier or Supplier Personnel fails to comply with the safety policies, procedures, rules, directions or requirements of the Customer;
- (h) the Supplier or Supplier Personnel act in a manner which the Customer considers to be substantially prejudicial or harmful to the Customer or which is unsafe; or
- (i) that the Supplier ceases to threatens to cease to carry on business or a substantial part of it,

the Customer may without prejudice to any other rights to recover damages or any other rights, by giving notice to the Supplier in writing:

- (i) cancel (in whole or in part) any undelivered Supplies;
- (ii) terminate the Contract; and/or
- (iii) make any other arrangements as the Customer considers necessary,

and the Customer shall not be obliged to make any further payments under the Contract. Such termination shall not prejudice any right of the Customer to recover from the Supplier damages for any breach.

11.2 Without cause

The Customer may cancel the Purchase Order and terminate the Contract in whole or in part at its absolute discretion by providing written notice to the Supplier and without assigning any reasons for the termination. Under such circumstances the Customer shall pay the Supplier for any Product delivered or Services performed prior to the date of cancellation. Upon receipt of a notice of cancellation, the Supplier must cease manufacture, supply or work in accordance with the notice and shall do everything possible to mitigate any cost after such cancellation. If the Supplier is not in default of the Contract, the Customer will pay the Supplier the costs directly incurred in connection with the Purchase Order to the date of cancellation, provided that:

- (a) the cancellation costs are reasonably proportionate to the value of the Product received or Service done; and
- (b) the maximum amount payable by the Customer under the Contract, inclusive of the cancellation costs, does not exceed the Contract Price.

12. Transportation and work on site

12.1 Transportation

All Product shall be packed, marked and transported as specified in the Purchase Order. If not specified all Product shall be packed, marked and transported in a proper and suitable manner so it will not be damaged and in all cases in accordance with the requirements of the relevant carrier. The Supplier shall be liable for any difference in freight charges arising from its failure to follow any transport instruction in the Purchase Order or the Contract or to properly describe the Product transported.

12.2 Work on site

Where the Supplier is required to be present or provide Supplies on or near premises specified by the Customer (**Site**), the Supplier shall:

- (a) supply all labour, tools, equipment, materials and the like necessary to provide the Supplies, including in accordance with the requirements contained in clause 16;
- (b) not interfere with the Customer activities or the activities of any other person at the Site;
- (c) be aware of and comply with and ensure its employees, agents, invitees and subcontractors are aware of and comply with all Laws, standards rules and procedures relevant to it and the Site, to the extent applicable to the provision of the Supplies by the Supplier, and obey all lawful requirements, directions and orders given by the Customer, its manager, or any person authorised by any Law to give directions to the Supplier (including participating in any training or induction training required by the Customer);
- (d) promptly provide the Customer all such information and assistance as it reasonably requires in connection with any incident, accident, incident reporting or investigation in connection with the performance of the Purchase Order;
- (e) ensure that the Supplier's workers, entering the Site are suitably qualified for, experienced and skilled in, the performance of their tasks and are of such character as not to prejudice safe working practices, safety and care of property and continuity of work; and
- (f) where applicable, provide the Customer with a complete list of all chemicals, hazardous materials and ingredients in the composition of Product or used in the performance of the Services and a copy of the material safety data sheet for such chemicals and hazardous materials. The submission of such list shall not relieve the Supplier of exclusive responsibility for the safe transportation, use, storage and disposal of such materials prior to acceptance by the Customer in accordance with clause 7.2.

13. Documents and licences

13.1 Documents

The Supplier will provide the Customer with all user Documents including engineering data containing sufficient information to enable the Customer to operate, make full use of and maintain the Supplies, together with any other Documents specified in the Purchase Order (including safety documentation

such as risk assessments). Unless otherwise stated in the Purchase Order, all Documents must be provided by the Supplier upon Delivery.

13.2 Licences

Unless otherwise specified in the Purchase Order, the Supplier shall at its cost obtain and maintain all requisite licences, qualifications, certificates, accreditations, permits and authorities required to perform any task associated with the Supplies and shall provide copies of such documents to the Customer upon request. The Supplier must comply with all applicable Laws and Australian standards00.

14. General

14.1 Applicable law

The Contract shall be governed by the law of Western Australia and the Customer and the Supplier agree to submit all disputes arising between them to courts of that state and any court competent to hear appeals. Notwithstanding the above, the Customer may institute such proceeding as it sees fit in the court of any country, state or territory in which the Supplier is resident or the work is to be performed and the Supplier in such case accepts and submits to the jurisdiction of those courts.

14.2 Assignment and subcontracting

- (a) The Supplier shall not assign or subcontract the Supplies (in whole or in part) or payment, or any other right, benefit or interest in respect of the Purchase Order without obtaining the Customer's prior written consent.
- (b) When giving its written consent, the Customer may impose such terms and conditions as it thinks fit, including the condition that the Supplier must submit to the Customer for approval the agreement or terms and conditions that will apply to the subcontracting arrangement.
- (c) If the Supplier assigns or subcontracts any of its obligations under the Contract, it will remain liable in full for the performance of such obligations.

14.3 Precedence of documents

In the event of inconsistency, the documents listed in the definition of 'Contract' will take precedence in the order in which they are listed.

14.4 Entire agreement

The Contract constitutes the entire agreement between the parties and supersedes any previous agreement or arrangement between the parties relating to the Supplies.

14.5 No waiver

Failing to insist on strict performance of any provisions of the Contract is not a waiver of any later breach or default. Any particular waiver of any right, obligation or default will not be construed as a waiver of any subsequent or other right, obligation or default.

14.6 Variation must be in writing and notified

The Customer may in writing, amend, supplement or replace any Purchase Order, Specification or these Conditions. Such change shall take effect on and from the time of notification to the Supplier.

14.7 Severance

Should any clause or part thereof of the Contract be found to be void, unenforceable or invalid, then it is severed from the Contract, leaving the remainder in full force and effect, provided that the severance has not altered the basic nature of the Contract.

15. Dispute resolution

If a party considers that a dispute between the parties has arisen out of or in connection with the Contract that party must give written notice to the other party setting out the details of the dispute. The other party must provide a written response within 5 Business Days of receipt of the written notice. During the period of 20 Business Days after the provision of the written response or any longer period agreed in writing by the parties (**Initial Period**), each of the must undertake genuine and good faith negotiations with a view to resolving the dispute. If the parties are unable to resolve the dispute during the Initial Period, either party may commence court proceedings for the resolution of the dispute. Each party must bear its own costs of complying with this clause. Nothing in this clause prevents a party from seeking urgent injunctive relief from a court.

16. Work health, Safety and Environment protection

The Supplier must comply with all relevant work health and safety, environmental and workers' compensation legislation including all Acts, regulations, codes of practice and Australian standards. Without limiting its obligations under relevant legislation, the Supplier must, where relevant:

- (a) ensure, and demonstrate through documented evidence, that any plant and equipment used by it is appropriate for the task and is adequately maintained and safe for use;
- (b) ensure that its workers are competent and qualified to undertake the work associated with the Supplies, hold any applicable work licences, and have been provided with adequate information, instruction, and training (including induction training). The Supplier must provide documents to the Customer to evidence such information, instruction, training and licences upon request;
- (c) conduct risk assessments by appropriately qualified and competent persons and in consultation with relevant workers;
- (d) develop and maintain systems of work and procedures necessary to ensure that any work associated with the Supplies is conducted to the highest industry standard, in an efficient and workmanlike manner and without risk to health and safety of any persons. Any procedures prepared by the Supplier must be prepared by appropriately qualified and competent persons in consultation with relevant workers and reflect relevant risk assessments. All relevant workers and persons must be trained in those procedures and the Supplier must, upon request by the Customer, provide documented evidence of such training;
- (e) identify and control all hazards and risks associated with the Supplies, including ensuring adequate documentation regarding the implementation and maintenance of controls of such hazards and risks. Such documentation must be submitted to the Customer upon request;
- (f) notify the Customer of any sub-contractors it may wish to engage to provide the Supplies and provide the Customer with documentary evidence of any of the matters set out in this clause 16 in relation to the sub-contractor upon request;
- (g) immediately notify the Customer in writing of any Notifiable Incident, Reportable Incident any other safety incident, "near-miss" or

- “serious potential” safety incident (**Incident**) (whether a person is injured or not);
- (h) review the control measure it implements to control hazards and risks if:
- (i) an audit of the Mines Safety Management System indicates a deficiency in the control;
 - (ii) a worker is moved from the hazard and assigned to different work in response to a recommendation in a health monitoring report;
 - (iii) a Notifiable Incident or Reportable Incident occurs; or
 - (iv) an inspector requires a review of the control measures;
- (i) provide a document which states the work health and safety issues arising from any Incident and the recommendations arising from consideration of the Incident or health monitoring of workers that complies with the requirements set out in the Mines Safety Management System Code of Practice;
- (j) immediately notify the Customer in writing if it is issued with any statutory notices by a regulator and provide a copy of any statutory notice to the Customer;
- (k) comply with all work health and safety, environment and workers’ compensation/ rehabilitation policies, procedures, rules, requirements and directions of the Customer relating to the Supplies and any ancillary matters as notified to the Supplier by a Customer representative, its manager, or any person authorised by any Law to give directions to the Supplier;
- (l) provide and maintain in a safe condition all necessary and appropriate safety equipment for its workers (and, where applicable, the workers of the Customer and other persons) including personal protective equipment;
- (m) consult, co-operate and co-ordinate its activities with any other person or company who has a work health and safety duty in relation to the Supplies;
- (n) cease work if there are any changes to risks, tasks, scope of work, the working environment or personnel and review, and amend, if necessary, any relevant risk assessment(s) and work procedures. The Supplier must conduct any training or refresher training required as a result of those changes and retain documented evidence to demonstrate that this has occurred. The Supplier must not recommence until this has occurred, and the amended risk assessment(s) and work procedures have been submitted to the Customer upon request;
- (o) ensure adequate supervision is provided at all times by appropriately qualified personnel and provide the Customer with documentation confirming the supervisory arrangements upon request;
- (p) inform the Customer if there are any changes to supervisory Supplier Personnel during provision of the Supplies; and
- (q) ensure that the Supplier must ensure the health and safety of the Customer’s workers where relevant, and any other persons that may be affected by its undertaking.

17. Notices

All notices shall be in writing addressed (depending on the manner in which it is given) as specified in the Purchase Order and shall be effective on receipt, and will be deemed to be received:

- (a) if sent by post at 9.00 am on the third Business Day after being posted or, if posted

- to or from a place outside Australia, on the fifth Business Day after being posted; or
- (b) if by way of email on the earlier of:
 - (i) the sender receiving a delivery confirmation message from the recipient’s information system; and
 - (ii) 4 hours after the time the email is sent to the relevant email address unless the sender receives an automatic notification (other than an out of office greeting) that the email has not been delivered.
- (c) If any notice or other communication would be deemed to be delivered or received after 5:00 pm or on a day which is not a Business Day in the place in which the recipient has its address, it will be taken to have been delivered and received at 9.00 am on the next Business Day in that place.

18. Document Retention and Audit

The Supplier must maintain its records relating to a Purchase Order for a period of two years from the Delivery Date and must make such records available for inspection by the Customer when and where reasonably requested by the Customer.

19. Special Conditions

Any Special Conditions set out in the Purchase Order or otherwise agreed in writing between the Company and the Customer are deemed to be incorporated in these terms and conditions.

20. Updates

- (a) The Customer may update these terms and conditions from time to time by publishing such updates (**Updated Terms**) on its website (www.karoraresources.com). The Updated Terms will take full force and effect from the date of publication on the Customer’s website, subject to any changes effected to the Updated Terms by the application of existing Special Conditions agreed between the Parties.
- (b) If the Supplier provides written notice to the Customer that it does not agree to any content of the Updated Terms within 30 days of publication of the Updated Terms on the Customer’s website, the Updated Terms will not apply between the Customer and the Supplier until the Customer and the Supplier agree otherwise and, until such agreement is reached, the prior version of these terms and conditions will apply between the Customer and the Supplier.

Annexure A – Insurances

- (a) **Workers' compensation insurance** covering liability arising out of death of or injury to persons employed (or deemed to be employed) by the Supplier in connection with the Contract (including liability under any applicable workers compensation legislation and at common law) including industrial disease. The policy must:
- (i) comply with all statutory requirements including providing compulsory statutory workers compensation benefits;
 - (ii) provide common law liability to a limit of not less than \$50million in relation to any one occurrence and unlimited as to the number of occurrences;
 - (iii) include a principal's indemnity extension for both *Workers Compensation and Injury Management Act 1981* (WA) benefits and common law, indemnifying the Company, their Related Bodies Corporate and their respective employees; and
 - (iv) include a waiver of subrogation in favour of the Company, their Related Bodies Corporate and their respective employees.
- (b) **Motor vehicle insurance** in respect of all vehicles owned, operated, leased, hired, or controlled by the Supplier or its employees, subcontractors or agents which are used (or to be used) on any road at any time in connection with the Contract. The policy must:
- (i) provide cover for material damage to all vehicles for not less than their market value;
 - (ii) include coverage for liability in respect of third party property damage or personal injury to a minimum limit of \$35million;
 - (iii) include a principal's indemnity extension indemnifying the Company, their Related Bodies Corporate and their respective employees;
 - (iv) in respect to the principal's indemnity coverage, include a cross liability clause which confirms insurers accept the term "Insured" as applying to each of the parties constituting the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall limit of liability not being increased) and that a failure by any insured party to observe and fulfil the terms and conditions of the policy will not prejudice the rights of any other Insured party to claim under the policy;
 - (v) include a waiver of subrogation in favour of the Company, their Related Bodies Corporate and employees;
 - (vi) include cover for the transport of dangerous goods up to a limit of \$1,000,000 any one accident or series of accidents; and
 - (vii) include bodily injury gap coverage arising from the use of registered motor vehicles not otherwise covered by compulsory third party insurance.
- (c) **Public Liability Insurance** covering legal liability to pay compensation for bodily injury, death, sickness or disease to any person and loss, destruction or damage to real or personal property (including resultant loss of use), arising directly or indirectly from the Contract. The Public Liability policy must:
- (i) include a minimum policy limit of \$20million any one occurrence and in the aggregate in respect of products liability during any one period of insurance;
 - (ii) if applicable, include products liability coverage for the design, manufacture, supply, sale, or distribution of products associated with the Contract;
 - (iii) include a principal's indemnity extension indemnifying the Company, their Related Bodies Corporate and their respective employees;
 - (iv) in respect to the principal's indemnity coverage, include a cross liability clause which confirms insurers accept the term "Insured" as applying to each of the parties constituting the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall limit of liability not being increased) and that a failure by any insured party to observe and fulfil the terms and conditions of the policy will not prejudice the rights of any other insured party to claim under the policy;
 - (v) include a waiver of subrogation in favour of the Company, their Related Bodies Corporate and employees;
 - (vi) provide cover for property in the Supplier's care, custody or control for its replacement value; and
 - (vii) extend to cover liability in respect of third party property damage or personal injury arising from the use of unregistered plant and equipment.
- (d) **Professional Indemnity Insurance** (only where the Services include professional services) covering liability arising from an act, error or omission of the Supplier (or any person engaged by the Supplier) in relation to the performance of the Services. The policy must:
- (i) include a minimum policy limit of the amount of \$10million for any one claim and in the aggregate for all claims arising from the same event or related and similar events;
 - (ii) include an automatic reinstatement of the policy limit;
 - (iii) include an 'unlimited' retroactive date; and
 - (iv) remain in force for a minimum of 7 (seven) years after the expiry of the Agreement.
- (e) **Insurance in respect of all plant, equipment and other property owned, operated or controlled** by the Supplier or its employees, subcontractors or agents or for which the Supplier is responsible which the Supplier brings to or uses on Site, including transit risk or at other places where the Services are performed, for not less than the market value. The policy must:
- (i) include legal liability coverage for road registered plant and equipment to a limit of not less than the amount of \$35million for any one occurrence and unlimited as to the number of occurrences in any one period of insurance;
- (ii) if legal liability is insured on this policy for road registered plant, include a principal's indemnity extension indemnifying the Company, their Related Bodies Corporate and their respective employees;
 - (iii) in respect to the principal's indemnity coverage, include a cross liability clause which confirms insurers accept the term "Insured" as applying to each of the parties constituting the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall limit of liability not being increased) and that a failure by any Insured party to observe and fulfil the terms and conditions of the policy will not prejudice the rights of any other insured party to claim under the policy; and
 - (iv) include a waiver of subrogation in favour of the Company, their Related Bodies Corporate and employees.
- (f) **Transit insurance** covering the Goods in its ordinary course of transit to / from Site. The policy or policies must cover the Goods for no less than replacement value with the insurance being maintained up until the Goods are accepted by the Company as required under the Agreement.
- (g) **Travel, medical and medical evacuation insurance** for the Supplier's employees, subcontractors and agents travelling on an assignment (and not covered under a WA Workers Compensation policy) as part of the Supplier activities and Services, including visits to Site.