
General Conditions for Services

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Recitals

The Company wishes to acquire, and the Contractor wishes to perform the Services on the terms and conditions set out in this Contract.

1. Definitions and Interpretation

1.1 Definitions

In this Contract the following terms have the meaning set out below, unless the context otherwise requires:

Adjustment has the meaning given in the GST Law.

Adjustment Note has the meaning given in the GST Law.

Business Days means a day, not being a Saturday, Sunday or public holiday at the place of performance of the Services.

Commencement Date has the meaning given in Clause 2.1.

Company means La Mancha Resources Pty Ltd (ABN 90 002 124 745).

Company Default has the meaning given in Clause 10(a).

Confidential Information means the Contract, and any information, in whatever form, data, documents, plans or other material which relates to the business, affairs or activities of the Company which is of a confidential nature or which the Contractor or its Personnel ought reasonably know is confidential and which is:

- (a) disclosed to the Contractor or its Personnel in performing the Services;
- (b) generated by the Contractor or its Personnel in performing the Services; or
- (c) otherwise comes to the knowledge of the Contractor or its Personnel.

Consideration has the meaning given by the GST Law.

Contract means these General Conditions for Services and any Purchase Order issued by the Company in accordance with these General Conditions for Services.

Contractor means the company, organisation, individual or partnership to whom the Purchase Order is addressed.

Contractor Default has the meaning given in Clause 9.1.

Contract Price means the aggregate amount payable (excluding GST payable in accordance with Clause 5) by the Company to the Contractor in respect of performance of the Services.

Cost has the meaning given in Clause 5.5.

CPI means the Consumer Price Index as published by the Australian Bureau of Statistics.

Force Majeure means any cause that is beyond a Party's reasonable control including, without limitation:

- (a) strikes or lockouts;
- (b) acts of God;
- (c) war or warlike measures whether threatened, declared or anticipated;

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- (d) acts of terrorism;
 - (e) the outbreak of hostilities between nations or countries;
 - (f) trade sanctions or Government directives; or
 - (g) explosions, embargoes, fire, flood, drought, riot, sabotage or accident.

Government Agency means any government or governmental, semi-governmental, administrative, municipal, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

GST means a tax imposed under the GST Law.

GST Amount means in relation to a Taxable Supply the amount of GST payable in respect of that Taxable Supply.

GST Group has the meaning given by the GST Law.

GST Law has the meaning given in the *A New Tax System (Services & Services Tax) Act 1999* (Cth) or, if that Act does not exist for any reason, any Act imposing or relating to a Services and services tax and any regulation made pursuant to any such Act.

Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a Party includes an Input tax Credit for an acquisition made by that Party but to which another member of the same GST Group is entitled under the GST Law.

Invoice means an invoice in relation to the performance of the Services and includes a Tax Invoice.

Intellectual Property Rights means any patent, registered design, trademark or name, copyright or other protected intellectual property right.

Notice has the meaning given in Clause 16.

Notice of Force Majeure has the meaning given in Clause 15(c).

Parties mean the Company and the Contractor, and **Party** means any one of them.

Personnel means:

- (a) in relation to the Contractor, any of its employees, agents, Sub-contractors (including Sub-contractor's Personnel) and representatives; and
- (b) in relation to the Company any of its employees, agents and representatives.

Purchase Order means an individual purchase order issued by the Company to the Contractor in respect of performance of the Services as identified in a written quotation, tender, or offer to perform the Services from the Contractor.

Revenue has the meaning given in Clause 5.4.

Services means the services and, if applicable, associated goods identified in the Purchase Order.

Sub-Contractor means any company, organisation, individual or partnership engaged by the Contractor to perform all or any part of the Services on behalf of the Contractor.

Tax Invoice has the meaning given by the GST Law.

Taxable Supply has the meaning given by the GST Law excluding the reference to section 84-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Term means the term for the performance of the Services specified in the relevant Purchase Order.

Termination Notice has the meaning given in Clause 8.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following apply unless the context otherwise requires:

- (a) the singular includes the plural and conversely;
- (b) a reference to an individual includes a reference to a corporation, trust, partnership or other entity and conversely;
- (c) a reference to a party includes its successors and assigns;
- (d) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (e) a reference to dollars and \$ is to Australian currency;
- (f) the meaning of general words is not limited by specific examples introduced by 'including' or 'for example';
- (g) a reference to legislation, or to a provision of legislation, includes a modification or re-enactment of it, a legislative provision substituted for it, and a relevant regulation or statutory instrument;
- (h) where two or more persons are named as Contractor, then the obligations on their part will bind and be observed and performed by them jointly and each of them severally; and
- (i) a reference to conduct includes, without limitation, an omission, statement or undertaking, whether or not in writing.

2. Nature of Contract

2.1 Formation

- (a) This Contract is formed when a Purchase Order has been issued to the Contractor in acceptance of a written quotation, tender, or offer to perform the Services from the Contractor (**Commencement Date**).
- (b) This Contract contains the entire agreement between the Company and the Contractor with respect to its subject matter and supersedes all prior agreements and understandings between the Company and Contractor in connection with it.
- (c) No amendment or variation of this Contract is valid or binding on a Party unless made in writing and signed by the Company and the Contractor.

2.2 Performance

- (a) The Contractor must perform the Services to the Company during the Term in accordance with the terms of this Contract and for consideration of the Contract Price.

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- (b) In performing the Services the Contractor must ensure that it and its Personnel comply with all applicable legislation, laws, and Government Agency requirements relating to the Contractor's obligations under this Contract.

3. Contract Price

- (a) The Contract Price is inclusive of all expenses (except GST) incurred by the Contractor in relation to performance of the Services.
- (b) No increases in the Contract Price other than those expressly allowed for in the quotation, tender or offer to which the relevant Purchase Order refers to will be accepted.

4. Payment

4.1 Terms of payment

- (a) The Contractor must render a Tax Invoice to the Company setting out the amount payable for the performance of the Services and endorsed with the Company's Purchase Order number.
- (b) Subject to Clause 4.3, the Company must pay to the Contractor the amount shown on the Tax Invoice within 30 days from the end of the month of receipt of a Tax Invoice.
- (c) The Company is not liable to make any payments under this Contract until it has received a valid Tax Invoice or Adjustment Note endorsed with the Company's Purchase Order number.

4.2 Method of payment

Unless otherwise stated on the Purchase Order, payment will be made either by electronic funds transfer or by cheque.

4.3 Disputed Invoices

- (a) If the Company disputes any amount shown on an Invoice it must:
 - (i) notify the Contractor within 60 days of receipt of the Invoice in dispute; and
 - (ii) pay any amounts on the Invoice not in dispute.
- (b) The payment by the Company of any amount on an Invoice that is not in dispute is not considered acceptance by the Company of the amount in dispute.

4.4 Set off

All debts and moneys due and payable to the Company by the Contractor or its Personnel may be deducted from any moneys due or becoming due or payable to the Contractor under this Contract.

5. GST

5.1 GST to be added to amounts payable

- (a) If GST is payable on a Taxable Supply made under, by reference to or in connection with this Contract, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- (b) This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly stated to be GST inclusive.

5.2 Liability net of GST

- (a) Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- (b) A Party will be assumed to have an entitlement to a full Input Tax Credit unless it demonstrates otherwise prior to the date on which the Consideration must be provided.

5.3 Timing of the payment of the GST Amount

The GST Amount is payable on the earlier of:

- (a) the first date on which all or any part of the Consideration for the Taxable Supply is provided; and
- (b) the date five Business Days after the date on which an Invoice is issued in relation to the Taxable Supply.

5.4 Revenue exclusive of GST

Any reference in this Contract to price, value, sales, revenue or a similar amount (*Revenue*), is a reference to that Revenue exclusive of GST.

5.5 Cost exclusive of GST

Any reference in this Contract (other than in the calculation of Consideration) to cost, expense or other similar amount (*Cost*), is a reference to that Cost exclusive of GST.

5.6 Impact of GST on CPI Adjustment

- (a) If an amount payable under this Contract is adjusted by reference to a change to the CPI, then the impact of GST must be excluded from the change to the CPI.
- (b) The Contractor must notify the Company of any Adjustment within 14 Business Days of the Contractor first becoming aware of the Adjustment.
- (c) The Contractor must issue an Adjustment Note to the Company within 28 Business Days of becoming aware of the Adjustment.

5.7 Invoicing

- (a) The Contractor must include in each Invoice such particulars as are required by the GST Law and such other information as the Company may reasonably require in order that the Company can obtain an Input Tax Credit under the GST Law for the amount of GST payable to the Contractor.
- (b) The Company will deduct from any amounts payable under the Contract and pay to that revenue authority such amounts as are required by law if:
 - (i) the Contractor fails to quote an ABN on an Invoice; or
 - (ii) the Contractor is otherwise required by law to deduct and pay any amount to the Australian Taxation Office or any other revenue authority.

5.8 GST obligations to survive termination

This clause will continue to apply after expiration or termination of this Contract.

6. Insurance

6.1 Contractor insurance

The Contractor must, at its expense, effect and maintain throughout the Term and for any additional period specified in the Contract, the insurances in accordance with this Clause 6.

6.2 Public and product liability

- (a) The Contractor must maintain public and product liability insurance policies in respect of any liability:
 - (i) arising directly or indirectly from the performance of any services that may be required by the Contractor for the performance of the Services;
 - (ii) for any damage to the property of any person;
 - (iii) for any injury to or death of any person; and
 - (iv) arising out of the performance of any services that may be required for the performance of the Services.
- (b) The insurance policy must:
 - (i) provide cover in respect of each and every claim to an amount of not less than \$10,000,000;
 - (ii) note the interest of the Company and its Personnel as an additional insured;
 - (iii) include a cross liability clause noting that the Company and Contractor will be considered as separate entities under the insurance policy; and
 - (iv) waive all rights of subrogation against the Company and its Personnel.

6.3 Workers compensation

- (a) The Contractor must insure against liability for death of or injury to persons employed by the Contractor including liability arising under statute, common law or civil law.
- (b) The insurance must, unless prohibited by law, waive all express or implied rights of subrogation against the Company and its Personnel.

6.4 Goods in transit

- (a) If the performance of the Contract requires the Contractor to transport goods to or from a Company delivery site then the Contractor must maintain insurance covering loss or damage to the goods during transit, for its replacement value.
- (b) The insurance must, unless prohibited by law, note the Company as a party insured.

6.5 Contractors' plant and equipment

- (a) If the performance of the Contract requires the Contractor to use or provide plant and equipment that will be used in connection with the Contract, the Contractor must maintain, or require the owner of such plant and equipment to maintain, insurance covering all loss and damage to that plant and equipment, for its replacement value.
- (b) The insurance must, unless prohibited by law, waive all rights of subrogation against the Company and its Personnel.

6.6 Professional indemnity insurance

- (a) If the performance of the Contract includes or is related to the provision of professional advice or services, the Contractor must effect and maintain professional indemnity covering the Contractor for any claims against it by any person for any actual or alleged fault, negligent act, errors or omissions in the advice or services provided by the Contractor under the Contract.
- (b) The insurance policy must provide cover in respect of each and every claim to an amount of not less than \$5,000,000.

6.7 Motor vehicle insurance

If the performance of the Contract requires the Contractor or its Personnel to use motor vehicles, the Contractor must maintain or require the owners of such motor vehicles to maintain third party liability insurance covering all liabilities in respect of injury to, or death of, any person or any loss, damage or destruction to any property arising from the use of such motor vehicles.

6.8 Proof of insurance

The Contractor must provide evidence to the satisfaction and approval of the Company that the Contractor is insured in accordance with the Contract.

7. Indemnity

7.1 Indemnity

The Contractor will indemnify (and keep indemnified) the Company in respect of all damage, loss or injury that the Company and its respective Personnel may suffer or sustain arising out of:

- (a) the breach by the Contractor or its Personnel of any of the Contractor's obligations under the Contract; or
- (b) any negligent act or omission or wilful misconduct by the Contractor or its Personnel arising out of performance of the Contract.

7.2 Exclusion

The Contractor will not be liable under Clause 7.1 to the extent the damage, loss or injury was caused, or contributed to, by the Company's negligent acts or omissions or wilful misconduct.

8. Termination

- (a) The Company may terminate this Contract or any part of it by giving the Contractor not less than 30 days written notice (*Termination Notice*).
- (b) Upon receipt of a Termination Notice, the Contractor will immediately notify the Company in writing of any cancellation charges to be applied.
- (c) No cancellation charges will be accepted by the Company other than those which have been advised to the Company in writing and which represent a genuine loss incurred by the Contractor as a result of the termination of the Contract or any part of the Contract.

9. Contractor Default

9.1 Conditions of Default

Subject to Clause 15, the Contractor will be in breach of this Contract if at any time during the Term it:

- (a) fails to perform the Services in accordance with any provision of the Contract;
- (b) fails to perform the Services with due diligence and without delay;
- (c) refuses, omits or neglects to carry out any direction that an authorised representative of the Company is entitled to give;
- (d) fails to provide evidence of required insurances;
- (e) allows any insurance policy required under this Contract to lapse;
- (f) commits an act of bankruptcy;
- (g) is wound up;
- (h) enters into insolvency or administration;
- (i) has a receiver and manager appointed over any of its assets; or
- (j) breaches any term of this Contract,

(Contractor Default).

9.2 Notice of Contractor Default

In the event of a Contractor Default, the Company may serve notice on the Contractor:

- (a) specifying the Contractor Default; and
- (b) requiring the Contractor to rectify the default at the Contractor's expense within a period specified by the Contractor

9.3 Failure to rectify

If the Company gives notice of a Contractor Default pursuant to Clause 9.2, and the Contractor Default is not rectified within the period specified by the Company in the relevant notice, then the Company may, by further notice to the Contractor, do one or more of the following:

- (a) suspend payment to the Contractor;
- (b) take such action as the Company deems necessary to cure the Contractor Default, including sourcing part or all of the Services from a third party at the Contractor's expense; or
- (c) immediately terminate the whole or part of the Services under this Contract.

9.4 Obligations upon termination

- (a) If the Company gives notice to the Contractor terminating the Services under this Contract pursuant to Clause 9.3 then the Contractor must immediately cease performance of the Services as specified in the notice.
- (b) On termination, the Contractor is entitled to recover from the Company all amounts due and payable by the Company to the Contractor for Services completed under the Contract prior to the termination becoming effective.

10. Company Default

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- (a) Subject to Clauses 4.3 and 9.3, the Company will be in default if it fails to make a payment of any amount due to the Contractor under the Contract *(Company Default)*.
 - (b) If a Company Default is not remedied within 30 days of the Company receiving written notification from the Contractor of a Company Default, then the Contractor will be entitled to terminate the Contract.
 - (c) In the event of termination by the Contractor under this Clause 10, the Contractor will be entitled to:
 - (i) the amount owing that is the subject of the Company Default; and
 - (ii) all other amounts due and payable by the Company to the Contractor for Services completed under the Contract prior to the termination becoming effective.
 - (d) In no event will the Company be liable to the Contractor for any loss of profits under this Contract.

11. Confidentiality

- (a) The Contractor must ensure that it and its Personnel will:
 - (i) use all Confidential Information solely for the purpose of performing the Services under this Contract; and
 - (ii) subject to paragraph (b) keep confidential all Confidential Information.
- (b) Nothing in this Contract prohibits disclosure of information which:
 - (i) is in the public domain;
 - (ii) after disclosure becomes part of the public domain otherwise than as a result of breach by the Contractor or its Personnel; or
 - (iii) is required to be disclosed by necessarily applicable law or any government body, authority or agency.
- (c) The Contractor may, as required, disclose Confidential Information to:
 - (i) its legal and other advisers;
 - (ii) any of its officers or employees; or
 - (iii) any agents or consultants of the Contractor,provided that prior to such disclosure, the Contractor ensures that the relevant person is bound by a confidentiality obligation no less onerous than this Clause 11.
- (d) Upon expiry or early termination of the Contract, the Contractor and its Personnel must deliver to the Company all Confidential Information in their possession.

12. Gold Ownership

- (a) Title in any gold or ore material recovered by the Contractor or its Personnel:
 - (i) remains at all time with the Company; and
 - (ii) does not pass to the Contractor under any circumstance.
- (b) Any gold or ore material recovered by the Contractor or its Personnel must be returned to the Company.
- (c) The Company may, at its sole discretion, reimburse the Contractor for any costs it or its Personnel incur by returning the gold or ore material to the Company.

13. Intellectual Property

13.1 Ownership of Intellectual Property Rights

The Parties agree that ownership in any Intellectual Property Rights:

- (a) created by the Company prior to this Contract will remain the property of the Company;

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- (b) created by the Contractor prior to this Contract will remain the property of the Contractor; and
 - (c) created by the Contractor and its Personnel during the performance of the Services under this Contract will vest in the Company as and when created.

13.2 Licence

- (a) The Company grants to the Contractor a non-exclusive, non-transferable, revocable licence to use any Intellectual Property Rights of the Company, as required, for the sole purpose of performing the Services under this Contract.
- (b) The Contractor grants to the Company a non-exclusive, transferable, royalty free, irrevocable licence to use any Intellectual Property Rights of the Contractor for the purposes of, or in connection with, the performance of the Services under this Contract.

13.3 Third party Intellectual Property Rights

The Contractor warrants that it has obtained or will obtain, at no cost to the Company, all necessary licences and consents from relevant third parties to use the Intellectual Property Rights of such third parties, as required for the performance of the Services under this Contract.

13.4 Indemnity

The Contractor will indemnify the Company in respect of any claims arising from infringement of Intellectual Property Rights of any third party arising out of or caused by:

- (a) the performance of the Services by the Contractor; or
- (b) the performance or use of any plant, machinery, tools, equipment, process or method used or supplied by the Contractor while performing its obligations under this Contract.

14. Variation

Any variations required by the Company or the Contractor to the Services to be performed under the Purchase Order will be mutually agreed and will be the subject of a Purchase Order amendment raised by an authorised representative of the Company.

15. Force Majeure

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- (a) A Party will not be held liable for any delay or failure to perform its obligations under the Contract if it is prevented from doing so because of an event of Force Majeure.
 - (b) The Company will not accept liability for any losses damage or injury incurred by the Contractor as a result of the Company's inability to accept or pay for Services for reason of Force Majeure.
 - (c) In the event that a Party is unable wholly or in part to perform its obligations under the Contract due to Force Majeure, that Party must immediately give

notice to the other Party of the details of the Force Majeure event (*Notice of Force Majeure*).

- (d) On receipt of a Notice of Force Majeure both Parties will make arrangements and adjustments to the Contract as necessary.
- (e) Unless otherwise agreed in writing, upon cessation of the Force Majeure event both parties will, as far as practicable, complete performance of their respective obligations under the Contract.

16. Notices

- (a) A Party giving notice must do so in writing directed to the Party's representative identified on the Purchase Order.
- (b) A notice will be deemed to be received:
 - (i) in the case of delivery by hand, when delivered;
 - (ii) in the case of delivery by post, two Business Days after the date of posting (if posted in Australia), or seven Business Days after the date of posting (if posted outside Australia).
 - (iii) in the case of a facsimile, on receipt by the sender of a transmission control report from the despatching machine indicating that the full transmission has been made without error.

17. Business Practice

- (a) The Company has developed a policy entitled 'La Mancha Resources Code of Business Conduct';
- (b) The Contractor acknowledges that:
 - (i) it has received a copy of the La Mancha Resources Code of Business Conduct;
 - (ii) it has read and understood the policies outlined in the La Mancha Resources Code of Business Conduct;
 - (iii) it and its Personnel will adhere to the La Mancha Resources Code of Business Conduct; and
 - (iv) the Company reserves the right to monitor and audit adherence to the La Mancha Resources Code of Business Conduct by the Contractor and its Personnel.

18. Assignment and sub-contracting

18.1 Assignment

- (a) The Company may assign the whole or any part of its rights or obligations under this Contract without the prior written consent of the Contractor.
- (b) The Contractor is not permitted to assign the whole or any part of its rights or obligations under this Contract without the prior written consent of the Company, such consent not to be unreasonably withheld.

18.2 Sub-contracting

- (a) The Contractor must not without the prior written consent of the Company:
 - (i) sub-contract all or any part of the Contract; or
 - (ii) allow a Sub-contractor to assign or sub-contract under this Contract.
- (b) For the purposes of this Contract:
 - (i) the Sub-contractor will be considered the agent and employee of the Contractor;
 - (ii) all acts and omissions of each Sub-contractor and its Personnel will be deemed to be the acts and omissions of the Contractor; and
 - (iii) acceptance of the Contractor's request to sub-contract will not relieve the Contractor from any liability or obligation under the Contract.

19. Governing Law

- (a) This Contract is governed by the laws of Western Australia.
- (b) Each Party submits to the non-exclusive jurisdiction of the Courts exercising jurisdiction there in connection with matters concerning this Contract.