

## PURCHASE ORDER TERMS AND CONDITIONS – GOODS AND OR SERVICES

### 1. DEFINITIONS

In this Agreement:

**Acceptance** or **Accepted** means acceptance of the Goods and or Services in accordance with clause 4.

**Agreement** means these Purchase Order Terms and Conditions – Goods and or Services, the Purchase Order and any schedules and documents attached to, or expressly incorporated by reference in, the Purchase Order.

**Authorised Signatories** means the designated representative of each Party duly authorised to enter into agreements on behalf of that Party.

**Business Day** means a day which is not a Saturday, Sunday or public holiday in Western Australia.

**Claim** means any allegation, cause of action, liability, claim, proceeding or demand of any nature howsoever arising and whether under contract, in equity, under statute or at law and includes all costs, expenses, damages, liabilities, losses, extensions of time or relief from the performance of any obligations under this Agreement.

**Completion** or **Complete** means that stage in the performance of the Services when the Supplier has performed the Services and where relevant, provided all deliverables to DE GREY in accordance with this Agreement.

**Confidential Information** means all information in any form that relates, directly or indirectly, to DE GREY's business or affairs or the business and affairs of any of DE GREY's related bodies corporate, provided to the Supplier before or after the Order Date, including the terms of this Agreement.

**Date for Completion** means the date stated in the Purchase Order on which the Supplier must Complete the Services.

**Date for Delivery** means the date stated in the Purchase Order on which the Supplier must Deliver the Goods to the Delivery Point.

**Date of Completion** means the date on which the Services are performed (and all deliverables relating to those Services are provided) to DE GREY.

**Date of Delivery** means the date on which the Goods are Delivered to the Delivery Point.

**DE GREY** means De Grey Mining Ltd (ACN 094 206 292), or the DE GREY entity named in the Purchase Order.

**DE GREY Policies and Procedures** means the policies, procedures, publications or guidelines of DE GREY (as amended from time to time) provided by DE GREY to the Supplier or publicly available on DE GREY's website at <https://degreymining.com.au/corporate-governance/> which are relevant to the Goods and or Services or this Agreement.

**Deliver, Delivery** or **Delivered** means to deliver the Goods to the Delivery Point in accordance with, and satisfying all the conditions contained in, this Agreement.

**Delivery Docket** has the meaning given to that term in clause 2(i).

**Delivery Point** means the place for Delivery of the Goods as stated in the Purchase Order under the

heading "Warehouse Delivery" (or such place as amended in writing by DE GREY from time to time).

**Force Majeure** means:

- (a) an epidemic, or pandemic announced as such by any state or federal government authority or agency having jurisdiction at the place(s) where the Goods and or Services are being Delivered or performed;
- (b) war, hostilities (whether war be declared or not), invasion, act of foreign enemies;
- (c) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war;
- (d) riot, commotion or civil disorder not directed at or caused by the Supplier;
- (e) munitions of war, explosive materials, ionising radiation or contamination by radioactivity; and
- (f) natural catastrophes such as cyclone, flood, earthquake, hurricane, lightning strike, typhoon and volcanic activity.

**Good Industry Practice** means the provision of the Goods and or Services exercising the degree of skill, care and diligence which would reasonably be expected of a supplier experienced in providing goods and or services similar to the Goods and or Services.

**Goods** means the goods to be Delivered as stated in the Purchase Order.

**GST** and **Tax Invoice** have the meaning set out in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Incoterms** means the terms which govern the Delivery of the Goods, as stated in the Purchase Order (if any).

**Insolvent** means, with respect to a Party, that it is insolvent (as defined in the *Corporations Act 2001* (Cth)), in liquidation or provisional liquidation, receivership, bankruptcy (protective or otherwise) or under administration, unable to pay its debts as and when they fall due or otherwise insolvent, or that it has entered into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors or that any analogous event has occurred.

**Intellectual Property Rights** includes, without limitation, all intellectual property rights including current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trademarks, know-how, Confidential Information, patents, inventions and discoveries and all other intellectual property as defined in article 2 of the convention establishing the World Intellectual Property Organisation 1967.

**Law** means any:

- (a) national provincial or local acts, ordinances, regulations, by-laws, orders, awards, proclamations as amended from time; and
- (b) certificates, licences, consents, permits, approvals, codes, guidelines, mandatory standards, Australian Standards, the Building Code of Australia and requirements of organisations having jurisdiction in connection with the Delivery and supply of the Goods and or Services.

**Order Date** means the order date stated in the Purchase Order.



**Party** means either DE GREY or the Supplier (as applicable) and **Parties** means DE GREY and the Supplier collectively.

**PPSA** means the *Personal Property Securities Act 2009* (Cth), any regulations made at any time under the PPSA, or any amendments to the PPSA or those regulations, made at any time as the context requires.

**Price** means the total amount payable by DE GREY to the Supplier for the Goods and or Services as stated in the Purchase Order.

**Purchase Order** means the purchase order issued by DE GREY containing amongst other things, a description of the Goods and or Services and the Price.

**Security Interest** has the meaning given to that term in the PPSA.

**Services** means the services stated in the Purchase Order, and any other services not described in this Agreement if those services should reasonably have been anticipated by an experienced and competent supplier as being necessary for the performance of those services or which were otherwise capable of inference from this Agreement.

**Site** means any of DE GREY's exploration and mining sites in the Pilbara region of Western Australia, or as otherwise specified in the Purchase Order.

**Specification** means the specification for the Goods and or Services together with any measurements, performance data, plans, drawings, or other information provided by the Supplier to DE GREY or contained in any catalogues, brochures or descriptive literature produced by the Supplier.

**Supplier** means the party named in the Purchase Order as the supplier of the Goods and or Services.

**Supplier Event of Default** means any of the following:

- (a) the Supplier becomes Insolvent;
- (b) the Supplier fails to Deliver the Goods and or Complete the Services in accordance with the requirements of this Agreement, including by providing defective Goods and or Services;
- (c) any representation or warranty made by the Supplier under clause 7 is or becomes untrue or misleading in any material respect;
- (d) the Supplier is in breach of any of its obligations under this Agreement, and such breach is not remedied by the Supplier within 10 Business Days of notice to remedy the breach provided by DE GREY; or
- (e) the Supplier or any of its Workers commits an act of gross negligence, wilful misconduct, fraud or dishonesty in respect of any matter in connection with this Agreement.

**Term** means the term of this Agreement as stated in the Purchase Order and as may be extended in accordance with this Agreement.

**WHS Law** means the *Work Health and Safety Act 2020* (WA) and includes the *Work Health and Safety (General) Regulations 2022* (WA) and the *Work Health and Safety (Mines) Regulations 2022* (WA).

**WHS Requirements** means the requirements set out under the WHS Law, as applicable to DE GREY, a PCBU

(as defined in the WHS Law) or any party which is responsible for safety at the Site.

**Workers** means any and all personnel engaged by the Supplier to Deliver the Goods and or perform the Services, regardless of whether they are engaged as an employee or subcontractor.

## 2. AGREEMENT AND PERFORMANCE

- (a) The Parties agree that:
  - (i) the Supplier must Deliver the Goods by the Date for Delivery and or Complete the Services by the Date for Completion; and
  - (ii) in consideration of the performance of the obligations in clause 2(a)(i), DE GREY agrees to pay the Supplier the Price for the Goods and or Services,  
in accordance with the terms of this Agreement.
- (b) The Term of this Agreement:
  - (i) will begin on the Order Date and continue for the period stated in the Purchase Order, unless this Agreement is terminated earlier in accordance with its terms; and
  - (ii) may be extended for the period stated in the Purchase Order on written notice by DE GREY to the Supplier.
- (c) This Agreement is for the provision of Goods and or Services on a non-exclusive basis and DE GREY does not warrant or guarantee that any Goods and or Services will be purchased under this Agreement and it will be entitled to purchase the same or similar Goods and or Services from alternative providers.
- (d) No terms or conditions submitted by the Supplier (including any form of tender, quote, purchase order, correspondence, order acknowledgement, acceptance or other instrument) in respect of the Goods and or Services will have any legal effect and will not form part of this Agreement.
- (e) The Parties agree that all activities performed by the Supplier prior to the Order Date by the Supplier relevant to the Goods and or Services, if any, will be taken to have been performed or provided pursuant to and in accordance with the terms of this Agreement.
- (f) The Supplier must supply the Goods and or perform the Services in accordance with this Agreement, all applicable Laws and Good Industry Practice.
- (g) The Supplier must ensure that the Goods are properly and safely packed, secured, labelled and supplied with all mandatory documentation.
- (h) If the Goods and or Services have not been Delivered or Completed (as applicable) by the date specified in the Purchase Order, DE GREY may cancel or amend such Purchase Order without incurring any liability to the Supplier for damages or otherwise as a result of such cancellation or amendment, and without prejudice to DE GREY's right including the right to recover damages which DE GREY may have suffered. The Supplier agrees and acknowledges that it cannot make any claim in respect of damages or losses arising directly or

indirectly from DE GREY rejecting a Delivery of any Good and or Service outside the agreed Date For Delivery.

- (i) The Goods must be accompanied by a delivery docket detailing the Goods, and all relevant manufacturer's or supplier's instructions concerning the use of the Goods and all relevant manufacturer's or supplier's warranties in respect of the Goods (**Delivery Docket**).
- (j) The Supplier must use best endeavours not to interfere with any of DE GREY's activities, or the activities of any other person, on DE GREY's premises, at the Site, or at the Delivery Point.

### 3. FORCE MAJEURE

- (a) Where a Party is unable, wholly or in part, by reason of a Force Majeure Event, to carry out any obligations under this Agreement and that Party:
  - (i) gives the other Party notice and reasonable particulars of that Force Majeure Event;
  - (ii) uses all possible diligence to remove and mitigate the effect of that Force Majeure Event; and
  - (iii) has not caused or contributed to the Force Majeure Event,
 then that obligation is suspended so far as it is affected by Force Majeure during the continuance thereof.
- (b) Any costs, losses, or savings due to a Force Majeure Event will be borne, incurred or retained by the Party incurring or receiving them.

### 4. ACCEPTANCE OF GOODS AND OR SERVICES

- (a) DE GREY may require the Supplier to provide evidence, acceptable to DE GREY (in its absolute discretion), that the Goods and or Services are in accordance with this Agreement and the Supplier must provide such evidence within the time prescribed in the request or such longer time as agreed in writing between the Parties.
- (b) Acceptance of the Goods and or Services occurs on the earlier of:
  - (i) a representative of DE GREY notifying the Supplier that the Goods and or Services (and any deliverables related to those Services) have been accepted; or
  - (ii) the lapse of 30 days after Delivery of the Goods and or Completion of the Services without DE GREY notifying the Supplier in writing that the Goods and or Services have been rejected.
- (c) At any time during the manufacture of the Goods and or the performance of the Services DE GREY may inspect or witness tests on the Goods and or Services or their results.
- (d) If upon inspection DE GREY finds any Goods and or Services or their results to be defective, DE GREY may:
  - (i) reject the defective Goods and or Services by notifying the Supplier, and in the case of Goods, return them to the Supplier or require the Supplier to collect the defective Goods; or

- (ii) require the Supplier to repair, replace, rectify, or resupply the defective Goods and or re-perform the defective Services, at the Supplier's cost.

- (e) DE GREY may reject any Goods and or Services which are not in conformity with this Agreement even if DE GREY has taken Delivery of and or paid for those Goods and or Services.
- (f) The Supplier must reimburse DE GREY for any expenses DE GREY incurs in making good any defective Goods and or Services under this clause 4.
- (g) The Supplier must refund to DE GREY, when requested, any payments made by DE GREY in respect of Goods and or Services which DE GREY rejects (under clause 4(d)(i)) as soon as practicable and in any event within 10 Business Days.
- (h) The remedies under this clause 4 do not exclude any other remedies provided by Law.

### 5. TITLE AND RISK

- (a) Title to the Goods will pass from the Supplier to DE GREY upon the earlier of:
  - a. payment of the Price; and
  - b. the Goods being Delivered to the Delivery Point.
- (b) The risk of loss of, or damage to, the Goods remains with the Supplier until the Goods are Accepted by DE GREY in accordance with this Agreement.
- (c) If DE GREY notifies the Supplier in writing that the Goods have been rejected prior to expiry of the period in clause 4(b)(ii), then risk does not pass to DE GREY until the Supplier rectifies or replaces the Goods.
- (d) If prior to Delivery, DE GREY makes a payment for the Goods (in whole or in part), title in the Goods (or if the Goods are incomplete, title in the partly completed Goods and any materials and parts to be used in their manufacture or assembly) passes to DE GREY, and the Supplier must clearly mark them with DE GREY's name and Purchase Order number.

### 6. BENEFIT OF MANUFACTURER'S WARRANTY

Where the Specification so provides, the Supplier must obtain for DE GREY's benefit any manufacturer's warranty in respect of the Goods and or Services.

### 7. SUPPLIER'S WARRANTIES

- (a) The Supplier warrants that:
  - (i) it has examined and considered all information made available by DE GREY to the Supplier for the purpose of the supply of Goods and or to perform the Services;
  - (ii) it has and will maintain, at its cost, everything it requires to supply the Goods and or perform the Services in accordance with this Agreement, including, but not limited to, all personnel, goods, tools, equipment, materials, authorisations and insurances;

- (iii) it has the right to sell and transfer unencumbered title to the Goods to DE GREY and the Goods are free from any Claim of any nature by any third party;
  - (iv) the Goods will be new (unless otherwise agreed), free from defects in design, performance, workmanship and makeup and of merchantable quality when Delivered to DE GREY;
  - (v) the Goods will be fit for the purpose stated in the Specification or the Purchase Order, or if no purpose is stated, the purpose for which the Goods would ordinarily be used or supplied and for any other purpose which DE GREY makes known to the Supplier;
  - (vi) the Delivery of the Goods and or performance of the Services will not infringe or contribute to the infringement of any Intellectual Property Rights of any third party;
  - (vii) it will provide the Goods and or perform the Services with due care and skill and the Goods and or Services will be of a high quality and workmanship;
  - (viii) it has, at the date of this Agreement, taken all reasonable measures to ensure that no conflict of interest presently exists or is likely to arise in the performance of its obligations under this Agreement;
  - (ix) it will remain fully responsible for all Goods and or Services and all information created or developed or required to be created or developed under this Agreement provided by the Supplier irrespective of any review or Acceptance of those Goods and or Services or information by DE GREY;
  - (x) it will make fully aware, educate and train its Workers and agents in relation to the DE GREY Policies and Procedures;
  - (xi) it will pay all taxes due in connection with the Delivery and supply of Goods and or Services under this Agreement;
  - (xii) it has, or will be able to obtain all the necessary consents, permits or authorities necessary in order for the Supplier to Deliver and supply the Goods and or Services;
  - (xiii) it has not relied upon any representation of or information provided by DE GREY which is not expressly stated or included in this Agreement;
  - (xiv) it is not Insolvent; and
  - (xv) it has reviewed and will all times comply with, and ensure that its Workers comply with, DE GREY Policies and Procedures.
- (b) The Supplier acknowledges that DE GREY has relied upon the warranties in this Agreement in entering into this Agreement.
- 8. LIABILITY AND INDEMNITY BY SUPPLIER**
- (a) The Supplier acknowledges that if the Supplier enters the Site, the Supplier does so at the Supplier's own risk. The Supplier must ensure that the Supplier's Workers, agents and contractors are also aware that they enter the Site at their own risk.
  - (b) To the maximum extent permitted by Law, the Supplier is liable for and indemnifies and keeps DE GREY indemnified from and against any Claims, liability, loss, damage, cost and expenses of any kind whatsoever, arising directly or indirectly from:
    - (i) any breach of any provision of this Agreement due to any act or omission by the Supplier;
    - (ii) the illness, injury or death of any of the Supplier's Workers, agents or contractors, arising out of this Agreement;
    - (iii) any loss or damage arising out of any personal injury, illness or death to any person or damage to any property or any other loss or damage arising out of the Goods and or Services or entry onto the Site;
    - (iv) any criminal act, fraud, negligence or wilful act or omission by the Supplier;
    - (v) any penalty imposed for breach of an applicable Law in connection with the performance of the Services or Delivery of the Goods; and
    - (vi) any claim that the Goods and or Services or the results of the Goods and or Services infringe or allegedly infringe the Intellectual Property Rights of any person.
  - (c) The Supplier's indemnities under clause 8(b) are reduced proportionally to the extent that any negligent act or omission of DE GREY contributes to the Claim, liability, loss, damage, cost or expense.
  - (d) Each indemnity in this Agreement is a continuing obligation separate and independent from the Supplier's other obligations and survives termination or expiry of this Agreement.
  - (e) Neither Party is liable to the other Party in any circumstances for any indirect, economic, special or consequential loss or damage, in contract, in tort (including negligence), under statute or otherwise, including but not limited to loss of revenue, loss of production or loss of profit (whether direct or indirect).
- 9. PRICE**
- (a) DE GREY agrees to pay the Supplier the Price in accordance with this Agreement for the Goods and or Services.
  - (b) The Price is inclusive of all costs and expenses of the Supplier whether foreseen or unforeseen, including the cost of any items used or supplied in conjunction with the Goods and or Services and all

insurance and taxes, if any (except GST), which must be paid by the Supplier.

- (c) The Price specified in the Purchase Order is exclusive of GST and such GST must be remitted to the Supplier in accordance with the Supplier's Tax Invoice.
- (d) The Price may not be increased without DE GREY's prior written consent (which consent may be withheld or conditioned), including in relation to any expenses incurred by the Supplier without DE GREY's prior written approval (which approval may be withheld or conditioned).

#### 10. TAX

Unless otherwise expressly provided in this Agreement, the Supplier must pay all taxes including but not limited to, payroll tax, fringe benefits tax, other levies, taxes duties and assessments due in connection with the provision of the Good and or Services and the Supplier's performance of its other obligations under this Agreement.

#### 11. TERMS OF PAYMENT

- (a) Subject to DE GREY's Acceptance of the Goods and or the Services in accordance with this Agreement, the Supplier may submit Tax Invoices to DE GREY, in the manner notified by DE GREY from time to time, which contains its claim for payment at the times stated in the Purchase Order, which must include:
  - (i) a reference to the relevant Purchase Order;
  - (ii) a detailed description of the Goods supplied and or Services performed;
  - (iii) all supporting documentation fully evidencing the amounts claimed;
  - (iv) any other information, evidence, confirmation or documentation requested by DE GREY in connection with the amounts claimed,

**(Payment Claim).**
- (b) Subject to clause 11(c), payment will be made within 30 days from receipt of a Tax Invoice.
- (c) If DE GREY disputes any Payment Claim or does not intend to pay the full amount of a Payment Claim for any reason, it must within 15 Business Days after receiving the Payment Claim issue a payment schedule:
  - (i) identifying the Payment Claim to which it relates;
  - (ii) indicating the amount of the payment (if any) DE GREY proposed to make;
  - (iii) if the amount certified as payable is less than the amount claimed in the Tax Invoice, reasons for the difference.
- (d) Upon receipt of a payment schedule, the Supplier will submit a revised Tax Invoice for the amount certified in the payment schedule, which will be payable by DE GREY.
- (e) For the avoidance of doubt, DE GREY will not be obliged to pay a Tax Invoice which does not comply with the requirements of this Agreement.

- (f) Payment of a Tax Invoice will not be construed as evidence of or an admission that the Goods and or Services have been performed in accordance with this Agreement but is a payment on account only.
- (g) DE GREY may set off any payment due to the Supplier by any amount for which the Supplier, in the reasonable opinion of DE GREY, may become liable to DE GREY, including costs, Claims, charges, damages and expenses. This does not limit DE GREY's right to recover those amounts in other ways.
- (h) Unless otherwise agreed, any money payable to the Supplier is to be paid in Australian currency.
- (i) If the Purchase Order involves the supply of Goods and or Services on a cost plus or per hour basis, DE GREY has the right to conduct an audit of the basis of the Supplier's charges using the Supplier's records. This right continues for twelve months after DE GREY pays the relevant Tax Invoice.

#### 12. TERMINATION

- (a) This Agreement may be terminated at any time by:
  - (i) fourteen (14) days' notice given by DE GREY to the Supplier; or
  - (ii) the agreement of both Parties at any time; or
  - (iii) upon a Supplier Event of Default.
- (b) If a Supplier Event of Default occurs which is not remedied within the timeframe notified by DE GREY or incapable of being remedied, then DE GREY may, by a written notice to the Supplier, terminate this Agreement.
- (c) If this Agreement is terminated, the Supplier must cease the supply of the Goods and or Services the subject of the Purchase Order and immediately return to DE GREY, or destroy or delete, as DE GREY directs, all originals and copies of Confidential Information in the Supplier's custody, power or control. The Supplier must deliver all work in progress or completed items as DE GREY requests.
- (d) Upon termination of this Agreement, the Supplier will be entitled to payment for all Goods and or Services provided in accordance with the terms of this Agreement up to the date of notice of termination, provided that, in the event of termination due to a Supplier Event of Default, such payment will not be due until the costs of providing the Goods and or Services and all other costs arising from the Supplier Event of Default have been determined.
- (e) Unless expressly stated otherwise, termination for any reason does not affect the rights of a Party that arise before termination, or as a consequence of the breach of any obligation under this Agreement which survives termination and termination does not affect the rights a Party may have under common law.
- (f) The Supplier is liable to DE GREY for any costs, expenses or liabilities that DE GREY reasonably incurred as a direct result of a Supplier Event of Default.

### 13. SECURITY INTERESTS IN PERSONAL PROPERTY

- (a) The Supplier must, if requested by DE GREY promptly take any action and provide any information reasonably required by DE GREY to:
  - (i) assist DE GREY to register a Security Interest against the Goods;
  - (ii) ensure that any relevant Security Interest, or DE GREY's rights in relation to any relevant Security Interest, are effective, enforceable against the Supplier and or third parties and perfected with the contemplated priority; and
  - (iii) exercise or enforce its rights in relation to any relevant Security Interest.
- (b) Where DE GREY has title to or a relevant Security Interest in personal property, and the Supplier will obtain a security interest in the personal property because a third party will have or has possession of the personal property, the Supplier must perfect its security interest against the third party and provide that interest against the personal property to DE GREY.
- (c) Where DE GREY receives title to any items before possession, the Supplier warrants that these items will be free from all Security Interests held by the Supplier or a third party when they enter the DE GREY possession.

### 14. SITE SAFETY & HEALTH REQUIREMENTS

- (a) The Supplier must, when performing any Services at or Delivering any Good to the Site, comply with WHS Laws and DE GREY Policies and Procedures, including completing any necessary induction training.
- (b) The Supplier indemnifies DE GREY in respect of any loss, damage or Claim arising from or in connection with a breach of its obligations under this clause.

### 15. INSURANCES

- (a) The Supplier must effect, take out and maintain during the Term, at its own expense with a reputable insurer the following insurances:
  - (i) public and products liability insurance in the amount of not less than \$20 million in respect of any one claim and in the aggregate for the Supplier's liability and DE GREY's liability to third parties for loss of or damage to property and the death or injury to any person;
  - (ii) where the Supplier is providing professional Services, professional indemnity insurance in the amount of not less than \$5 million in respect of any one claim and in the aggregate for the Supplier's liability;
  - (iii) workers compensation insurance to comply with all applicable Laws; and
  - (iv) any other insurance which would ordinarily be taken out by a prudent provider of goods and or services of the same or similar nature as the Goods and or Services exercising Good Industry Practice.
- (b) The Supplier must ensure any subcontractor engaged by it effects and maintains the insurances in this clause or the Supplier's insurances covers any liability of DE GREY to subcontractors and other

persons not employed by the Supplier that supply any Goods and or Services in relation to this Agreement.

- (c) The Supplier must within 2 Business Days of a written request to do so, provide DE GREY with a certificate of currency demonstrating compliance with the Supplier's obligations under this clause.

### 16. MODERN SLAVERY

- (a) The Supplier acknowledges that DE GREY works to comply with the *Modern Slavery Act 2018* (Cth) and expects the same of its suppliers.
- (b) The Supplier warrants it will:
  - (i) not, and will take reasonable steps to ensure that its Workers, contractors, and supply chain do not, engage in any conduct that would constitute a Modern Slavery practice;
  - (ii) take reasonable steps to identify, assess and address risks of Modern Slavery practices in its operations and supply chain;
  - (iii) to the extent reasonably practicable, provide DE GREY with any information and records that DE GREY reasonably requests to help DE GREY to comply with its obligations under any Modern Slavery Law; and
  - (iv) promptly and within 5 Business Days notify DE GREY if it becomes aware that it, or any of its Workers, or supply chain, has engaged in conduct that may constitute an offence under any Modern Slavery Law or is the subject of an investigation or prosecution in relation to an offence under any Modern Slavery Law.

- (c) In the event that the Supplier does not remedy, or provide an acceptable plan to remedy, any identified instances of Modern Slavery within the timeframe specified by DE GREY, DE GREY may terminate this Agreement in accordance with clause 12.

### 17. CONFIDENTIALITY

- (a) The Supplier must ensure that all Confidential Information received from DE GREY under this Agreement is kept confidential and must not disclose Confidential Information to any third party without the prior written consent of DE GREY.
- (b) The Supplier must, if DE GREY elects in its sole discretion, sign DE GREY's confidentiality agreement prior to any Goods and or Services being provided by the Supplier under this Agreement.

### 18. ASSIGNMENT

The Supplier must not assign, novate or transfer its rights or obligations under this Agreement without the prior written consent of DE GREY (which consent may be withheld or conditioned).

### 19. OTHER MATTERS

- (a) Any of DE GREY's rights under this Agreement can only be waived by DE GREY in writing.
- (b) This Agreement may not be varied except in writing signed by the Authorised Signatories of both Parties. Any variation will only be applicable to the

specific Purchase Order for which the terms and conditions are varied.

- (c) DE GREY may exercise a right, remedy or power as it considers appropriate.
- (d) If DE GREY does not exercise a right, remedy or power at any time, this does not mean that DE GREY cannot exercise it later.
- (e) The rights, powers and remedies provided in this Agreement are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this Agreement.
- (f) Part 1F of the *Civil Liability Act 2002* (WA) is excluded from operation with respect to any dispute, claim, action or matter under or in connection with this Agreement.
- (g) If any disputes arise with regard to any matter in connection with this Agreement, the Parties shall meet to review such dispute and use best efforts to arrive at an amicable and negotiated solution with regard to it. If the Parties are unable to negotiate and agree on an amicable settlement of the dispute, within seven days after such meeting, the dispute will be referred to the Parties' Authorised Representative for resolution. If the Parties' Authorised Representative cannot reach an amicable settlement within seven days after such referral to them, either Party may refer the dispute to arbitration in accordance with and subject to, the Resolution Institute Arbitration Rules. Notwithstanding the existence of a dispute, each Party must continue to perform this Agreement.
- (h) Notwithstanding the commencement of any arbitration proceedings, either Party may approach a court of law for relief of an urgent nature where such relief cannot be given urgently by the arbitrator.
- (i) Intellectual Property Rights from the provision of Services by the Supplier shall vest in DE GREY immediately upon creation. The Supplier must take all necessary steps to ensure that DE GREY obtains full legal title in and to such rights. This Agreement does not affect the ownership of Intellectual Property Rights in any pre-existing material or background Intellectual Property Rights.
- (j) All notices under this Agreement must be in writing and delivered by post, email or by hand to the address sated in the Purchase Order (or as otherwise notified in writing by a Party).
- (k) Without limiting any other provisions which may survive termination or expiry of this Agreement, the following provisions will survive termination or expiry of this Agreement, clauses 1, 5, 6, 8, 10, 12, 13, 14, 16, 17, 19, 20 and 22, and any other clause that by its nature or substance should survive termination or expiry of this Agreement.

## **20. GOVERNING LAW**

- (a) This Agreement is governed by the laws of Western Australia, Australia.
- (b) Each Party submits to the non-exclusive jurisdiction of the courts of Western Australia.

## **21. INDEPENDENT CONTRACTOR**

Each Party acknowledges that they are an independent contractor/supplier and or consultant and that there is no relationship of agent or employee as between the Parties under this Agreement.

## **22. ORDER OF PRECEDENCE**

- (a) Special terms and conditions (if any) contained in or attached to a Purchase Order are incorporated into this Agreement.
- (b) In the event of any inconsistency between the documents comprising this Agreement, precedence will be in the following order:
  - (i) the special terms and conditions;
  - (ii) the Purchase Order; and
  - (iii) these terms and conditions.