



**K92 MINING LIMITED**  
**General Terms and Conditions**  
**(Services)**

Each Purchase Order placed by K92 Mining Limited (**K92**) for the Services is subject to these general terms and conditions and the terms of the applicable Purchase Order and is conditional upon the Supplier's agreement to such terms. The Supplier will be deemed to have agreed to be bound by such terms by accepting the Purchase Order and supplying the Services to K92.

**1. DEFINITIONS**

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In these Standard Purchase Terms, the following definitions apply:

**Agreement** means the agreement between Supplier and K92 for the purchase and sale of Goods.

**Company's Premises** means the Kainantu Gold Mine, located in the Eastern Highlands province of Papua New Guinea.

**Confidential Information** means all material, non-public, business- related information, written or oral, whether or not it is marked as such, that is disclosed or made available to the receiving party, directly or indirectly, through any means of communication or observation.

**Defective Services** means the Services that K92 considers do not comply with the requirements of the Purchase Order, whether in whole or in part.

**Delivery Date** means the date of performance of Services as specified in a Purchase Order.

**Fees and Expenses** means the fees, rates, amounts and expenses stipulated or set out in the Details or any attachment referred to therein or as may be agreed in the future.

**Governmental Authority** means a government or semi government department or judicial person (whether autonomous or not) charged with the administration of any law.

**GST** means the tax imposed by the Goods & Services Tax Act 2003.

**Intellectual Property** means all rights, titles and interests, including the right to apply for the registration, wherever subsisting throughout the world and whether registered or not, in and to: copyright, author's rights (including moral rights), neighbouring rights, rights for the protection of contents of databases, the protection of circuit layouts, rights of topography, designs, inventions, patents, utility models, trademarks and any right contemplated by a treaty, convention or instrument administered by or under the auspices of the World Intellectual Property Organisation;

**Purchase Order** refers to the agreement between K92 and the Supplier for the provision of Services, with these Standard Purchase Terms either attached or incorporated by reference.

**Services** means the services to be provided by the Supplier pursuant to an agreement and described in the Details and any attachment referred to therein.

**Supplier** means the party indicated on the face page of the Purchase Order that is contracting with K92 for the provision of Services.

**Supplier Code of Conduct** or **Code** means K92's code of conduct (available : <https://k92mining.com/suppliers/>) The Code establishes the ethical, social, environmental and legal responsibilities that the Supplier must adhere to while conducting business with K92.

## **2. AGREEMENT TO PROVIDE SERVICES**

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The Agreement consists only of:

- (a) these Standard Purchase Terms;
- (b) the applicable Purchase Order; and
- (c) any Specifications or other documents expressly referenced in the Purchase Order.

K92's acceptance of payment for the Goods will not constitute K92's acceptance of any additional or different terms unless otherwise accepted in writing by K92. If there are any conflicts or inconsistency between the documents constituting the Agreement, then unless otherwise expressly provided, the documents will rank in the order of precedence in accordance with the order in which they are listed in this Section 2.

## **3. SUPPLY OF SERVICES**

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### **3.1 Supply of Services**

- (a) The Supplier must supply the Services to K92 in accordance with this Purchase Order.
- (b) If supplying the Services requires the Supplier to attend a K92 Site, the Supplier must comply with all K92's policies, procedures and directions while on Site.

### **3.2 Location of Services**

- (a) The Supplier will perform the Services in accordance with this agreement at a location of the Company's discretion.

- (b) The Supplier will make available any information, access, records or other things needed by the Supplier to fulfill its obligations under this agreement.

### **3.3 Access to Sites**

In the event that the Supplier staff is required to attend the Company's Premises:

- (a) the Company must give the Supplier reasonable non-exclusive access to the premises;
- (b) the Supplier must, in respect to any of the Supplier staff or Supplier, meet the Company's requirements for workplace health, safety and site security;
- (c) the Supplier acknowledges and agrees that it is responsible for the workplace health and safety of the employees of the Supplier who are required to attend the Company's Premises in clause 3.3;
- (d) the Supplier must:
  - (i) itself comply with; and
  - (ii) take reasonable steps to see that all of its employees, servants, agents and subcontractors follow all reasonable directions, notices, policies and procedures set out or specified by the Company from time to time in respect of the Company's Premises or conduct at the Company's Premises.

### **3.4 General obligations of the Supplier – provision of Services**

The Supplier must provide the Services:

- (a) in compliance with all applicable laws and in a proper and professional manner in accordance with generally accepted industry standards, practices and codes of conduct; and
- (b) without doing anything that may directly or indirectly impair (or be likely to impair) the good name and reputation of K92 or its business.

### **3.5 In providing the Services, the Supplier represents and warrants to K92 that:**

- (a) the provision of the Services does not infringe upon any Intellectual Property of any third party;
- (b) in entering into and performing its obligations under this Purchase Order it has not, and will not, be in breach of any law or any obligation owed to a third party;
- (c) the Supplier and all of its employees and subcontractors hold all licences, permits, registrations and certifications as required by law; and
- (d) it has the necessary skills, experience, qualifications, resources, technology and know-how to provide the Services.

### **3.6 Defective Services**

- (a) K92 may within 30 calendar days of receipt of the relevant Defective Services issue a notice to the Supplier in writing.
- (b) If K92 issues a notice under sub-clause 4.4(a), the Supplier must at its own cost comply with the requirements of that notice.
- (c) K92 will not be liable to the Supplier for the payment for any Defective Services until they have been rectified in accordance with clause 4.4(b).

## **4. PAYMENT TERMS**

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Prices for the Services will be set out in the Purchase Order. Price increases or charges not expressly set out in the Purchase Order shall not be effective unless agreed to in advance in writing by K92. Supplier will issue all invoices on a timely basis. All invoices delivered by Supplier must meet K92's requirements, and at a minimum shall reference the applicable Purchase Order. K92 will pay the undisputed portion of properly rendered invoices by the end of the month following the month in which the services were provided, unless otherwise agreed by K92 in writing. The Supplier agrees that K92 has the right to withhold payment of any invoiced amounts that are disputed in good faith until the parties reach an agreement with respect to such disputed amounts and such withholding of disputed amounts shall not be deemed a breach of this Agreement nor shall any interest be charged on such amounts.

## **5. GOODS AND SERVICES TAX**

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If any payment (or part of the payment) made by a party to another party under or relating to this Agreement constitutes consideration for a taxable supply for the purposes of Goods and Services Tax Act 2003 or any similar tax, the amount to be paid for the supply (or the taxable part of the supply) will be increased so that the net amount retained by the party receiving payment after remittance of that GST is the same as if the party was not obliged to charge or collect GST in respect of that supply. To the extent that GST is chargeable on a taxable supply, the party collecting the tax agrees to provide a tax invoice to the party chargeable for the amount of the taxable supply.

## **6. NOTICES**

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- (a) Any notice to or by a party under this document must be in writing and signed by the sender or, if a corporate party, an authorised officer of the sender
- (b) Any notice may be served by delivery in person or transmission by facsimile or email to the address or number of the recipient specified in this provision or most recently notified by the recipient to the sender.
- (c) Any notice is effective for the purposes of this document upon delivery to the recipient or production to the sender of a facsimile transmittal

confirmation report before 4.00pm local time on a day in the place in or to which the written notice is delivered or sent or otherwise at 9.00am on the next day following delivery or receipt. Where sent by email, on the date that the email is received. However, if the time of deemed receipt of any notice is not before 5.30 p.m. local time on a Business Day at the address of the recipient it is deemed to have been received at the commencement of business on the next Business Day.

- (d) A notice may not be served through the postal system operated by Post PNG Limited.

## **7. TERMINATION FOR CONVENIENCE**

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K92 will have the option, in its sole discretion, to terminate this Contract, at any time during the term, for convenience and without cause or penalty. K92 must exercise this option by giving the Supplier written notice of termination. The notice must specify the date on which termination will become effective. If a Purchase Order is terminated, the Supplier must immediately cease the provision of any Services and stop undertaking any Minor Works.

K92 must reimburse the Supplier for any reasonable costs incurred by the Supplier in respect of the termination but only where and to the extent that the Supplier provides written evidence of such costs to the satisfaction of K92.

## **8. VARIATION TO SCOPE OF SERVICES**

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Any variation to the scope of the Services outlined in the Purchase Order must be made in writing by the Company. The Supplier should not rely on any other form of variation.

## **9. PAYMENT**

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- (a) The Company will pay the Supplier for the provision of the Services at the level or rate of Fees and Expenses specified in the Details at the times set out in this clause or as may be otherwise specified in the Details.
- (a) Unless otherwise provided or agreed (including in a variation arising pursuant to clause 4), the Fees and Expenses will be the amount or amounts payable for the provision of the Services as specified in the Details.
- (b) The Company will pay the Supplier within thirty (30) days of receipt of any undisputed invoice rendered pursuant to this agreement.
- (c) The parties agree that any invoices which are queried or disputed will be attempted to be resolved in good faith with a view to achieving a resolution within 30 days. In the event that the resolution results in an adjustment in the favour of:

- (i) the Company, the Supplier will raise either a credit note or a cheque in payment to the Company within 14 days.
- (ii) the Supplier, the Supplier will raise a supplementary tax invoice for the additional amount due it within 14 days and the Company will pay the additional amount within 14 days of receipt of the invoice.

## **10. CONFIDENTIALTY**

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The Supplier must safeguard and keep confidential any and all information relating to K92 obtained by it or provided to it by K92 in connection with this Agreement, and shall use such information only for the purposes of carrying out its obligations under this Agreement.

## **11. INTELLECTUAL PROPERTY RIGHTS**

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All intellectual property rights must vest in K92 free and clear of all liens and encumbrances on receipt of payment by Supplier.

## **12. INDEMNITY & INSURANCE**

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### **12.1 Indemnity**

To the extent available under the prevailing law, the Supplier indemnifies the Company against any cost, loss, liability or damage (including any legal costs, on a full indemnity basis) incurred or suffered by the Company as a result of a breach of this agreement by the Supplier or any negligent act or omission of the Supplier (or any of its employees) except to the extent any such breach is caused or contributed to by the wilful or negligent act or omission of the Company, its employees, agents or officers.

### **12.2 Insurance**

- (a) Before commencing the Services the Supplier must maintain (with a reputable insurer reasonably acceptable to the Company. Unless otherwise agreed by th
- (b) e Company in writing the Supplier must ensure that it will maintain during the term of this agreement and any holding over:
  - (i) public risk insurance in at least the amount of PGK twenty five million (PGK25,000,000) per occurrence and unlimited in the aggregate; and
  - (ii) workers' compensation insurance for all employees engaged by the Supplier from time to time.
- (b) The Supplier must promptly upon request, provide the Company with a copy of the certificate/s of currency in respect of the insurance policies required under clause 1.1(a).

- (c) The Supplier must ensure that every subcontractor must:
  - (i) effect and maintain professional indemnity insurance with levels of cover not less than AUD one million (AUD\$1,000,000) or the value of the contract, whichever is the greater;
  - (ii) defend and indemnify the Company for losses and damages which arise out of the Supplier's work, or in connection with the Supplier's work.
- (d) Each Supplier's professional indemnity insurance must be maintained at all times.

### **13. SUPPLIER CODE OF CONDUCT**

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Suppliers are required to comply with the Supplier Code of Conduct (the "Code") as a condition of doing business with the Company. The Code forms part of all agreements between the Company and the Supplier. When a Supplier fails to adhere to the Code the Company may in its absolute discretion undertake one or more corrective actions, including, without limitation, the termination of a purchase order, termination of this contract or any other action deemed appropriate by the Company in its absolute discretion.

### **14. RELATIONSHIP OF PARTIES**

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The Supplier is a Supplier to the Company and nothing arising from this agreement or any other circumstances arising from the provision of the Services is to be construed as giving rise to any implication of a partnership or joint venture between the parties.

### **15. SUB-CONTRACTING**

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The Supplier may not sub-contract out the provision of any part of the Services without the express written consent of the Company.

### **16. COMPLIANCE WITH LAWS**

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- (a) The Supplier will comply with all laws (including the common law, statutes and subsidiary enactments) of any Governmental Authority regulating the provision of the Services in undertaking the Services.
- (b) The Supplier warrants that it and its personnel have all licences, consents or permissions necessary to lawfully provide the Services.
- (c) The Supplier will not infringe, and the Supplier indemnifies the Company and its related corporations against and in respect of any infringement by the Supplier, of any patent, trademark, copyright or other intellectual property held by any other person in the course of rendering its services.

- (d) The Company must ensure that it does not conduct itself such that it puts the Supplier into default of their statutory responsibilities whether under PNG law or the law of any other country.

## **17. SUPPLIER PERSONNEL**

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The Supplier must ensure that personnel engaged in the performance of the Services:

- (a) are competent, and have the skill, training, qualifications and experience necessary to ensure full and proper performance of the Services in accordance with this agreement;
- (b) comply with all rules and security requirements and applicable policies and procedures of the Company;
- (c) if required, carry at all times proper identification in a form specified by the Principal.
- (d) The Supplier is solely responsible for the individuals it employs to provide the Services and is solely responsible for all administrative matters relating to that employment including workers' compensation, insurance, payroll tax, disciplinary matters and the termination of employment.
- (e) The Supplier will be liable for any act, omission, default or negligence of any Supplier, employee or agent of the Supplier as if it were the act, omission, default or negligence of the Supplier.

The Company reserves the right to remove from a Site, or from any activity connected with the Services, any person engaged in the provision of the Services who, in the reasonable opinion of K92 Mining, has:

- (a) not performed to the required Standard;
- (f) not behaved in an appropriate manner;
- (g) is guilty of misconduct;
- (h) is incompetent or negligent; or
- (i) who works in an unsafe manner.

## **18. CONFIDENTIAL INFORMATION**

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Each party agrees that all knowledge and information which it has or knows about the other party, its affairs, assets and undertakings (and that of its related companies) which is not in the public domain as at the date and time of this agreement is confidential information (**Confidential Information**), and each party undertakes to the other that:



- (a) The Confidential Information will be kept confidential by the recipient party and will not, without the disclosing party's prior written consent, be disclosed to any person by the recipient party, or by his agents or representatives, in any manner whatever, in whole or in part, and will not be used by the recipient party, his agents or representatives in any way.
- (b) Without the disclosing party's prior written consent, the recipient party must not disclose to any person the fact that the Confidential Information has been made available to the recipient.
- (c) The recipient party agrees that the Confidential Information was disclosed to the recipient party for the purpose of disclosing party's business and is commercial and confidential to the disclosing party.
- (d) This clause will be inoperative as to any portion of the Confidential Information which is ordered to be released by a court or the proper and lawful requirement of a government agency or department.
- (e) Unless prohibited by law, if the recipient party or anyone to whom the recipient party has transmitted any Confidential Information (whether in breach of this agreement or not) becomes legally compelled to disclose any of the Confidential Information, the recipient party will provide the disclosing party with prompt notice and allow the disclosing party to seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this agreement.

## **19. FORCE MAJEURE**

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In the event a party is unable to perform its obligations under the terms of this Agreement because of acts of God, strikes, equipment or transmission failure or damage reasonably beyond its control, or other causes reasonably beyond its control, such party shall not be liable for damages to the other for any damages resulting from such failure to perform or otherwise from such causes.

## **20. GENERAL PROVISIONS**

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### **20.1 Assignment**

A party must not transfer any right or liability under this agreement without the prior consent of each other party (such consent must not be unreasonably withheld), except where this agreement provides otherwise.

### **20.2 Governing Law and Jurisdiction**

- (a) This agreement is governed by and construed under the law in the State of Papua New Guinea.
- (a) Any legal action in relation to this agreement against any party or its property may be brought in any court of competent jurisdiction in the State of Papua New Guinea.

### **20.3 Continuing performance**

- (a) The provisions of this agreement do not merge with any action performed or document executed by any party for the purposes of performance of this agreement.
- (a) Any representation in this agreement survives the execution of any document for the purposes of, and continues after, performance of this agreement.
- (b) Any indemnity agreed by any party under this agreement:
  - (i) constitutes a liability of that party separate and independent from any other liability of that party under this agreement or any other agreement; and
  - (ii) survives and continues after performance of this agreement.

### **20.4 Waivers**

Any failure by any party to exercise any right under this agreement does not operate as a waiver and the single or partial exercise of any right by that party does not preclude any other or further exercise of that or any other right by that party.

### **20.5 Remedies**

The rights of a party under this agreement are cumulative and not exclusive of any rights provided by law.

### **20.6 Severability**

Any provision of this agreement which is invalid in any jurisdiction is invalid in that jurisdiction to that extent, without invalidating or affecting the remaining provisions of this agreement or the validity of that provision in any other jurisdiction.