

STANDARD TERMS AND CONDITIONS (PURCHASE ORDERS)



1 DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

Contract is defined in clause 2.

Personnel means the employees, directors, officers, representatives, agents, contractors or subcontractors of a party (but our Personnel do not include your Personnel).

You or **Your** means the contractor or supplier named in the purchase order.

We, Us or **Our** means Bardoc Gold Limited ABN 40 125 578 743 and/or any of its controlled subsidiaries.

1.2 CONDITIONS AND RIGHTS IMPLIED BY LAW

Nothing in these Standard Terms and Conditions exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the Competition and Consumer Act 2010 (Cth)) and which by law cannot be excluded, restricted or modified.

2 PROVISION OF GOODS AND/OR SERVICES

2.1 CONTRACT TERMS AND VALID PURCHASE ORDERS

- (a) Every order for goods or services to be supplied to Us must be submitted in writing and described in a purchase order or under written contractual arrangements. An order for goods or services (and any variation to the order) will only be regarded as being made by Us if signed by an authorised representative of Us.
- (b) The following people are authorised representatives of Us for the purpose of this Contract: a person whose title includes the words "Director", "Chief Executive Officer" (or CEO), "Chief Financial Officer" (or CFO), "Chief Operating Officer" (or COO), Company Secretary or Manager, and any other person notified by the CEO from time to time.
- (c) All goods supplied to Us are for Our use, or resale and may be incorporated in any products (whether owned or used or possessed by Us).
- (d) We reserve the right to obtain equivalent goods and/or services from any third party.

2.2 STANDARDS AND WARRANTIES

- (a) You represent and warrant to Us on a continuing basis that:
 - (i) You have complete ownership of the goods supplied to Us free of any liens, charges and encumbrances and will provide the goods to Us on that basis and We will be entitled to clear, complete and quiet possession of the goods
 - (ii) Any information supplied by You or Your personnel relating to this Contract or the goods and/or services is true and correct in all material respects;
 - (iii) the goods and/or services will (as applicable):
 - A. comply with any relevant legislation, standards and industry best practices;
 - B. not infringe or contribute to the infringement of any intellectual property rights;
 - C. comply with any specifications set out in the Contract;
 - D. be provided with a high standard of care and diligence and skill and be of high quality and workmanship;

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- E. be provided by appropriately qualified, competent, skilled, experienced and professional personnel;
- F. be of merchantable quality and free from defects in materials, workmanship and design;
- G. be fit for the purpose for which goods of the same kind are commonly supplied and any other purpose intended by Us and made known to You; and
- H. be provided with copies of all material safety data sheets.

(b) You and Your Personnel must:

- (i) deliver all goods and services to the place and within the time period specified in the Contract and if no time period is specified, within a reasonable period;
- (ii) ensure purchase order numbers are included in full on any packing slip, delivery docket or invoice
- (iii) ensure all goods are properly and safely packed;
- (iv) obtain and maintain (at Your own expense) any licences, permits or consents necessary for providing the goods and/or services;
- (v) in carrying out any activities under or in connection with this Contract, comply with all applicable laws, regulations, legislation, codes of practice, national standards and applicable ethics and other regulatory approvals and the terms of any applicable licences, permits or consents;
- (vi) in performing any services, supply and maintain all materials and equipment required to carry out the services at Your own cost; and
- (vii) perform the services described in the purchase order with a high standard of care and diligence.

2.3 NATURE OF AGREEMENT

You perform all services under this Contract as an independent contractor and not as Our agent or employee.

2.4 NO SUBCONTRACTING

You must not without Our prior written consent subcontract all or any part of the Contract. The appointment of subcontractors by You does not relieve You from any liability or obligation under this Contract.

3 PAYMENT TERMS

- (a) The consideration payable will be as set out in the purchase order and is inclusive of all duties and taxes (except GST) and costs incurred by You or Your Personnel in providing the goods and/or services including all charges for packaging, packing, insurance and delivery of the goods and the cost of any items used or supplied in conjunction with the services. In the case of services, We will not pay or be liable for any expenses not specified in the purchase order which are not approved in writing by an authorised person of Us in advance.
- (b) You must submit tax invoices to admin@bardocgold.com.au or any other email address identified on the purchase order or as specified in the written contract:
 - (i) For goods: upon delivery of the goods, unless We have agreed to make a partial or full upfront payment in the purchase order, in which case the invoice must reflect the amount agreed to be paid upfront; and

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- (ii) For services: on completion of the services, unless the purchase order states that progress payments are to be made in which case the invoices must be issued in accordance with the progress payments schedule that has been agreed in writing.
- (c) Subject to clause 4 below, We will pay all valid tax invoices validly submitted to Us within 30 days of the end of the calendar month in which the invoice was issued (or as otherwise agreed between the Parties) by electronic funds transfer, except where We dispute the invoice, in which case You will credit the disputed amount and We will pay the invoice net of the credit. Post resolution of the dispute, You will invoice the agreed balance (if any).
- (d) If any supply made under this Contract is or becomes subject to GST, the party to whom the supply is made must pay to the party making the supply in addition to any consideration payable an additional amount on account of GST. If any party is entitled to payment of any costs or expenses by way of reimbursement or indemnity, the claim must exclude any amount for which that party is entitled to the benefit of an input tax credit.
- (e) If We are entitled to an exemption or concession concerning any tax or import duty or import tariff with respect to the goods and/or services, You must use all reasonable endeavours to apply for that concession or exemption and as far as possible promptly pass on to Us the benefit of that concession or exemption.
- (f) We may withhold, retain or set off from any payment due to You under this Contract any amounts payable by You to Us.
- (g) Unless otherwise agreed, any money payable to You is to be paid in Australian Dollars.

4 INSPECTION AND ACCEPTANCE OF GOODS

Inspection and acceptance of goods

- (a) All goods are received subject to inspection (including, if reasonably required, testing) of the goods by Us within a reasonable period after delivery or before delivery (at Your premises) at Our discretion (on giving reasonable notice), in all cases irrespective of date of payment.
- (b) Signed delivery dockets or other acknowledgement of receipt or payment do not mean acceptance by Us of goods delivered, but only the number of items, packages or cartons delivered.
- (c) If on inspection (and testing if applicable) or after delivery, We reasonably believe any goods or services to be defective (including by not being to an agreed standard or to an agreed level of completion), then, within a reasonable period following delivery of any defects appearing (a reasonable period is at least 12 months after delivery but may be a longer period having regard to the nature of the goods or service), We may:
 - reject defective goods by returning them to You (at Your expense);
 - reject defective services by notifying You in writing;
 - require repair, rectification or resupply as noted below; and
 - hold goods found to be defective for Your instructions, at Your risk for a reasonable period.
- (d) We may require You to repair, rectify or resupply defective goods or services at Your cost (which You must do promptly) or, if considered reasonable by us, We can cause the defective goods to be repaired or rectified at Your cost (and You must reimburse Us for any reasonable expenses in repairing defective goods and in rectifying defective services).

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- (e) If Your instructions in connection with defective goods are not received by Us within the period mentioned in paragraph (c), We may return the defective Goods to Your premises at Your expense and risk. Any reasonable expenses incurred by Us in return defective goods is payable by You and may be set off by Us against any moneys otherwise due by You to Us.
- (f) You must refund to Us any payments made by Us in respect of defective goods and/or services which We reasonably reject (and, if the invoice has not been paid, We are not required to pay for those defective goods and/or services that have been rejected or, if We require repair, rectification or resupply, until the repair, rectification or resupply has been completed to the required standard, as determined by Us).
- (g) If You repair or replace the goods and/or services, then those goods and/or services repaired or replaced have a further warranty for a period of 12 months from the date the repairs or replacements were completed.

4.1 TITLE AND RISK

- (a) Goods supplied by You are at Your risk until delivered to the destination stated in the purchase order. Once the goods in a purchase order are delivered to the destination stated in that purchase order and accepted by Us in accordance with clause 4.1 of these Standard Terms and Conditions, risk in the goods is transferred to Us whether or not transfer of title occurs on delivery of the goods.
- (b) title passes on the delivery of goods.
- (c) We may at all times transfer, sell or dispose of goods You have supplied to Us to a third party in the ordinary course of business. We may at all times use goods You have supplied to Us in the ordinary course of business (including consumable items).

5 INSURANCE, LIABILITY AND INDEMNITIES

5.1 INSURANCE

- (a) You must take out and maintain (for You and Your Personnel) during the term of the Contract (at no cost to Us) the following insurance policies with a reputable insurer:
 - (i) a comprehensive public and products liability insurance policy with a limit of liability of not less than ten million dollars (\$10,000,000) for any one occurrence and unlimited in the number of occurrences happening in the period of insurance and with an annual aggregate limit of liability of not less than ten million dollars (\$10,000,000) for products liability;
 - (ii) if the provision of the goods and/or services requires You or Your Personnel to provide professional advice or to prepare or provide any design, formula or specification, You must put in place professional indemnity insurance with a minimum cover of not less than five million dollars (\$5,000,000) for any one claim and any professional indemnity policy must be maintained for a period of 7 years following completion of the last supply to Us under this Contract; and
 - (iii) any other insurance which is required by law for the time being in force in the State of Western Australia.
- (b) If the provision of the goods and/or services requires You or Your Personnel to enter or carry out any activities at Our premises or site then, in addition to the insurances required under clause 5.1, You

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must take out and maintain (for You and Your Personnel) during the term of the Contract (at no cost to Us) the following insurance policies with a reputable insurer:

- (i) workers compensation and employers liability insurance in accordance with the laws of Western Australia (including common law liability and liability under statute as required by law) and where this Contract includes the provision of services, this insurance must include a Principal's Indemnity extension in favour of Us as principal under the Contract;
 - (ii) Motor Vehicle Third Party Injury and Property Damage Insurance with a limit of liability of not less than twenty million dollars (\$20,000,000) for any one occurrence, and if You carry dangerous goods, this policy must be endorsed to cover third party property damage resulting from the carriage of dangerous goods with a limit of liability of not less than five million dollars (\$5,000,000) for any one occurrence; and
 - (iii) Compulsory Motor Vehicle Third Party Liability Insurance as required by law.
- (c) Upon request You must provide Us certificates of currency for any insurances required to be held by You under this Contract. All costs incurred by Us as a consequence of You not maintaining such insurances will be a debt due from You to Us.

5.2 YOUR PERSONNEL AT OUR PREMISES OR SITE

If You or Your Personnel enter or carry out any activities at Our premises or site, You must, in providing the goods and/or services:

- (a) perform all services in a manner that is safe and complies with all applicable laws, regulations, legislation and Our policies (including site rules) and guidelines including but not limited to occupational health and safety;
- (b) not unreasonably impede or interfere with any of Our activities or the activities of any other person on Our premises or site;
- (c) ensure that Our premises or site is left secure, clean, orderly and fit for immediate use and at Your cost remove all rubbish and surplus materials related to the services;
- (d) at Our request, remove from Our premises or site any Personnel who fails to comply with any requirements under this Contract or Our reasonable instructions or who engages in any inappropriate behaviour and promptly provide a suitable replacement.

5.3 LIABILITY AND INDEMNITIES

- (a) You and Your Personnel enter Our premises or site at Your and their own risk.
- (b) You are liable for and must indemnify Us and keep Us indemnified from and against any liability and any loss or damage of any kind whatsoever (including reasonable legal fees and expenses), demands, claims and proceedings of any nature arising out of or in connection with:
 - (i) any damage to or loss of property, or personal injury to or death of any person, caused or contributed to by Your negligent act or omission;
 - (ii) Your breach of Intellectual Property (clause 7); and
 - (iii) breach of Confidentiality (clause 8) by You or Your Personnel.
- (c) You must ensure that Your Personnel comply with this Contract as if they were parties to it and You are liable for any acts, omissions and breaches of this Contract by Your Personnel.

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6 SUSPENSION AND TERMINATION

6.1 SUSPENSION

- (a) To the extent permitted by law, We may at any time and for any reason, suspend performance of Your obligations under this Contract by giving You notice. When You receive a notice of suspension from Us, You must suspend performance of the relevant obligations until such time as We direct You to resume performance of those obligations by notice in writing. Where the suspension of Your obligations by Us under this clause is not as a result of:
- (i) any default, action or omission by You or Your Personnel; or
 - (ii) an event or circumstance which is beyond the control and without the fault or negligence of either party and which by the exercise of reasonable diligence neither party was able to prevent,

We will reimburse You within a reasonable time of receipt by Us of a detailed breakdown of Your claim for the extra costs necessarily and reasonably incurred by You as a direct consequence of the suspension, provided that You must use Your best endeavours to minimise such costs.

6.2 TERMINATION

- (a) A party may immediately terminate this Contract by notice in writing to the other party if that other party is convicted of a criminal offence or if that other party or its Personnel breach any obligation under this Contract which is unable to be remedied or, if it is able to be remedied, is not remedied within 14 days of notice to do so. In the event that an event or circumstance referred to in clause 6.1(a)(ii) has continued for more than 6 months, either party is entitled to terminate this Contract by notice in writing to the other party.
- (b) To the extent permitted by law, We may terminate this Contract at any time and at Our sole discretion by giving You 7 days prior notice, in which case We must reimburse You for all work in progress and/or services completed and expenses incurred and all goods delivered up to the date of the notice of termination which cannot be reversed or mitigated by You applying best efforts.
- (c) We reserve the right to cancel any purchase order not delivered to Us by the delivery date specified in the purchase order, or if no delivery date is specified, within 30 days of the purchase order and you will have no claim against Us if We do so (including any work in progress or expenses incurred). If goods are delivered despite the cancellation, the supplier must remove the goods at its expense.
- (d) Unless expressly stated otherwise, termination of this Contract for any reason does not affect the rights or obligations of a party which have accrued prior to termination.

6.3 REMEDIES NOT LIMITED

Unless expressly stated otherwise in this Contract, where a right or remedy is conferred under this Contract, that right or remedy is in addition to, and not in substitution of, any other right or remedy conferred under this Contract or according to law.

7 INTELLECTUAL PROPERTY

7.1 BACKGROUND IP

- (a) Each party acknowledges that all Background IP remains the sole property of its owner. Each party acknowledges that it acquires no right, title or interest in or to the Background IP of the other party by

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virtue of this Contract or the disclosure or use of the Background IP in the course of the performance of the Services, other than as expressly set out in this Contract.

- (b) Each party grants to the other party a non-exclusive, royalty-free, non-transferable licence to use modify, adapt or sublicense the Background IP owned by it to the extent necessary for Us to exercise Our rights or for any party perform its obligations under this Contract and for Us to obtain the benefit of the goods and services.
- (c) In this clause 7:
 - (i) Background IP means any Intellectual Property rights owned by or licensed to a party prior to the date of this Contract (or if it is not dated, prior to Our first purchase order with You), or acquired or developed by a party to produce or supply any goods or work to Us independently of the activities carried out under this Contract (which is not Project IP as defined below), which that party has the right to license to third parties and which are necessary or desirable for the performance of the services; and
 - (ii) Intellectual Property means statutory and other proprietary rights in respect of copyright and neighbouring rights, all rights in relation to inventions, patents, plant varieties, registered and unregistered trade marks, registered and unregistered designs, circuit layouts and rights to require information to be kept confidential, and all other rights as defined by Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967, and all rights to apply for any of the above, but does not include moral rights that are not transferable.

7.2 PROJECT IP

- (a) All right, title and interest in Project IP vests in and is assigned to Us with effect from its creation. You must promptly and fully disclose all Project IP to Us.
- (b) Any goods or work made or done according to Our design or specifications or developed for Us at Our direction, or any original or copy designs or specifications supplied by Us are held by You on Our behalf and must not be disclosed or furnished to any other person, firm or government without Our written consent. You must take all reasonable precautions to protect such confidentiality.
- (c) You warrant to Us that We will not require any licence of any Intellectual Property rights owned by a third party in order to use Project IP.
- (d) Upon request, You must at Your cost sign all documents and do all things as may be necessary or desirable to vest, confirm, perfect and record Our ownership rights in Project IP.
- (e) In this clause 7, Project IP means all Intellectual Property (as that term is defined in clause 7.1(c)(ii)) created, conceived, developed or reduced to practice in producing and supplying any goods or work made or done according to Our design or specifications or developed for Us at Our direction including all Intellectual Property in all documents, data and other materials.

8 CONFIDENTIALITY

8.1 CONFIDENTIALITY

- (a) The parties agree that this Contract and all related information and documents are confidential (Confidential Information) and a party will not (and will ensure its Personnel do not) disclose any Confidential Information except to the extent disclosure is permitted by this Contract or required by law.

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- (b) You agree that You will not disclose the Confidential Information pursuant to a request under section 275(1) of the Personal Property Securities Act 2009 (Cth).
- (c) A party to the Contract may disclose Confidential Information to:
 - (i) its Personnel;
 - (ii) to its professional advisers (including its legal advisers and auditors);
 - (iii) its bona fide financiers or potential financiers or actual or bona fide potential co-investors, investors, insurers or insurance brokers and their professional advisers if the person to whom the disclosure is made is subject to obligations of confidentiality and, in the case of an actual or potential financier or investor;
 - (iv) if and to the extent required under any necessarily applicable Law, applicable regulations or other requirement of a court, quasi-judicial body, regulatory authority or the rules or regulations of any recognised stock exchange which apply to that party or any of its related bodies corporate (as defined in the Corporations Act 2001 (Cth)); and
 - (v) if the disclosure is reasonably necessary for the purposes of any mediation or legal proceedings involving one of the parties.
- (d) You and Your Personnel must not (except to the extent necessary to comply with Your obligations under this Contract) disclose to any person any information relating to Us or Our Personnel or Our business or activities.
- (e) Each party:
 - (i) must not use Confidential Information for any purpose other than this Agreement and the proper administration of its business; and
 - (ii) is liable for the un-authorised disclosure or use of Confidential Information by its Personnel and any person referred to in paragraphs (c)(ii) and (c)(iii).
- (f) Nothing in this Contract prohibits disclosure of information which is in the public domain otherwise than as a result of a breach of this clause or is required to be disclosed by law.
- (g) The obligations in this clause 8 survive termination of this Contract and continue to bind a party for a period of 2 years after this Contract terminates (or if it is not terminated, the last date of delivery of goods or services under this Contract).
- (h) The confidentiality undertakings contained in this Contract are in addition to and in no way derogate from the obligations of the parties in respect of secret and confidential information at law, in equity or under any statute or trade or professional custom or use.

8.2 MARKETING

You must not, without Our prior written consent, advertise or publish the fact that We have entered into an agreement with You for the sale of goods or supply of services.

9 MISCELLANEOUS

9.1 GOVERNING LAW

This Contract is governed by the laws in force in Western Australia and, where applicable, the Commonwealth of Australia. The parties submit to the exclusive jurisdiction of the courts of Western

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Australia, and any courts that may hear appeals from those courts, in respect of any proceedings in connection with this Contract.

9.2 WHOLE AGREEMENT

This Contract is the entire agreement between the parties about its subject matter and replaces all previous agreements, understandings, representations and warranties about that subject matter. Any terms and conditions contained in any other documents, including Your documents, are expressly excluded.

9.3 VARIATIONS TO CONTRACT

No amendment of this Contract is effective unless made in writing and signed by each party (or in the case of a variation to a purchase order, signed by an authorised person of Us). Any amendment will only be applicable to the specific purchase order and will not apply to past or future purchase orders nor oblige Us to agree to such an amendment for any other purchase orders.

9.4 WAIVERS MUST BE IN WRITING

No waiver of a right or remedy under this Contract is effective unless it is in writing and signed by the party granting it. A single or partial waiver or exercise of a right or remedy under this Contract does not prevent a further exercise of that or of any other right or remedy. Failure to exercise or delay in exercising a right or remedy under this Contract does not operate as a waiver or prevent further exercise of that or any other right or remedy.

9.5 ASSIGNMENT

- (a) You must not, without Our prior written consent, assign or subcontract this Contract or any of Your rights or obligations under it. The appointment of subcontractors by You (with Our consent) does not relieve You from any liability or obligation under this Contract.
- (b) We can without Your consent grant a security interest to any person over Our rights under or in connection with this Contract and in respect of any goods You deliver to Us.

9.6 NOTICES

Any notice or demand to be given or made under this Contract must be in writing, in English and signed by or on behalf of the Party giving or making it and addressed and delivered to the other party at its registered office or principal office. In Our case, all notices must be delivered to:

Address: Bardoc Gold Limited, 130 Stirling Highway, North Fremantle, Western Australia

Attention: Company Secretary

Email: admin@bardocgold.com.au

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