

STANDARD TERMS AND CONDITIONS FOR TRANSPORTATION SERVICES

1. PURPOSE OF THE TERMS AND CONDITIONS

The purpose of this document is to establish the general procurement terms and conditions which regulate the provision of the transportation services ("**Transportation Services**") rendered by the Service Provider to Vergenoeg Mining Company (Pty) Ltd ("**VMC**"), as per the purchase order placed by VMC for the Service Provider ("**PO**").

2. SCOPE OF APPLICATION

These Standard Terms and Conditions shall apply to all POs submitted by VMC to the Service Provider in relation to the Transportation Services. Any amendment to, or deviation from, these Standard Terms and Conditions by the Service Provider must be in writing and accepted by VMC.

3. PURCHASE ORDERS: CONDITIONS OF PURCHASE

3.1. If the Service Provider accepts a PO whether in writing or by means of performance in terms of the PO or by any other means, the Service Provider shall be deemed to have accepted the PO as well as these Standard Terms and Conditions.

3.2. In the event of a conflict between these Standard Terms and Conditions and the details contained in a PO, the provisions of these Standard Terms and Conditions shall prevail unless, because of concerns being raised by the Service Provider, the PO is accompanied by a written document signed by an authorised representative of VMC amending these Standard Terms and Conditions.

3.3. A PO from VMC may include, *inter alia*, the following:

3.3.1. the description of the Transportation Services required;

3.3.2. the price payable for such Transportation Services with details of any agreed adjustments, variations or discounts (including any Penalty);

3.3.3. the mode of delivery or collection;

3.3.4. the details of where to deliver the goods/material ("**Delivery Point/s**");

3.3.5. the date for delivery or collection including the specified date for delivery of goods or completion of the Transportation Services as detailed in the PO(s) ("**Key Date**") (if applicable);

3.3.6. the Delivery Point/s (if the Service Provider is to deliver to VMC); and

3.3.7. any reference to these Standard Terms and Conditions.

3.4. The placing of POs with Service Providers shall be in VMC's sole discretion and/or subject to VMC's operational requirements.

3.5. VMC reserves the right to withdraw the PO at any time prior to completion of delivery for any reason. The withdrawal of a PO shall be by means of written notification to the Service Provider and without incurring any liability to the Service Provider for damages or otherwise because of such withdrawal. VMC shall be liable for the cost of the Transportation Services rendered up until the date the PO is withdrawn.

3.6. If there is a withdrawal of a PO by VMC, there shall be no obligation any costs or fees for Transportation Services rendered after the date of the notice of withdrawal A PO sent to any of the addresses contained in the Service Provider's vendor application shall be deemed to have been received by the Service Provider as follows:

3.6.1. if sent by email to an email address, on the date of sending provided that VMC receives on the same day a read receipt from the Service Provider;

3.6.2. if sent by facsimile to a facsimile number, on the date of sending provided receipt thereof is confirmed telephonically by VMC;

3.6.3. if sent by prepaid registered post to a postal address, on the 7th (seventh) day following the date of such posting;
or

3.6.4. if delivered by hand to a physical address, on the date of delivery.

4. **PURCHASE ORDERS: CONDITIONS OF SERVICE**

4.1. The Service Provider may accept the VMC PO in writing within 5 (five) business days or may be deemed to have accepted a PO through its performance in accordance with the VMC requests in the relevant PO.

4.2. The Service Provider shall be responsible for delivering the relevant goods to the relevant Delivery Point/s. In addition, the Service Provider shall be responsible for ensuring that the goods are delivered to the correct Delivery Point/s and on the required date of delivery.

4.3. If the Transportation Services ordered in terms of a PO have not been availed to VMC timeously, VMC reserves the right to cancel or amend such PO without incurring any liability to the Service Provider for damages or otherwise because of such cancellation or amendment. Cancellation or amendment of the PO must not prejudice VMC's rights including the right to recover damages it has suffered.

4.4. In the event:

4.4.1. that the PO does not include a date for delivery or collection, the order is for delivery/collection within 24 (twenty-four) hours of receipt of the PO;

4.4.2. of any ambiguity or uncertainty in respect of a PO, such ambiguity or uncertainty must be referred to VMC immediately and a corrected/amended PO obtained prior to the Service Provider's performance. Incorrect performance in terms of a PO containing an ambiguity or uncertainty shall be at the risk of the Service Provider. The interests of VMC hold priority towards the interpretation of the ambiguous or unclear provision of service and/or VMC may reject a performance if it is not as required by VMC; and

4.4.3. that the Service Provider is not able to comply with a PO whether in respect of the quantity of the goods and/or Transportation Services, time of delivery/collection or otherwise, the Service Provider is required to notify VMC immediately and performance should not be executed before a suitable amendment to the PO is made by VMC. VMC may in such circumstances withdraw, cancel, or amend the PO.

4.5. Delivery of the VMC products to a Delivery Point shall only take place during the Delivery Times applicable to such Delivery Point. The onus rests on the Service Provider to confirm the Delivery Times with the relevant Delivery Point prior to the Service Provider's performance in accordance with the relevant PO, and no deliveries to a Delivery Point will be accepted outside of the Delivery Times of such Delivery Point unless a prior arrangement has been made with the relevant VMC representative at the Delivery Point/s. In no circumstances whatsoever shall the Service Provider have any claim in respect of damages and/or losses arising directly or indirectly from rejection by VMC of a delivery outside of the applicable Delivery Time/s.

4.6. The Transportation Services must be rendered strictly in accordance with the PO.

4.7. If additional Transportation Services beyond what was ordered are provided, VMC shall not pay for such additional Transportation Services if VMC has did not authorise.

4.8. Unless other arrangements have been made in writing prior to performance, the Service Provider shall at its own cost provide all labour, equipment, or facilities necessary for:

4.8.1. off-loading of the products at the Delivery Point;

4.8.2. loading the material/ product at VMC's premises or any other premise designated by VMC; and

4.8.3. rendering the Transportation Services.

5. **INSPECTION**

VMC or its representatives shall have the right at all reasonable times, upon advance notice, to have access to the vehicles utilised to render the Transportation Services for an inspection. VMC or its representatives may reject the Transportation Services with no consequences for the loss and/or damages incurred by the Service Provider if the Vehicles do not confirm to the requirements of these Terms and Conditions or the PO.

6. **ROLE AND DUTIES OF THE SERVICE PROVIDER**

6.1. The Parties agree that in providing the Transportation Services, the Service Provider shall act as an independent contractor, and its agents and employees, and any subcontractor's agents and employees, shall be recruited, directed, and supervised by the Service Provider, and shall remain solely subject to the Service Provider's managing control and authority.

6.2. The Service Provider shall provide the Transportation Services by means of its own personnel, duly appointed in accordance with the Applicable Laws, and having the training, experience and qualifications required for the proper performance of the Services.

6.3. The Service Provider may not subcontract, assign, or transfer, in whole or in part, the PO or any of the rights and obligations arising from it, without the prior written approval of VMC. If the Parties have agreed to the employment of a subcontractor or specialized technical assistance:

6.3.1. The Service Provider shall assume full responsibility for the Transportation Services that it has subcontracted to third parties and shall respond in any case to VMC for any circumstance arising from the performance of the subcontracted Transportation Services, or for any breach of the provisions of the Standard Terms and Conditions or any Applicable Laws.

6.4. The Service Provider shall have the following duties in terms of these Standard Terms and Conditions:

6.4.1. obtaining and maintaining all necessary insurance required by any Applicable Laws, the provisions of these Standard Terms and Conditions or any instructions received from VMC;

6.4.2. maintain their vehicles in good working order;

6.4.3. comply with VMC traffic management policies and procedures;

6.4.4. ensure that the Service Provider's employees use protective clothing and equipment as required by VMC and the Mine Health and Safety Act, 1996 ("**MHSA**");

- 6.4.5. ensure that it and its employees observe VMC's security rules at all times and that its employees shall not enter into any area(s) of VMC's premises which are not directly associated with the provision of the Transportation Services;
- 6.4.6. ensure that only competent personnel are employed in operations involving skills affecting the quality of the Transportation Services. Should the competence of any member of the Service Provider's workforce be in doubt, VMC may order that the member be sent for additional training at the Service Provider's account and/or that member be replaced with a competent person to perform that work;
- 6.4.7. ensure that no hindrance, hazard, annoyance or inconvenience is inflicted on VMC, its employees or any other third parties during the rendering of the Transportation Services;
- 6.4.8. report immediately to VMC's health and safety representative anything which appears unsafe or unhealthy at the site on which the Transportation Services are rendered;
- 6.4.9. exercise the utmost good faith in all of its dealings with VMC and not do anything or allow anything to be done which does or is likely to prejudice VMC's goodwill;
- 6.4.10. provide and supply all labour and have adequate skills to run the operations safely and productively and provided all plant and equipment, vehicles, materials, consumables, facilities and/or services necessary to carry out the Transportation Services. The equipment utilised must be sufficient to undertake the Transportation Services. The number of equipment deployed should be adequate to achieve the target within the time frame specified in the PO;
- 6.4.11. ensuring compliance with all applicable laws including environmental laws, and health and safety laws and protocols during the rendering of the Transportation Services;
- 6.4.12. properly maintain all plant, machinery, equipment, vehicles and/or facilities of whatsoever nature necessary to render the Transportation Services and to immediately repair any damage thereto;
- 6.4.13. be responsible for the employment and adequate training of all its workers, employees, operators, and supervisors who are suitably qualified, skilled, and medically fit to undertaking all duties and responsibilities set out in the PO and in addition, be responsible for all aspects of the remuneration, safety, and accommodation of such personnel as well as all arrangements for transport thereof that may be required;
- 6.4.14. provide approved personal protective equipment of good quality and include protective equipment as per the job profile and florescent jacket to each personnel which must be in use at all times while performing the Transportation Services on the relevant site; and
- 6.4.15. complying with any directives or instructions given to the Service Provider by VMC.

7. OWN WORKPLACE TOOLS

- 7.1. Unless otherwise agreed between the Parties, the Transportation Services shall be provided by the Service Provider using the Service Provider's own machinery and vehicles, spare parts, fuel etc.
- 7.2. The machinery used by the Service Provider during the provision of the Transportation Services must be properly insured and comply with the requirements of all Applicable Laws.

7.3. The Service Provider shall provide its personnel with the appropriate work garments and the auxiliary elements required in each case to carry out the Transportation Services. When it is necessary the Service Provider shall also make changing rooms with showers available to its employees.

8. BREACH

8.1. If a Party (the "**Defaulting Party**") commits any breach of these Standard Terms and Conditions or the stipulations of the PO and fails to remedy such breach within 10 (ten) Business Days (the "**Notice Period**") of written notice requiring the breach to be remedied, then the Party giving the notice (the "**Aggrieved Party**") will be entitled, at its option, to:

8.1.1. claim immediate specific performance by the Defaulting Party of the obligations which it has breached, with or without claiming damages; or

8.1.2. cancel the PO, with or without claiming damages, in which case written notice of the cancellation shall be given to the Defaulting Party, and the cancellation shall take effect on the date on which the notice is given.

8.2. The Aggrieved Party's remedies in terms of this condition 9 are without prejudice to any other remedies to which the Aggrieved Party may be entitled in law.

8.3. If the Service Provider fails to comply with the performance schedule, save when the delay is caused by a force majeure, VMC shall have the right to terminate the PO and claim any further or additional damages caused by late performance of the Service Provider's obligations to terminate, such as the cost of acquiring the services of third parties to comply with the PO.

9. CANCELLATION OF THE PO

9.1. VMC reserves the right to cancel the PO at any time, without incurring liability, within 48 hours, in the event that:

9.1.1. the Service Provider commits an act of insolvency. An act of insolvency shall refer to any of the following:

9.1.1.1. an application for the provisional or final sequestration and/or liquidation of the Service Provider;

9.1.1.2. an application for a statutory compromise or a scheme of arrangement to be binding on all of the Service Provider's creditors;

9.1.1.3. the passing of a resolution by the Service Provider to place itself under business rescue or the filing of an application to court either by the Service Provider or a third party for an order to place the Service Provider under business rescue. In the event that the Service Provider is placed under business rescue, these Standard Terms and Conditions shall be deemed to have terminated on the day immediately prior to the commencement of the supervision;

9.1.2. the Service Provider or any of its employees breach any of the Minersa Group's codes and policies including those relating to safety and security;

9.1.3. VMC realise that the Service Provider has provided incorrect or false information on its application to be registered as a Service Provider to VMC, after having received a request for such an update prior to performance in terms of such PO(s); and

9.1.4. there exists a non-fulfilment by the Service Provider of labour, Tax, environmental obligations or prevention of occupational health and safety risks;

9.1.5. there is a failure by the Service Provider to adhere to its duties outlined in these Standard Terms and Conditions or the PO;

9.1.6. there is serious inaccuracies in the information provided by the Service Provider in relation to the PO, especially in relation to its ability to perform the Transportation Services to which the PO relates or the quality of the Transportation Services or materials necessary for the Transportation Services or any other aspect related to the Transportation Services are of poor quality; or

9.1.7. the Service Provider seriously breaches the security conditions imposed for the performance of the Transportation Services or failure to comply with the quality requirements in the provision of the Transportation Services.

9.2. If the PO is cancelled for any of the reasons above, VMC reserves the right not to reject any partially advanced performance by the Service Provider without prejudice to the fact that, by asserting its rights, it may take legal action against the Service Provider for damages.

9.3. Additionally, VMC may cancel the PO at any time, in whole or in part, upon 14 (fourteen) Business Days' written notice of its intention to do so. Upon receipt of this communication, the Service Provider shall stop all work related to the PO and the payment of the Transportation Services performed at the time the cancellation notice is received, shall be negotiated between the Service Provider and VMC, in fair conditions.

10. PRICES, INVOICING AND PAYMENT

10.1. The price quoted in VMC's PO is fixed and shall not be subject to adjustments, variations or changes unless such adjustments, variations or changes are also reflected in the PO or VMC agrees thereto in writing prior to payment being made in terms of the applicable PO. If the PO reflects the incorrect price, the Service Provider must advise VMC accordingly and ensure that an amended PO reflecting the correct price is obtained prior to performance. Payment shall be made as per the price reflected on the PO.

10.2. The Service Provider shall issue the invoice for the Transportation Services provided in accordance with all Applicable Laws and, where appropriate, with VMC's instructions indicating the PO number and date, and if applicable, the corresponding contractual milestones susceptible to partial invoicing.

10.3. Payments shall be made by bank payment, within the payment period contemplated in the corresponding PO.

10.4. The invoice of the Transportation Services shall be paid after VMC has confirmed that Transportation Services in the PO have been completed.

10.5. If the Service Provider fails to comply with any of its obligations contained herein, VMC may offset, defer and/or withhold any payments due to the Service Provider. Payment of an invoice shall not constitute VMC's waiver of any of its rights.

11. ENVIRONMENTAL RESPONSIBILITY

11.1. In the event of environmental harm linked to the negligence of the Service Provider and its staff, agents, or subcontractors during the performance of the Transportation Services, the Service Provider shall, at its own cost, comply with all Applicable Laws, the provisions of the current environmental laws applicable to such environmental harm, or imposed by VMC (standards, procedures, or instructions of VMC) regarding the treatment and management of the said environmental harm.

11.2. The Service Provider shall be responsible, where appropriate, for compliance with all and any regulations on the use and storage of chemical products in the work areas and shall assume responsibility for non-compliance with any environmental obligations.

12. **INSURANCE**

12.1. The Service Provider warrants that the Service Provider has and shall, for the duration of the performance of the Transportation Services in terms of these Standard Terms and Conditions, maintain adequate and appropriate third-party and public liability insurance.

12.2. The Service Provider must ensure that the equipment and the vehicles used to render the Transportation Services together with the VMC products is insured against any losses, third party personal injury and/or third-party property damage liability. Proof of insurance must be made available to VMC prior to the commencement of the Transportation Services.

12.3. For the avoidance of doubt, the public liability insurance procured by the Service Provider must also cover all consequential losses of any nature that the Service Provider or VMC may suffer because of the Service Provider rendering the Transportation Services or otherwise executing any mandate or instruction from VMC contained in the PO. This includes, without limitation, sudden environmental contamination, explosions, and machinery malfunction/breakdown.

12.4. The Service Provider shall, upon written request from VMC, provide:

12.4.1. signed, valid, and enforceable certificate(s) of insurance complying with the abovementioned conditions;

12.4.2. driver medical compliance documentation; and

12.4.3. evidence of vehicle tracking.

12.5. If the Service Provider fails to effect or maintain the insurance, VMC may (in VMC's absolute discretion) cancel its order with the Service Provider.

13. **CODE OF ETHICS**

The Service Provider voluntarily adheres to the provisions of Minersa Group's Code of Ethics, expressly stating that the Service Provider knows and accepts Minersa's code of ethics and assumes the commitment to ensure and comply with it, without prejudice to mandatory compliance with all Applicable Laws. Non-adherence to Minersa's code of ethics shall lead to the cancellation of the PO.

14. **INDEMNITIES**

14.1. The Service Provider hereby indemnifies and holds VMC harmless against:

14.1.1. all legal costs associated with obtaining any authorization(s) necessary for the Service Provider to effectively and efficiently render the Transportation Services to VMC;

14.1.2. all adverse environmental consequences that may arise from the Service Provider rendering the Transportation Services to VMC. This includes, but is not limited to, any contamination of land, any contamination of a water resource and any contravention of the provisions of any environmental or other consent(s) that the Service Provider or VMC may hold;

- 14.1.3. all expense, burden or encumbrance resulting from the failure to comply with the Service Provider's contractual obligations with its suppliers, subcontractors, employees or any natural or legal person with whom it has entered into a commitment of any nature.
- 14.1.4. all losses and claims for injuries or damages to any person or property whatsoever (including surface or other damage to land, crops, structures or buildings) which may arise out of or in consequence of the negligent or wilful act(s) or omission(s) of the Service Provider, its personnel, agent(s) or contractor(s) and in consequence rendering the Transportation Services to VMC and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto;
- 14.1.5. any damages, losses or injuries to VMC's property that may be suffered by VMC as a result of the Service Provider performing the Transportation Services poorly or in an unsatisfactory manner;
- 14.1.6. any loss or damage suffered by VMC which may arise out of or in consequence of the contravention of any Applicable Law by the Service Provider;
- 14.1.7. the Service Provider will bear full responsibility for the implementation of health and safety protocols on the site on which the Transportation Services are being rendered and if a health and safety accident were to occur, the Service Provider hereby indemnifies VMC from all costs and liabilities associated therewith; and
- 14.1.8. the Service Provider hereby indemnifies VMC against all losses, damages and costs occasioned by the Service Provider failing to adhere to/uphold any of the warranties that it has provided to VMC.

15. SPECIFIC WARRANTIES

15.1. The Service Provider specifically warrants to VMC that:

- 15.1.1. the Service Provider has obtained all necessary consents, authorisations and/or licenses that are necessary for the Service Provider to render the Transportation Services to VMC effectively and efficiently and such consents, authorisations and/or licenses shall remain valid throughout the period for which the Transportation Services are rendered to VMC;
- 15.1.2. the Service Provider will assume responsibility for all adverse environmental consequences occasioned by rendering the Transportation Services;
- 15.1.3. none of its key consents, authorisations or licenses which are necessary to render the Transportation Services are subject to any appeal or review proceedings launched against the Service Provider by any third-parties;
- 15.1.4. the Service Provider will implement robust health and safety protocols on the site at which it renders the Transportation Services. Should an adverse health and safety incident occur at the relevant site, the Service Provider shall assume full responsibility for such an event, unless the occurrence of such an event is directly attributable to VMC's actions;
- 15.1.5. the representative of the Service Provider has been duly authorised to represent the Service Provider in respect of all dealings with VMC (this includes the authority to bind the Service Provider to these Standard Terms and Conditions and/or any legal agreements);
- 15.1.6. VMC shall be provided with all records, reports, diagrams and plans which directly or indirectly relate to the Transportation Services, upon request, which request shall not be unreasonably made;
- 15.1.7. the Service Provider is not involved in any corrupt practices, it is not under any national or international sanctions and is not otherwise involved in any illegal transactions which could bring VMC's name into disrepute;
- 15.1.8. the Service Provider has obtained and maintains, at its own cost, any and all insurance that the Service Provider is required to have by law or by virtue of rendering the Services to VMC;

15.1.9. the Service Provider does not have any pending or ongoing litigation, arbitration, investigation, or administrative proceeding(s) launched against it which may threaten the Service Provider's ability to effectively and efficiently render the Services to VMC; and

15.1.10. the Service Provider is not subject to any obligation or non-compliance which is likely to have a material adverse effect on its ability to render the Services effectively and efficiently to VMC.

16. GENERAL WARRANTIES

Each Party represents and warrants to the other Party that as at the date on which these Standard Terms and Conditions are effective:

16.1. it has the necessary power and legal capacity to enter into and perform its obligations under the PO and these Standard Terms and Conditions and all matters contemplated herein, to sue and be sued in its own name, to carry on the business which it conducts and to own its assets;

16.2. it has taken all necessary corporate and/or internal action to authorise itself to be bound by these Standard Terms and Conditions;

16.3. the provisions of these Standard Terms and Conditions are and shall remain legally binding on it and the obligations imposed on it pursuant to these Standard Terms and Conditions and the PO constitute its legal, valid and binding obligations, enforceable in accordance with their terms; and

16.4. the execution of these Standard Terms and Conditions and performance of its obligations hereunder and in terms of the PO does not and shall not:

16.4.1. contravene any law or regulation to which it is subject; or

16.4.2. contravene any provision of its constitutional documents; or

16.4.3. conflict with, or result in a breach of any of the terms of, or constitute a default under any agreement or other instrument to which it is a party, or any licence or other authorisation to which it is subject, or by which it or any of its property or revenues are bound, so as to prevent it from performing its obligations under these Standard Terms and Conditions and the PO.

17. BRIBERY, MONEY-LAUNDERING, CORRUPTION AND SANCTIONS

17.1. The Service Provider undertakes and represents that, at all times in the performance of any of its rights and/or obligations under and in terms of these Standard Terms and Conditions and the related PO:

17.1.1. it shall comply with the Anti-Bribery, Anti-Money Laundering and Corruption Laws;

17.1.2. it shall do all things necessary and/or required to prevent a breach of the provisions of the Anti-Bribery, Anti-Money Laundering and Corruption Laws including that it shall not engage in any corrupt activities and shall adopt and maintain internal controls to ensure compliance with the Anti-Bribery, Anti-Money Laundering and Corruption Laws;

17.1.3. neither it nor any of its shareholders, directors, employees, affiliates and/or associates are listed on the sanctioned person list;

17.1.4. neither it nor any of its shareholders, directors, employees, affiliates and/or associates have breached any Anti-Bribery, Anti-Money Laundering and Corruption Laws to enable the transaction contemplated in this Agreement; and

17.1.5. it shall not enter into any transaction that would result in a breach of the Anti-Bribery, Anti-Money Laundering and Corruption Laws by any Party.

18. CONSENT TO JURISDICTION

18.1. The Service Provider consents to the exclusive jurisdiction of the South African High Court, Johannesburg South Africa (or any successor to that court) and waives any objection that such proceedings have been brought in an inconvenient forum for the purposes of any interdict or urgent action or proceeding regarding any particular remedy caused by the undertaking or provision of Services to VMC. All disputes that persist despite reasonable attempts between the Parties to amicably resolve shall be referred to a South African Court with competent jurisdiction.

18.2. Consent to the jurisdiction of the South African High Court, Johannesburg South Africa shall not prejudice the right of VMC from bringing proceedings against the Service Provider in any other jurisdiction which VMC considers appropriate.

18.3. The Service Provider consents to the exclusion of Vienna Convention 1980 in case of an international contractual relationship.

19. CONFIDENTIALITY

19.1. Any information obtained by the Service Provider in terms of, or arising from the implementation of, these Terms and Conditions and the PO shall be treated as confidential by the Parties. All information, documentation or knowledge directly or indirectly received or obtained from VMC in the course of negotiations or as a result of any business relationships, whether it is in written, electronic, visual, verbal or audio form, that in good faith can be identified as confidential or of a proprietary nature. Such information shall remain confidential and may not be copied, disclosed to third parties nor used directly or indirectly for purposes other than those specified in the PO. In particular, all documents, designs, drawings, calculations, samples and similar items shall be treated and handled as strictly confidential by the Service Provider and returned to VMC upon its request.

19.2. Upon VMC's request, the Service Provider shall sign and execute any specific non-disclosure agreements. All information shall not be used, divulged, or permitted to be divulged to any person not being a Party to this Agreement, without the prior written consent of VMC, save that:

19.2.1. each Party shall be entitled to disclose such information to its employees, and to its directors, shareholders, professional advisors, funders, agents, suppliers and subcontractors in each case with whom there exists the need to know for purposes of implementing the transactions contemplated by this Agreement. The disclosing Party shall nonetheless direct such parties to keep relevant information confidential;

19.2.2. each Party shall be entitled to disclose any information which is required to be furnished by law or regulation, to pursue any legal remedy available to it, or by any recognised stock exchange;

19.2.3. each Party shall be entitled to disclose such information if such information is or becomes generally available to the public other than by the negligence or default of such Party or by the breach of this Agreement by such Party. Confidentiality shall survive the termination of the contract for a period of five (5) years;

19.2.4. each Party shall be entitled to disclose such information if the Party which disclosed same confirms in writing that it is disclosed on a non-confidential basis; and each Party shall be entitled to disclose such information if

such information has lawfully become known by or come into the possession of such Party on a non-confidential basis from a source other than the Party having the legal right to disclose same.

19.3. If a Party is required to disclose information as contemplated in condition 19.1, such Party will:

19.3.1. advise any Party/ies in respect of whom such information relates (the “**Relevant Party/ies**”) in writing prior to disclosure, if possible;

19.3.2. take such steps to limit the disclosure to the minimum extent required to satisfy such requirement and to the extent that it lawfully and reasonably can;

19.3.3. afford the Relevant Party/ies a reasonable opportunity, if possible, to intervene in the proceedings;

19.3.4. comply with the Relevant Party/ies’ reasonable requests as to the manner and terms of such disclosure; and

19.3.5. notify the Relevant Party/ies of the recipient of, and the form and extent of, any such disclosure or announcement immediately after it was made.

19.4. The Service Provider shall be liable for any damage or loss caused by the Service Provider’s or its dependant’s breach of the duty to maintain confidentiality.

20. **LIMITATION OF LIABILITY**

20.1. The liability of Service Provider shall survive the termination or cancellation of the relevant PO or contract. VMC may set off any amounts owed to the Service Provider to recover any amounts payable by the Service Provider because of the provisions of this condition. VMC is rendered harmless if:

20.1.1. the Service Provider’s liability further can be extended to indirect and consequential damages arising with VMC, its clients or third parties because of defective performance by the Service Provider. That is especially if it is determined by the Court that the contractual or delictual damage suffered by VMC, its clients, or its third parties has a causal link to a defect in the Service Provider’s performance of its obligations in terms of these Standard Terms and Conditions or the Contractual Documentation and thus constituting a breach.

20.1.2. lawsuit or action for infringement of industrial or intellectual property rights derived from the service provided. In that event, the Service Provider will defend VMC free of any expense. VMC reserves the right to participate in the defense against these lawsuits or actions, or if it so decides, assume the defense itself, using its own lawyers.

20.1.3. the Service Provider is found liable for all damages and losses, financial guarantees, costs, or expenses that it incurs because of any lawsuit or action against it by third parties as a result of the PO.

20.2. VMC shall not be liable to the Service Provider under these Standard Terms and Conditions for any loss of production, loss of profit, loss of revenue, loss of contract, loss of goodwill, loss of a claim, business interruption or for any consequential, special or indirect losses that the Service Provider may suffer, save in the event that such loss arises as a consequence of VMC’s wilful default, gross negligence or fraud.

20.3. To the extent that the Service Provider is entitled to recover any amount, in relation to any claim that the Service Provider may have against VMC, from any third party (including an insurer), then the Service Provider shall be obliged to take all commercially reasonable steps available to it to recover such amounts from such third party before proceeding against VMC. VMC agrees to offer the Service Provider such reasonable assistance as is required for the Service Provider to recover from the third party. The claim which the Service Provider has against VMC shall be

reduced by the aggregate of any amount recovered by the Service Provider from a third party (including an insurer) in respect of such claim. Nothing in these Standard Terms and Conditions shall affect the Service Provider's duty under the common law to take all reasonable steps to avoid or mitigate any Losses which it may suffer in consequence of a breach of any provisions of these Standard Terms and Conditions by VMC.

20.4. The Parties agree that VMC's aggregate liability (or the aggregate liability of any member of the Minersa Group) to the Service Provider under and in connection with these Standard Terms and Conditions, whether arising in contract (including under any indemnity), delict (including for negligence), statute or otherwise, shall not exceed the sum of the aggregate of all amounts already paid by VMC to the Service Provider for the preceding 3 (three) months under these Standard Terms and Conditions or the PO at the time that the Service Provider is entitled to claim from VMC.

21. FORCE MAJEURE

21.1. Neither party shall be liable for breach of any of its obligations under the Order to the extent that the performance thereof is delayed, prevented, or made impossible as a result of a Force Majeure.

21.2. Upon the occurrence of a Force Majeure, the Service Provider shall promptly notify VMC no later than 5 (five) Business Days in writing providing all relevant information thereto. Any notice given after the period set out in clause 21.2. shall be of no effect and the Party obliged to report to the other shall not be entitled to rely on such Force Majeure Event.

21.3. This Agreement, or the affected part of it, shall be suspended for a period of 15 (fifteen) days during which the Force Majeure Event continues, and the time for performance of an obligation shall be extended accordingly. However, if the Force Majeure continues for more than 15 days, VMC shall have the right to terminate the PO without any liability and the Service Provider will not be entitled to receive any compensation for the performance that was not rendered due to the Force Majeure. VMC shall then have the right to substitute services or products through an alternative supplier.

21.4. Strikes affecting the Service Provider, public transportation or events of any type affecting Supplier' subcontractors or suppliers shall not be considered as events of Force Majeure excusing non performance of this Order.

22. NO AMENDMENTS AND VARIATIONS TO THE STANDARD TERMS AND CONDITIONS

22.1. No extension of time, waiver, relaxation or suspension of or agreement not to enforce or to suspend or postpone the enforcement of any of the provisions or terms of these Standard Terms and Conditions, the PO or of any agreements, bill of exchange or other document issued pursuant to or in terms of these Standard Terms and Conditions shall be binding unless recorded in a written document signed by the Parties (or in the case of an extension of time, waiver or relaxation or suspension, signed by the Party granting such extension, waiver, relaxation or suspension).

22.2. Any extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.

22.3. The Parties agree that email correspondence between them shall not give effect to any addition to, novation, amendment or consensual cancellation of these Standard Terms and Conditions.

22.4. No variation of these Standard Terms and Conditions shall operate nor to preclude such Party (save as to any extension, waiver or relaxation given) thereafter from exercising its rights strictly in accordance with these Standard Terms and Conditions.

22.5. To the extent permissible by law no Party shall be bound by any express or implied or tacit term, representation, warranty, promise or the like not recorded herein, whether it induced a Party to bind itself to these Standard Terms and Conditions and/or whether it was negligent or not.

22.6. Except as expressly provided to the contrary in these Standard Terms and Conditions, no Party shall be entitled to cede, assign, transfer or delegate all or any of its rights, obligations and/or interest in, under or in terms of these Standard Terms and Conditions or the PO to any third party without the prior written consent of the other Party (which consent shall not be unreasonably withheld or delayed).