

POGO PURCHASE ORDER STANDARD TERMS AND CONDITIONS

Terms and Conditions for the Supply of Goods and Services under Purchase Order without Formal Agreement

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Prepared by:	General Counsel	Document Status:	Uncontrolled
Approved by:	Company Secretary	Review Date:	01/11/2020
		Approver's Signature:	Hilary Macdonald

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Terms and Conditions for the Supply of Goods and Services

("Conditions")

1. DEFINITIONS & INTERPRETATION

1.1 Definitions

The meanings of the terms used in these Conditions are set out below:

"Affected Party" has the meaning specified in clause 15.1.

"Affiliate" as to any Person, means any other Person that, directly or indirectly through one or more intermediaries, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote 50% or more of the equity interests having ordinary voting power for the election of directors (or persons performing similar functions) of such Person or (b) direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Agreement" means the Purchase Order and any other document annexed to the Purchase Order (to the extent one has been issued), these Conditions and the Policies.

"Authorization" means any approval, agreement, certificate, authorization, code of conduct, government policy, consent, exemption, filing, licence, notarization, permit, registration, waiver, compliance report or environmental consent from any Authority or required under and Law and includes any variation or renewal to any of them.

"Authority" means any court or any local, state, tribal or federal government, statutory or public authority, instrumentality or body or any other person having jurisdiction over the provision of the Goods and/or Services or the Site.

"Business Day" means any day other than Saturday, Sunday or a day on which banks are closed in Anchorage, Alaska or Perth, Australia.

"Claim" means any claim, action, suit, demand, proceeding, notice, litigation, investigation or judgment of any nature, whether actual or threatened:

- a) under, arising out of or in any way in connection with this Agreement;
- b) arising out of, or in any way connected with the obligations of the Supplier; or
- c) arising under any Law.

"Conditions" means these purchase order terms and conditions.

"Confidential Information" means communications between the Parties, the terms of this Agreement and any information that concerns the business, operations, finances, plans of a Party and/or any Affiliate and is disclosed to or acquired by the other Party and which:

- a) is by its nature confidential;
 - b) is designated by the Party as confidential; or
 - c) the other Party knows or ought to know is confidential;
- but does not include information which:
- d) is or becomes public knowledge other than by a breach of this Agreement;
 - e) is in the possession of the other Party without restriction in relation to disclosure on or before the date on which it is disclosed to or acquired by the other Party; or
 - f) has been independently developed or acquired by the other Party.

"Defect" includes:

- a) any error, deficiency, omission, non-conformity, fault, failure, malfunction, irregularity or similar in any Goods and/or Services; or

Prepared by:	General Counsel	Document Status:	Uncontrolled
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- b) any aspect of any Goods and/or Services which is not in accordance with the requirements of the Agreement.

“Defects Liability Period” means the period of 24 months from the date of delivery of the Goods, or 12 months from the date on which a Service is last performed, or in the case where a Defect has been rectified, 12 months from the date the rectification was carried out.

“Delivery Date” means the date specified in the Purchase Order, being the date by which the Supplier must provide the Goods and/or Services.

“Delivery Point” means the delivery point specified in the Purchase Order, being the place the Supplier is to provide the Goods and/or Services.

“Duties” means any duties to be performed by the Supplier's Personnel in relation to the Supplier's supply of the Goods and Services.

“Duties Commencement Date” means the date when the Supplier's Personnel commence performance of the Duties, which is taken to be the earlier of:

- a) the Supplier's Personnel first attending the designated airport for a flight to the Site, where the Supplier's Personnel is designated fly in fly out, or;
- b) the Supplier's Personnel first attending Site to commence Northern Star inductions for performance of the Duties.

“Force Majeure” means any event or circumstance beyond the control of the Party affected by that event or circumstance or both which could not reasonably have been foreseen at any time of entering into this Agreement and which could not reasonably have been provided against, prevented or overcome by the Party affected, including without limitation any:

- a) act of God;
- b) act of the public enemy, war (declared or undeclared) blockade, revolution, riot, insurrection, civil commotion, hostility;
- c) lightning, fire, storm, flood, earthquake, inclement weather, perils of navigation;
- d) quarantine restriction or epidemic;
- e) accident, explosion, breakage,

but does not include:

- f) strike, lockout, ban or limitation of work or other industrial disturbance (if the Affected Party is a party to it or would be able to influence a settlement thereof);
- g) wet weather;
- h) lack of, or inability to use funds, for any reason;
- i) breakdown of the Supplier's equipment or the unavailability of required goods, materials or spare parts;
- j) any occurrence which results from the wrongful or negligent act or omission of the Affected Party or the failure of the Affected Party to act in a prudent and proper manner and in accordance with Good Operating Practices;
- k) any event or circumstance where the event of circumstance or its effects on the Affected Party or the resulting inability of the Affected Party to perform its obligations, could have been prevented, overcome or remedied by the exercise standard of care and diligence by the Affected Party consistent with that of a reasonable and prudent person in their position or through the due and proper performance by the Party's obligations under the Agreement.

“Formal Agreement” means the written formal agreement (if any) for the provision of goods and/or services and which has been entered into by the Parties.

Prepared by:	General Counsel	Document Status:	Uncontrolled
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“Good Operating Practices” means:

- a) the exercise of that degree of diligence, competence, prudence and foresight reasonably and ordinarily expected from a reputable, prudent, skilled and experienced professional engaged in providing goods and/or services similar to the Supplier’s obligations under the Agreement;
- b) compliance with industry accepted standards and codes applicable to the provision of the Goods and/or Services; and
- c) compliance with applicable Laws.

“Goods” means the goods detailed in the Purchase Order (if any) which will be supplied by the Supplier to Northern Star, for purchase or lease by Northern Star as the case may be.

“Gross Negligence or Wilful Misconduct” means any act or omission which was willful or which was done or omitted to be done with reckless disregard for its foreseeable and harmful consequences.

“Insolvency Event” means the happening of any of the following events in relation to the Supplier:

- a) the Supplier makes an assignment for the benefit of or enters into any arrangement, scheme or composition with creditors; and
- b) if the Supplier is an entity:
 - (i) the Supplier is unable to pay all its debts as and when they become due and payable;
 - (ii) an order is made, or a resolution is passed, or a meeting is convened for the purposes of considering a resolution, for the appointment of a receiver;
 - (iii) an application is made, a resolution is passed or a meeting is called for the purposes of considering a resolution for the Supplier to be wound up;
 - (iv) the Supplier proposes to enter into or enters into any form of arrangement (formal or informal) with its creditors or any of them, including an assignment for the benefit of creditors;
 - (v) the Supplier files a voluntary petition under the Bankruptcy Act of 1978, as amended; or
 - (vi) an involuntary petition is filed against Supplier under the Bankruptcy Act of 1978, as amended, and is not dismissed within ninety (90) days of filing.
- c) if the Supplier is an individual:
 - (i) the Supplier files a voluntary petition under the Bankruptcy Act of 1978, as amended; or
 - (ii) an involuntary petition is filed against Supplier under the Bankruptcy Act of 1978, as amended, and is not dismissed within ninety (90) days of filing.
- d) an execution or similar process is made by creditors, debenture holders or trustees or under a general security agreement.

“Insurance Company” means a public insurance company carrying on business in the United States of America and authorized to operate as an insurance company under any applicable statute from time to time in force.

“Intellectual Property” means all intellectual property rights existing anywhere in the world, including any patent, design right, copyright, trade mark, protected circuit layout, trade secret, Confidential Information, or other right whether existing under statute, at common law, in equity or otherwise.

“Law” means all applicable present and future laws including:

- a) law (including common law), statute, ordinance, treaty, rule, regulation, order, decree, judgment, writ, injunction, settlement agreement, requirement or determination of an arbitrator or a court or other Authority of the State of Alaska or the United States of America or any political subdivision of either of them;
- b) Authorizations;
- c) principles of law or equity;
- d) standards, codes and guidelines; and

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e) fees, taxes, levies, impositions, charges payable regarding the things referred to in the previous paragraphs of this definition.

“Liability” means all liabilities, losses, death, injury, legal action, Claims, damages, expenditures, costs and expenses of whatever description and whether present, unascertained, contingent or prospective, including costs actually payable to its legal representatives (on a full indemnity basis).

“Northern Star” means Northern Star Resources Limited (ACN 092 832 892) or the Northern Star wholly owned subsidiary detailed in the Purchase Order and includes its successors and permitted assigns.

“Northern Star’s Indemnified Parties” means any of Northern Star’s Personnel, Affiliates and Personnel of any Affiliates of Northern Star.

“Party” means Northern Star or the Supplier according to the context.

“Parties” mean Northern Star and the Supplier.

“Person” means any individual, corporation, limited liability company, trust, joint venture, association, company, limited or general partnership, unincorporated organization, Authority or other entity.

“Personnel” means the directors, officers, employees, contractors and/or agents of the Supplier or Northern Star, as the context requires, including the Supplier’s Personnel contracted to or employed by the Supplier in the delivery of the Services.

“Policies” means Northern Star’s policies, procedures and codes of conduct in place from time to time as publicized on the Northern Star website or included in the Supplier’s Personnel’s Northern Star inductions before and during performance of the Duties.

“Price” means the amount payable by Northern Star to the Supplier detailed in the Purchase Order. In relation to any provision of Supplier’s Personnel for supply of the Services, the Price shall take into account all the overheads and expenses of the Supplier in relation to medical examinations, the costs of any governmental and regulatory clearances, the costs of Site visit flights and accommodations by the Supplier to conduct safety and procedure audits at Site, where reimbursement is not charged separately under these Conditions.

“Purchase Order” means the purchase order for Goods and/or Services which has been approved and signed off by the relevant authorized officer of Northern Star and issued to the Supplier and to which these Conditions are applicable.

“Services” means the services described in the Purchase Order (if any) which will be provided by the Supplier, including any supply of the Supplier’s Personnel for performance of the Duties from the Duties Commencement Date.

“Site” means site/premises from which Northern Star conducts its business and specified in the Purchase Order.

“Supplier” means the person, company or entity detailed in the Purchase Order who will provide the Goods and/or Services to Northern Star in accordance with the terms of the Agreement.

“Supplier’s Personnel” means either:

- a) individuals who are employed by the Supplier; or
- b) individuals who are not employed by the Supplier but are contracted to the Supplier; and
- c) who are supplied by the Supplier to perform the Duties on a temporary basis from the Duties Commencement Date, for the delivery of the Goods and Services by the Supplier.

“Supplier’s Plant and Equipment” means all plant, equipment, machinery, tools, appliances and other items which are brought on Site for the purposes of the Supplier supplying the Goods and/or performing the Services or which are otherwise required for the proper carrying out and completion of the Supplier’s obligations under this Agreement.

“Taxation Authority” means the relevant taxation and revenue Authority which has jurisdiction over the provision of the Goods and/or Services.

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"Taxes" means any and all present or future income, stamp or other taxes, levies, imposts, duties, deductions, charges, fees or withholdings imposed, levied, withheld or assessed by any Authority, together with any interest, additions to tax or penalties imposed thereon and with respect thereto.

"Third Party Claim" means any claim, action demand, proceeding, suit of any nature, whether actual or threatened, initiated by a person other than the Supplier, including but not limited to any Claim arising out of, or in connection with:

- a) loss or destruction of, or injury or damage to, or loss of use of any real or personal property; or
- b) any personal injury to or death of any person;
- c) and which is caused or contributed to by the Supplier or the Supplier's Personnel.

"Variation" means a change in any part of the Supplier's obligations to provide Goods and/or Services but does not include any change in the Supplier's obligations under this Agreement arising from:

- a) a reasonable direction made by Northern Star regarding the Supplier's performance of its existing obligations under the Agreement;
- b) any change in Law; or
- c) any matters expressed to be at the Supplier's own cost.

Interpretation

In interpreting, unless the context otherwise requires:

- a) headings are for convenience only and do not affect the interpretation of the Conditions;
- b) words importing the singular include the plural and vice versa;
- c) words importing a gender include any gender;
- d) other parts of speech and grammatical forms of a word or phrase defined in the Agreement have a corresponding meaning in these Conditions;
- e) including and similar expressions are not words of limitation;
- f) an expression importing a natural person includes any other Person and vice versa;
- g) an obligation or liability assumed by, or a right conferred on, 2 or more parties binds and benefits all of them jointly and each of them severally;
- h) a reference to a clause, condition, party or schedule is a reference to a clause of, and a party and schedule to these Conditions;
- i) a reference to a Law includes all Laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and other Laws issued under or with reference to that statute;
- j) reference to an amount of money is a reference to United States Dollars;
- k) (k) a reference to a party includes that party's successors and permitted assigns;
- l) (l) no provision of these Conditions will be construed adversely to a party solely on the ground that the party was responsible for the preparation of these Conditions or that provision;
- m) (m) if the day on or by which a Person must do something under the Agreement is not a Business Day, the Person must do it on or by the next Business Day.

1.2 Order of Precedence

- a) If there is any inconsistency or ambiguity between the documents comprising the Agreement, the documents shall be read in the following order of priority to the extent of any inconsistency or ambiguity:
 - (i) these Conditions;
 - (ii) the Policies;

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- (iii) the Purchase Order (if any); and
 - (iv) any other attachments to the Purchase Order and any special conditions which are expressly incorporated by reference in the Purchase Order.
- b) If a Formal Agreement has been entered into by Northern Star and the Supplier, the terms of the Formal Agreement will prevail over the Agreement to the extent of any inconsistency or ambiguity.

1.3 Exclusion

To the extent any of the Supplier's terms and conditions are supplied to Northern Star at any point in time regarding the Goods and/or Services, the Supplier's terms and conditions will be of no legal effect and are not incorporated into this Agreement and are hereby rejected without the need for further notice or other action by Northern Star unless the variation provisions of this Agreement are complied with.

2. ENGAGEMENT

2.1 Engagement of Supplier

Northern Star appoints the Supplier to supply the Goods and/or provide the Services to Northern Star in accordance with the Agreement for the Price on and from the Duties Commencement Date or earlier date specified by the Supplier.

2.2 Application

If any Goods and/or Services are provided to Northern Star before a Purchase Order is issued to the Supplier by Northern Star, these Conditions bind the Supplier immediately.

2.3 Nature of Relationship

- a) This Agreement does not confer any exclusivity on the Supplier with respect to the provision of the Goods and/or Services.
- b) The Supplier is engaged as an independent contractor and nothing constitutes the Supplier or the Supplier's Personnel as an employee, agent, partner, agent, representative or joint venturer of Northern Star.
- c) The Supplier and the Supplier's Personnel:
 - (i) must not engage in any negotiations or discussions on behalf of Northern Star; and
 - (ii) do not have any authority to incur, and must not incur, any obligation on Northern Star's behalf, except with and to the extent of the prior express written authority granted by Northern Star.
- d) The Supplier acknowledges:
 - (i) Northern Star may be contracting in its capacity as agent for an Affiliate of Northern Star; and
 - (ii) reference to Northern Star includes its authorized officers and employees.
- e) The Supplier confirms that any individual, Affiliate or agent from or representing the Supplier or who corresponds or liaises with Northern Star on the Supplier's behalf is deemed to have authority to act on the Supplier's behalf and is capable of binding the Supplier.

3. PROVISION OF GOODS AND/OR SERVICES AND SUPPLIER'S PERSONNEL

3.1 Obligations

The Supplier must:

- a) provide the Goods and/or Services in accordance with the terms of the Agreement including the provision of any necessary Supplier's Personnel from time to time in accordance with Northern Star's written instructions, using Good Operating Practices and in compliance with the lawful and reasonable directions and orders given by Northern Star and its Personnel.
- b) only supply Supplier's Personnel to perform the Duties who:

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- (i) satisfy Northern Star's requirements, including pre-employment medical checks (where required, at Northern Star's expense), eligibility to work in the United States of America, training and competences (as required and specified by Northern Star), a current license, permit or authorization, if required by Law, and compliance will all applicable Laws relating to hiring, including the Equal Employment Opportunity Act, as amended;
 - (ii) Northern Star is satisfied have the appropriate professional or trade qualifications for the job description or classification designated by Northern Star for performance of the Duties from time to time;
 - (iii) Northern Star is satisfied have been trained in safe work practices, skilled and experienced in the trades and professions, as specified by Northern Star, for which they are engaged to perform the Duties, before commencing performance of the Duties;
 - (iv) are prepared to comply with the Policies, and
 - (v) satisfactorily complete Northern Star inductions and additional training at Northern Star's expense as required by Northern Star for performance of the Duties, from time to time.
- c) remove or have removed immediately from any Site any Supplier's Personnel who cease to be acceptable to Northern Star for any reason;
 - d) where requested by Northern Star, provide alternative Supplier's Personnel acceptable to Northern Star to ensure there is no interruption to the supply of Services;
 - e) not re-deploy to any Site any of the Supplier's Personnel previously removed under this clause 3.1 at any Site without Northern Star's prior written approval;
 - f) provide all materials, equipment, goods and services necessary for the Supplier to provide the Goods and/or Services under this Agreement;
 - g) obtain all Authorizations required for the Supplier to provide the Goods and/or Services;
 - h) supply the Goods and/or provide the Services using Good Operating Practices and in compliance with the lawful and reasonable directions and orders given by Northern Star and its Personnel;
 - i) provide any and all information, data, advice and reports on the status of the provision of the provision of Goods and/or Services as requested by Northern Star from time to time;
 - j) provide any and all information, data, advice and manuals necessary or required by Northern Star to enable Northern Star to obtain the full benefit of the Goods and/or Services or their use; and
 - k) return any equipment, materials, goods or other property provided by Northern Star to the Supplier if those items were provided by Northern Star to the Supplier for the purposes of the Supplier providing the Goods and/or Services.

3.2 Performance

- a) The Supplier must provide the Goods and/or Services to Northern Star at the Delivery Point on the Delivery Date or as otherwise directed by Northern Star.
- b) The Supplier must pack and transport the Goods to Northern Star in accordance with Good Operating Practice to avoid damage in transit or storage.
- c) Any Goods delivered to Northern Star must be marked externally with the Purchase Order number, Delivery Point, and package number (eg. 1 of 4).
- d) If the Supplier provides excess Goods and/or Services, Northern Star may, without prejudice or limitation to any of its other rights:
 - (vi) return excess quantities to the Supplier at the Supplier's expense; and/or
 - (vii) refuse to pay for excess Services.

3.3 Variation

- a) Northern Star may, at any time, request a Variation to the supply of Goods and/or Services provided under the Agreement by written notice to the Supplier ("Variation Notice").

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- b) Within 5 Business Days of receiving the Variation Notice, the Supplier will advise Northern Star of:
- (i) any proposed addition or reduction to the Price in carrying out the proposed Variation, including any delay or disruption costs connected with the Variation; and
 - (ii) the proposed impact the Variation will have on the Supplier providing the Goods and/or Services by the Delivery Date.
- c) If:
- (i) Northern Star does not accept the Supplier's proposed change to the Price or Delivery Date due to the proposed Variation; and
 - (ii) the Parties are unable to agree on the change to the Price or Delivery Date within 5 Business Days after the Supplier's informs Northern Star of the estimated impact of the Variation under clause 3.3(b).

Northern Star must advise the Supplier whether it wishes to proceed with the Variation detailed in the Variation Notice. If Northern Star:

- a) does not wish to proceed with the Variation, the terms of the Agreement will remain unaltered; or
- b) advises the Supplier it wishes to proceed with the Variation, the Agreement will be amended by the terms of the Variation agreed by the Parties.

3.4 Co-operation

The Supplier must:

- a) liaise, co-operate and confer with any third parties as directed by Northern Star;
- b) carefully co-ordinate and integrate the provision of the Goods and/or Services with services or works to be performed or provided by Northern Star or any of its other contractors or consultants including any other contractors or consultants employed by third parties;
- c) perform Services so as to avoid or minimize interfering with, disrupting or delaying the services or works performed and provided by Northern Star or any other of its contractors or consultants or any contractors or consultants of third parties; and
- d) not solicit or entice away (or attempt to do so) any consultant, contractor or employee from Northern Star or engage any such individual as a consultant, employee or in any other capacity.

3.5 Site

If the Supplier is required to enter the Site to provide the Goods and/or Services:

- a) Northern Star will give the Supplier access to the Site as and when, and to the extent, required to enable the Supplier to provide the Goods and/or Services subject to the Supplier complying with the terms of this Agreement;
- b) the Supplier must:
 - (i) comply with all lawful directions given by Northern Star for the provision of the Goods and/or Services and the Supplier's access to the Site; and
 - (ii) comply with all site conditions, safety and other policies generally applied by Northern Star to persons occupying its premises and all directions of Northern Star's Registered Manager or other designated Northern Star manager.
- c) All of the Supplier's Personnel who visit the Site as contemplated by these Conditions must, as a pre-condition to entry, have a current governmental and regulatory clearance if required by Law, and have satisfactorily completed a Northern Star general orientation (where required) and Site-specific training.
- d) If the Supplier is required to provide the Goods and/or Services on Site and requires flights and accommodation to facilitate that, the Supplier must negotiate commercial terms with Northern Star, which is beyond the scope of this Agreement.

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3.6 Condition of Leased Goods

Where the supply involves the lease of Goods, the following clause will apply to the lease of those Goods:

- a) As soon as practicable following delivery of the leased Goods, Northern Star will inspect and record the condition of the leased Goods. Northern Star will provide a copy of this record to the Supplier upon request at the time of delivery.
- b) Northern Star agrees to return the leased Goods to the Supplier in the same clean condition and good working order it was in when Northern Star received the leased Goods, ordinary fair wear and tear and reasonable use excluded. Prior to the leased Goods being returned the Supplier at conclusion of the term of the lease, the condition of the leased Goods will be inspected and recorded in writing and photos as appropriate, by Northern Star and the Supplier together.

3.7 Maintenance Services for Leased Goods

Where the supply involves the lease of Goods, the following clause will apply to the leased of those Goods:

Unless otherwise stated on the Purchase Order, the Supplier must provide and conduct the following maintenance services to ensure the leased Goods are available for use and operation by Northern Star at all times in accordance with the Agreement:

- a) all recommended maintenance procedures set out in the technical manuals and operating instructions for the leased Goods;
- b) all service and repair activities, including scheduled periodic services, minor and major repairs, mutually agreed accident damage repairs and mutually approved modifications;
- c) supply and maintenance of all necessary spare parts, materials, lubricants and consumables (other than petroleum fuels); and
- d) any statutory maintenance requirements.

4. REPRESENTATION AND WARRANTY

Without limiting any other warranty or obligation under the Agreement, the Supplier represents and warrants:

- a) the Supplier has all expertise and resources to perform its obligations under the Agreement;
- b) all records and information supplied by the Supplier are true and correct and may be relied on by Northern Star;
- c) the Goods and/or Services provided by the Supplier comply with all relevant national and international standards and Laws;
- d) the Goods supplied by the Supplier will:
 - (i) conform in all respects with all requirements or specifications stated in this Agreement;
 - (ii) be in good working order and condition and acceptable in appearance and finish;
 - (iii) be free from defect, failure and malfunction;
 - (iv) be fit for the purpose and use intended by Northern Star;
 - (v) be safe and durable and have a life expectancy commensurate with what would be expected of similar goods provided for similar purposes by a competent and reputable supplier or contractor;
 - (vi) be new and of the best quality and workmanship unless specified otherwise; and
 - (vii) be free from all encumbrances or charges in favor of a third party at the time of sale and/or delivery to Northern Star.
- e) the Services provided by the Supplier will be performed:
 - (i) promptly and with due care, skill and diligence; and

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- (ii) in a manner so that the Services and any product resulting from the Services will be fit for their intended purpose and of a nature, quality, state or condition which are required by Northern Star.
- f) in relation to the lease of Goods, the Supplier has provided to Northern Star all information and prudent safety and operational signage relating to:
 - (i) the operating instructions for the Goods;
 - (ii) any dangers associated with the use or incorrect use of the Goods;
 - (iii) the manufacturer's specifications; and
 - (iv) any procedures necessary to ensure that workers properly using the Goods are not exposed to uncontrolled hazards.

The foregoing representations and warranties are cumulative and in addition to any other warranty, whether express or implied, and whether provided by law or equity. These warranties survive any delivery, inspection, acceptance or payment by Northern Star. Any applicable statute of limitations runs from the date of Northern Star's discovery of the noncompliance with the foregoing warranties.

5. DEFECTS LIABILITY PERIOD

5.1 Error

The Supplier must correct any errors or omissions in the provision of Goods and/or Services from time to time, at the Supplier's own cost.

5.2 Obligations

- a) The Supplier must rectify, at the Supplier's own cost, all Defects discovered by Northern Star during the Defects Liability Period.
- b) The Supplier must carry out any rectification of Defects:
 - (i) in accordance with the terms of the Agreement and any directions given by Northern Star;
 - (ii) in a manner which causes as little inconvenience to Northern Star as is reasonably possible; and
 - (iii) at the Supplier's own cost which, for the avoidance of doubt, includes the Supplier assuming all costs associated with any labor involved to rectify any Defects, removal, delivery, transport or replacement of parts or items, and any necessary permitting.
- c) If the Goods break down or become inoperable or unsafe to use, Northern Star will notify the Supplier. Northern Star agrees to take all steps reasonably practicable to prevent any further damage to the Goods and shall not repair or attempt to repair the Goods without the Supplier's written consent. The Supplier must take all steps to repair the Goods at its expense or provide suitable substitute Goods as soon as reasonably possible after being notified by Northern Star, and no Price will be payable by Northern Star for the portion of the lease term for which the Goods were broken down, inoperable, unsafe or unavailable.

6. PERSONNEL

The Supplier must:

- a) not subcontract, assign or otherwise transfer the whole of any part of the Supplier's obligations under this Agreement unless Northern Star's prior written consent is obtained; and
- b) ensure all Supplier's Personnel are appropriately qualified, competent, skilled and experienced in the provision of the Goods and/or Services and Duties.

6.1 Acknowledgment

Subject to the Supplier first obtaining any necessary Northern Star consent to sub-contract under clause 13.1, the Supplier acknowledges and agrees:

- a) the Supplier is liable to Northern Star for all acts, omissions and defaults of the Supplier's Personnel as if they were the acts, omissions and defaults of the Supplier;

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- b) the Supplier's obligations and liabilities under the Agreement are not reduced or otherwise affected in any way by any Supplier's Personnel providing the Goods and/or Services and the Supplier is responsible for carrying out and completing all obligations under this Agreement;
- c) the Supplier is solely responsible for:
 - (i) all remuneration and benefits including but not limited to all employee payroll taxes and employee benefits;
 - (ii) workers compensation premiums or levies, Federal Insurance Contributions Act (FICA) taxes, Medicare taxes, and other imposts or levies imposed by Law; and
 - (iii) any payment upon termination of engagement of the Supplier's Personnel, for any of the Supplier's Personnel.

6.2 Supplier's Obligations in Relation to Labor Relations Matters

- a) The Supplier is responsible for maintaining good labor relations with the Supplier's Personnel.
- b) The Supplier is responsible for the conduct of all proceedings, conferences, negotiations, and dealings regarding collective bargaining and other union matters brought against the Supplier by the Supplier's Personnel, as applicable.
- c) The Supplier shall keep Northern Star fully informed of all labor matters concerning its Supplier's Personnel where they affect or could potentially affect Northern Star.
- d) The Supplier shall strictly comply with the wages and working conditions prescribed in all applicable labor Laws regarding the rates of pay and conditions for the performance of the work by the Supplier's Personnel in connection with the Agreement.
- e) The Supplier shall keep Northern Star's representative immediately and fully informed of any dispute with the Supplier's Personnel or any demand for wages or conditions in excess of or outside the scope of current and applicable Law or any collective bargaining agreements.
- f) The Supplier shall, as and when requested by Northern Star, attend meetings for the purpose of discussing labor matters.
- g) In the event of an actual or threatened strike or labor dispute, ban, limitation of work or denial of facilities or services involving the Supplier's Personnel, the Supplier shall:
 - (i) keep the authorized representative of Northern Star for that Site informed and continue to keep such representative reasonably informed throughout the course of the relevant events;
 - (ii) endeavor to resolve the dispute in the shortest practical time; and
 - (iii) take all practical action to ensure that the Duties being performed at the Site by the Supplier's Personnel continues whilst the appropriate steps are taken to resolve the dispute.

6.3 Privacy

Northern Star and the Supplier agree to abide by applicable privacy Laws, including without limitation the Health Insurance Portability and Accountability Act of 1996, as amended. Either Party may collect information about the other to assist it in relation to the supply of Goods and Services. Neither Party will disclose information about the other to any Person except in the ordinary course of its business.

7. RISK AND TITLE

7.1 Risk

- a) Risk in the Goods passes from the Supplier to Northern Star when the Supplier delivers the Goods to the Delivery Point and the Goods are accepted by Northern Star.
- b) The Supplier enters the Site and performs the Services under this Agreement at its own risk.

7.2 Title

At the earlier of:

- a) delivery of the Goods at the Delivery Point; and

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- b) payment of the Price.

The Supplier transfers to Northern Star, legal and beneficial ownership of and title to the Goods free from any encumbrances, Third Party Claims or third party rights and interests. The Supplier agrees that in the event Northern Star reasonably believes the Goods are encumbered by a lien, statutory trust or other obligation owed to someone other than the Supplier, Northern Star may pay such lienholder and reduce its payment to the Supplier in a like amount, or issue such lienholder and the Supplier joint checks, at Northern Star's option, unless given evidence reasonably satisfactory to Northern Star that such lien has been discharged in full.

7.3 Waiver

The Supplier waives any lien or any other right, title or interest it may have for any materials or equipment which are incorporated into, or form the whole or part of, the provision of Goods and/or Services, and undertakes to:

- a) obtain a similar waiver from any relevant Personnel; and
- b) include a similar provision in all contracts with any Personnel and suppliers who supply any materials and equipment to the Supplier for the purposes of this Agreement.

7.4 Lease of Goods

Where the supply involves Northern Star leasing the Goods, the following will apply to the lease of the Goods:

- a) the Supplier will deliver the Goods at the Delivery Point; and
- b) risk in the Goods passes to Northern Star when the Goods are:
- (i) delivered and unloaded at the Delivery Point and accepted by Northern Star; or
 - (ii) collected by Northern Star.
- c) risk in the Goods passes to the Supplier on the first of:
- (i) return to the Supplier; or
 - (ii) notification to the Supplier that the Goods are ready to be collected, from a secure location under Northern Star's control.
- d) Title in the Goods remains with the Supplier at all times. Leased Goods shall not be deemed to be a fixture.
- e) Northern Star's rights to use the leased Goods are as a bailee only. Northern Star is not entitled to sell, assign, sub-let, charge, mortgage or create any form of security interest over, or otherwise deal with the leased Goods.
- f) Northern Star acknowledges that the Supplier may lease the Goods from a third party (the "Third Party Owner") in order to provide the Goods to Northern Star, in which case Northern Star acknowledges that title in the Goods will remain with the Third Party Owner.
- g) Northern Star acknowledges that the Supplier or the Third Party Owner may file a financing statement in relation to the lease of the Goods to Northern Star, covering the Goods so leased (and their proceeds, but no other Goods).

8. PAYMENT

8.1 Price

- a) Where the Purchase Order does not specify when payment becomes due, on completion of the Supplier supplying Goods and/or providing Services to Northern Star in accordance with this Agreement, Northern Star will pay the Price to the Supplier in one lump sum payment.
- b) The Price includes all costs and expenses incurred by the Supplier in relation to the supply of the Goods and/or provision of the Services, including all Taxes.

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8.2 Invoice

- a) The Supplier must submit an invoice to Northern Star to support a claim for payment of the Price.
- b) A Purchase Order is the only authority the Supplier may use for claiming payment of the Price.
- c) The invoice or payment form (as may be notified from time to time) must be in a form acceptable to Northern Star and contain the following information:
 - (i) the Purchase Order number;
 - (ii) a brief description of the Goods and/Services supplied;
 - (iii) the period in which the supply of Goods and/or Services occurred;
 - (iv) any further information stipulated in any applicable Law, or reasonably required by Northern Star, so that Northern Star will receive the benefit of any applicable tax exemptions; and
 - (v) such other verification documentation as may be requested by Northern Star.

8.3 Payment

- a) Subject to clauses 8.3 (b) and (e), Northern Star will pay the Price (or part thereof) on the last day of the month after the month in which the invoice was received.
- b) If Northern Star disputes any amount claimed by the Supplier is due and payable, Northern Star will notify the Supplier, specifying the reasons for the dispute.
- c) Northern Star will:
 - (i) pay the undisputed portion of the invoice on the date set forth in clause 8.3(a); and
 - (ii) withhold payment of the disputed portion until settlement of the dispute.
- d) If the Supplier is entitled to a payment for Goods which are not yet on Site, the Supplier shall not be entitled to such payment unless the Goods have been marked as Northern Star's property in accordance with Northern Star's instructions, or appropriate security, as required by Northern Star, has been provided.
- e) Northern Star may deduct from any payment or moneys due or becoming due to the Supplier all costs, charges, damages, liquidated sums, expenses and other moneys which are payable by or to be reimbursed by the Supplier or its Personnel to Northern Star under any provision of this Agreement.

8.4 Delay

If there is delay in the Supplier providing the Goods and/or Services under the Agreement, Northern Star can withhold payment of the Price until the Goods are delivered and/or Services are performed in compliance with the Agreement. Northern Star is entitled to claim damages or other appropriate remedies at law or in equity against the Supplier if provision of Goods and/or Services occurs after the Delivery Date, including money damages, injunctions and the right to cancel.

9. TAXES

9.1 Taxes

- a) Unless otherwise specified in the Purchase Order, the Price does not include any amount for Taxes.
- b) If Northern Star is required by law to directly pay any such Taxes (excluding Taxes on Northern Star's or any of its Affiliates' net income or gross receipts), Northern Star must, subject to clause 9.1 (c), pay the Supplier an amount in addition to the Price equal to the applicable Taxes payable for that supply.
- c) The recovery of any Taxes is subject to the Supplier providing a Tax Invoice to Northern Star to support the claim for payment of Taxes.
- d) Any Taxes invoiced to Northern Star must be in a form acceptable to Northern Star and must contain all information stipulated in any applicable Law providing for such Tax or by Northern Star and in order that Northern Star will receive the benefit of any applicable tax credits, deductions or exemptions.

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10. INTELLECTUAL PROPERTY

10.1 Intellectual Property

- a) The Supplier warrants in providing the Goods and/or Services neither Northern Star nor the Supplier will infringe the Intellectual Property of any third party.
- b) The Supplier grants to Northern Star a perpetual, irrevocable, royalty free, transferable, worldwide licence to use any Intellectual Property which Northern Star requires in order to lawfully use the Goods and Services.
- c) All Intellectual Property created by the Supplier (either by itself or jointly with any third party), in provision of the Goods and/or Services or otherwise pursuant or incidental to this Agreement will be owned exclusively by Northern Star and deemed a "work made for hire" for purposes of United States copyright laws.

11. INDEMNITY

11.1 Indemnity by Supplier

- a) Except to the extent caused by the gross negligence or wilful misconduct of Northern Star or Northern Star's Indemnified Parties, the Supplier is liable for and shall indemnify and hold harmless Northern Star and Northern Star's Indemnified Parties against any and all Liabilities caused or contributed to by the negligence, wrongful act or omission, or breach of the Agreement by the Supplier or the Supplier's Personnel.
- b) Where the Supplier's Personnel are employees of the Supplier, the Supplier acknowledges that the Supplier has common law and statutory duties to ensure the safety of its employees. The Supplier acknowledges that regularly undertaking site inspections at Site will assist the Supplier in demonstrating a discharge of these duties.
- c) The indemnity is a continuing obligation and survives termination of this Agreement.
- d) It will not be necessary for Northern Star to incur expense, loss or make payment before enforcing the indemnity in this Condition.

11.2 Failure to Perform

If the Supplier fails to comply with any of its obligations under the Agreement, Northern Star may, in its sole discretion, perform or have a third party perform the Supplier's obligations and the costs incurred by Northern Star in performing or having a third party perform the Supplier's obligations will be a debt due from the Supplier to Northern Star.

11.3 Limitation of Liability

Notwithstanding any other provision of the Agreement, the Supplier, Northern Star and Northern Star's Indemnified Parties will not be liable for any consequential, indirect, special, punitive, incidental, exemplary loss or damage of any kind, including loss of business revenue, loss of profits, failure to realize expected profits or savings, overhead costs or other economic losses in contract, tort (including negligence), under any statute or otherwise arising out of or in any way connected to the Agreement.

11.4 Indemnity by Northern Star

Where the supply involves the lease of Goods, the following clause will apply to the lease of those Goods.

Northern Star will be liable for, and will indemnify the Supplier against all Liabilities arising out of or in connection with Northern Star's use of the leased Goods, except to the extent that:

- a) such Liabilities are caused or contributed to by the Supplier or the Supplier's Personnel;
- b) the Supplier receives payment or other consideration pursuant to an indemnity under a policy of insurance that the Supplier effects under this Agreement, or would have received but for an act or omission of the Supplier or the Supplier's Personnel that reduces or negates that payment; or
- c) Liabilities that arise from reasonable wear and tear and use of the Goods.

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12. INSURANCE

12.1 Insurance Required

At all times during the Supplier's performance of its obligations under this Agreement, the Supplier must comply with all applicable Laws and in doing so bears the sole responsibility for determining the requirements of those Laws relating to insurance. The Supplier must, at its own expense, procure and maintain or cause to be procured and maintained the following minimum insurances:

- a) workers' compensation (including occupational disease where required by Law) and employer's liability insurance which complies with the relevant Laws and other statutory obligations imposed by the jurisdiction in which the services under this Agreement are being performed, whether federal, state or borough, covering all claims and liabilities for the death of or injury of a Supplier's personnel. Employer's liability insurance shall have limits of not less than \$1,000,000 per person, and \$10,000,000 per accident.
- b) commercial general liability insurance written on an occurrence basis with a limit of indemnity of not less than \$5 million for each and every occurrence and in the annual aggregate for products and completed operations which covers the liability of the Supplier and any of the Supplier's Personnel in respect of:
 - (i) loss of, damage to, or loss of use of, any real or personal property;
 - (ii) the bodily injury of, disease or illness (including mental illness) to, or death or, any person, arising out of the performance of this Agreement including the provision of the Services by the Supplier and the performance of the Duties by the Supplier's Personnel who are employees of the Supplier;
 - (iii) any plant, equipment, machinery, tools, appliances of Northern Star ("Northern Star Plant and Equipment") in the care, custody or control of the Supplier, except to the extent such Northern Star Plant and Equipment is otherwise insured against the risk or loss or damage under other insurances required to be effected pursuant to this Agreement;
 - (iv) underground operations, if applicable;
 - (v) the use of unregistered motor vehicles or unregistered mobile plant and equipment used in connection with this Agreement; and
 - (vi) registered vehicles used as a tool of trade in the performance of the Services;
 - (vii) liability for premises and operations;
 - (viii) owners and contractors protective liability;
 - (ix) liability arising out of products (either manufactured or supplied) and completed operations;
 - (x) blanket written contractual liability;
 - (xi) non-owned automobile liability insurance;
 - (xii) contingent employers' liability;
 - (xiii) professional advice or services provided under this Agreement which is not given for a specific fee by the Supplier;
 - (xiv) sudden and accidental pollution.

This commercial general liability policy shall expressly state that it is primary as to any other insurance available to Northern Star.

- c) (Where the Supplier is required to use motor vehicles) motor vehicle insurance, covering all mechanically propelled vehicles that are registered, or capable of being registered, for road use and owned or leased by the Supplier, and are at any time used in connection with this Agreement, including:
 - (i) insurance that is compulsory under applicable Laws governing the use of motor vehicles and liability for personal injury or death; and

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- (ii) automobile liability insurance for bodily injury and property damage with a sum insurance of not less than \$5 million per occurrence.
- d) (Where the supply of Goods and or provision of Services include professional services in relation to which professional indemnity insurance is commonly taken out) professional indemnity insurance of not less than \$1 million per claim and in the aggregate during any one period of insurance, covering the liability of the Supplier for any professional services provided by the Supplier and the Supplier's Personnel under this Agreement;
- e) (Where the Supplier is bringing Supplier's Plant and Equipment to the Site) all risks property insurance covering the Supplier's Plant and Equipment against the risks of loss, damage or destruction by all insurable risks to the reasonable satisfaction of Northern Star for not less than its market value;
- f) (Where the Supplier is transporting Goods to the Site) all risks marine insurance covering the Goods against the risks of loss, damage or destruction by all insurable risks to the reasonable satisfaction of Northern Star for not less than the cost of the Goods plus 10%; and
- g) such other insurances that the Supplier requires by law or in order to conduct the performance under this Agreement.

12.2 Endorsement

The Supplier must ensure that all of the policies in clause 12.1:

- a) except the professional liability insurance and the workers' compensation insurance, shall include Northern Star as additional insured and contain a cross liability extension but only in respect to this Agreement.
- b) include an endorsement under which the insurer waives any right of subrogation it may have against Northern Star.
- c) provides that failure by an insured to observe and fulfil the terms of the policy or to comply with any duty of disclosure does not prejudice the insurance of any other insured.
- d) include an extra-territorial endorsement to explicitly provide that the coverage extends to the areas where the services are performed hereunder.
- e) the Supplier will include Northern Star as an additional insured under Supplier's insurance policies referred to in clause 12.1 (b), 12.1 (c), 12.1 (d), and as a loss payee under clause 12.1 (e).

12.3 Acknowledgement

It is expressly agreed and acknowledged that:

- a) the requirements of this clause 12 are fundamental requirements of this Agreement;
- b) maintenance by the Supplier and Northern Star of all required insurances will not in any way limit the responsibilities, obligations and liabilities of the Supplier under any other provision of the Agreement; and
- c) whenever a claim is made under any of the policies of insurance referred to in this clause 12 which has a limit that is in the aggregate or reduces the limit available under the aggregate, the Supplier must notify Northern Star as soon as possible and provide confirmation that the policy limit has been restored to meet the contractual limits required under this Agreement.

12.4 Subcontractors

The Supplier must ensure that its subcontractors (including Supplier's Personnel who are not employees of the Supplier) are insured as required by clause 12, as appropriate (including as to amounts of insurance and type of insurance) given the nature of services or work to be performed by them, as if they were the Supplier.

12.5 Currency

The Supplier must ensure that each insurance referred to in:

- a) clauses 12.1(a), 12.1(b), 12.1(c), 12.1(e), 12.1(f) and 12.1(g) are in force from the start date of this agreement and is maintained until the end of the end of this Agreement; and

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- b) clauses 12.1 (d) is in force from the commencement of this Agreement and is maintained for at least three (3) years after the later of:
- (i) the end of this Agreement; and
 - (ii) the date upon which the Supplier delivered the Goods or completed the performance of the Services in accordance with this Agreement.

12.6 Insurers

The Supplier must ensure (and, where relevant, procure that its subcontractors ensure) that the insurance required to be taken out under clause 12 is:

- a) effected with reputable insurers with a financial security rating of A- or better by Standard & Poor's or the equivalent rating with another recognized rating agency; and
- b) on terms (including deductible levels) in line with prudent risk management practices given the nature of the business of the Supplier.

12.7 Production

The Supplier must, on or prior to the commencement of this Agreement and otherwise when requested by Northern Star, promptly satisfy Northern Star that each contract of insurance it is required to procure under this clause 12 is current by providing to Northern Star certificates of insurance, cover notes, certificates of currency from the Supplier's broker or insurer, policy wordings (except for statutory policies), renewal certificates, proof of premium payment or other evidence reasonably required by Northern Star. Notwithstanding anything to the contrary in this Agreement, Northern Star:

- a) has the right to refuse the Supplier (and any of the Supplier's Personnel) entry to the Site; and
- b) is not obliged to pay and may withhold payment of without any interest accruing), any amount owed by it to the Supplier under this Agreement.

Unless and until Northern Star has been so satisfied. Nothing in this clause 12.7 will fix Northern Star with written notice of the contents of any policy and will not be raised as a defence to any claim by the Supplier against Northern Star.

12.8 Prejudicing Insurance

The Supplier must ensure that in relation to any insurance policy required to be maintained under clause 12 it:

- a) does not do or omit to do or, insofar as possible, permit or suffer to be done, any act or omission whereby any of the insurances referred to in this clause 12 may be prejudiced, vitiated, rendered void or voidable;
- b) if necessary, reinstates an insurance policy if it lapses;
- c) does not cancel or materially vary the policy in a manner adverse to its obligations under this Agreement or allow an insurance policy to lapse without the prior written consent of Northern Star;
- d) immediately notifies Northern Star of any event which may result in an insurance policy lapsing or being cancelled; and
- e) gives full, true and particular information to the insurer of all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or the payment of all or any benefits under the insurance.

12.9 No Insurance

If the Supplier (or the Supplier's Personnel who are contractors of the Supplier) fails to procure and maintain insurance policies in accordance with this clause 12, Northern Star may, but is not obliged to:

- a) procure and maintain any such insurance and deduct the cost of doing so (which will be a debt due and immediately payable from the Supplier to Northern Star) from any payments to be made to the Supplier by Northern Star (under this Agreement or any other Agreement); or

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- b) refuse to make any further payments due from time to time to the Supplier (under this Agreement or any other Agreement) until the insurance policies and receipt for the payment of premiums and any certificates of insurance are made available for inspection by Northern Star.

12.10 Claim

Whenever a claim is made under any of the policies of insurance referred to in this clause 12, the Supplier is liable for any excess or deductible payable as a consequence. The Supplier must inform Northern Star in writing immediately it becomes aware of any actual, threatened or likely claims under any of the insurances referred to in clause 12, except claims which Northern Star may have against the Supplier, accompanied by full details of the circumstances of such incident and where relevant, provide all such assistance to Northern Star as may be required for the preparation and negotiation of insurance claims. The Supplier's insurance policies will be the first in time to respond to any claims, where insurance is duplicated between the Supplier and Northern Star's respective policies.

13. ASSIGNMENT

13.1 Assignment

- a) The Supplier must not assign, novate, transfer, sub-contract or otherwise part with the benefit of this Agreement in whole or in part, without the prior written consent of Northern Star, which consent may be withheld by Northern Star in its absolute discretion, and any such assignment, novation, transfer, sub-contract or other parting of the benefit of this Agreement shall be treated as void from the outset. Upon any encumbrance of this Agreement, Northern Star shall have, and will enforce, all its rights under Section 9-408(d) of the Uniform Commercial Code against any beneficiary of such encumbrance or its assigns.
- b) Notwithstanding any sub-contract of this Agreement in whole or in part, the Supplier is not released by Northern Star, the Supplier will remain fully liable and responsible for the performance of the obligations under this Agreement, and the Supplier will be liable for all acts and omissions of its subcontractors and suppliers.
- c) Any sub-contract must be subject to the terms of the Agreement.
- d) Northern Star may assign, novate, charge or encumber the Agreement or any part of it or any right, benefit, money or interest under the Agreement without the need to obtain the Supplier's consent.

14. SUSPENSION

14.1 Suspension

- a) Northern Star may, by notice in writing to the Supplier ("the Suspension Notice"), direct the Supplier to suspend the provision of the Goods and/or Services or any part for any time and for any purposes Northern Star thinks fit, including, without limitation, in accordance with Section 14.2.
- b) Upon receipt of the Suspension Notice, the Supplier must immediately suspend provision of the Goods and/or Services, as required in the Suspension Notice or by Northern Star.
- c) The Supplier must comply with any direction by Northern Star to recommence provision of the Goods and/or Services as soon as is reasonably practicable.
- d) The Supplier must do all things reasonably necessary to reduce any cost or expense incurred by the Supplier as a result of the suspension in provision of the Goods and/or Services.
- e) Subject to Section 14.2, Northern Star will pay the Supplier's unavoidable fixed direct costs which have been reasonably and actually incurred by the Supplier as determined by Northern Star during the period of suspension and which are incurred due to the suspension provided that:
- (i) the Supplier does all things reasonably necessary to reduce any cost or expense as a result of the suspension; and
 - (ii) the reason for suspension was not caused or contributed to by any act, omission or default of the Supplier or the Supplier's Personnel.
- f) If Northern Star directed the Supplier to suspend provision of the Goods and/or Services and:
- (i) the reason for the suspension was caused by Northern Star other than pursuant to Section 14.2; and

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- (ii) the suspension was not attributable to any act, omission or default of the Supplier or the Supplier's Personnel,

the date by which the Supplier must provide the Goods and/or Services under this Agreement will be extended for the same period of time as the provision of Goods and/or Services is suspended by Northern Star under this Agreement.

14.2 Insecurity

Subject to Section 15.1, whenever Northern Star has reasonable grounds for insecurity about the Supplier's performance at any time, at Northern Star's request, the Supplier shall undertake, prior to commencement or continuation of the work assigned to it, to provide adequate assurance of performance for its compliance with its obligations. If at Northern Star's discretion the Supplier is unable to show evidence or provides inadequate evidence of the requested assurance of performance, Northern Star shall be entitled to suspend this Agreement either entirely or partially, without incurring any liability for costs and/or damage and without prejudice to its right to damages, including cover.

15. FORCE MAJEURE

15.1 Force Majeure

- a) If a Party is prevented from carrying out the whole or any part of its obligations under this Agreement by reason of any Force Majeure, that Party ("the Affected Party") must immediately give to the other Party, written notice containing full particulars of the Force Majeure event including:
- (i) the nature of the Force Majeure;
 - (ii) date of the first occurrence of the Force Majeure;
 - (iii) the effect the Force Majeure event will have on the Affected Party's ability to perform its obligations under the Agreement; and
 - (iv) the expected duration of the Force Majeure.
- b) If the Affected Party is prevented from performing its obligations under the Agreement, subject to the Affected Party complying with clause 15.1 (e), performance of the Affected Party's obligations under the Agreement will be suspended to the extent performance is prevented by that Force Majeure event from the date of the written notice in clause 15.1(a) is provided to the other Party and until cessation of the Force Majeure event.
- c) The Affected Party must notify the other Party in writing as soon as practicable and in any event within 1 Business Day of the Force Majeure event ceasing to prevent the Affected Party from performing its obligations under the Agreement and the Affected Party must immediately resume its obligations which were suspended as a result of the Force Majeure event.
- d) If the Affected Party's obligations are suspended under clause 15.1(b), during that period of suspension:
- (i) the Affected Party's non-performance or delay in performance resulting from the Force Majeure event will not be deemed to be a breach of the Agreement; and
 - (ii) each Party will bear its own costs.
- e) On and from the date the Affected Party is aware of the Force Majeure event, the Affected Party must use all reasonable diligence to mitigate and minimize the cause of and the effect of the Force Majeure on the Affected Party's ability to perform its obligations under the Agreement and must do all reasonable things to remedy the situation and resume its performance under the Agreement as soon as possible.
- f) The Supplier is not entitled to:
- (iii) payment for obligations that are suspended under clause 15.1 (b); and
 - (iv) an adjustment to the Price due to a Force Majeure event.
- g) The time in which the Goods and/or Services must be provided by the Supplier under this Agreement will be extended for the period of time from the date the Affected Party issues a notice to the other Party providing details of the Force Majeure event and the date the Force Majeure event ceases.

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16. DEFAULT

16.1 Event of Default

An Event of Default occurs if:

- a) the Supplier or its Personnel do not comply with any of the Supplier's material obligations under the Agreement and that default continues for 14 days after notice from Northern Star to the Supplier has been provided requiring the default to be remedied, where remedy is possible in the opinion of Northern Star acting reasonably;
- b) the Supplier or any of its Personnel commits an act of Gross Negligence or Wilful Misconduct, fraud or dishonesty for any matter undertaken or required to be undertaken under the Agreement;
- c) the Supplier or the Supplier's Personnel act in a manner which Northern Star considers to be substantially prejudicial or harmful to Northern Star or which is unsafe;
- d) an Insolvency Event occurs with respect to the Supplier.

16.2 Acceptance

The acceptance of provision of the Goods and/or Services or an attempt by Northern Star to mitigate its loss is not a waiver of a preceding breach by the Supplier of its obligations under this Agreement or a surrender by operation of law.

17. CANCELLATION AND TERMINATION

17.1 Cancellation for Default

If an Event of Default occurs, and without prejudice to any other rights, Northern Star may cancel the Agreement at any time after the Event of Default by written notice to the Supplier with immediate effect.

17.2 Termination for Force Majeure

Without prejudice to any other rights, if an obligation of the Supplier is suspended due to a Force Majeure event for more than 14 consecutive days, Northern Star may terminate the Agreement by issuing a written notice to the Supplier.

17.3 Termination

The Agreement will terminate on the date stated in the termination notice received by the Supplier or if no date is specified, the date notice is issued by Northern Star to the Supplier.

17.4 Termination for Convenience

- a) Northern Star may at any time for its sole convenience terminate the Agreement by not less than 5 days' notice to the Supplier.
- b) The Agreement will terminate on the date and time stated in the notice of termination.
- c) If Northern Star terminates the Agreement, Northern Star must pay to the Supplier the actual costs payable up until the date of termination provided that:
 - (i) the Supplier has taken all reasonable steps to minimize those costs and expenses; and
 - (ii) where any materials or goods are ordered that cannot be cancelled, the Supplier ensures that Northern Star receives delivery of and title to those materials or goods.
- d) Northern Star (acting reasonably) will determine the amount payable by it under this clause and the Supplier must provide Northern Star with whatever reasonable documentation Northern Star may require in order for Northern Star to make that calculation.

If any termination of this Agreement by Northern Star is found to be wrongful, then the termination will be deemed to have been made in accordance with this clause 17.4 and Northern Star will not in any event be liable to the Supplier for any indirect or consequential loss, or loss of profits.

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17.5 Accrued Rights

The expiration or earlier termination of this Agreement does not affect the rights Northern Star has in relation to a breach of the Agreement by the Supplier before the expiration or termination.

18. DISPUTE RESOLUTION

18.1 Dispute Resolution

- a) In the event of any dispute between the Parties concerning or arising out of this Agreement, the Parties must meet to attempt to resolve the dispute prior to the commencement of any proceeding.
- b) The Party initiating the dispute must give notice setting out the nature of the dispute and available dates to meet to resolve the dispute.
- c) Either Party may commence legal proceedings in relation to the dispute if:
 - (i) the Parties fail to resolve the dispute within 30 days of the first meeting;
 - (ii) the Parties fail to agree on a meeting within 14 days of receipt of the dispute notice; or
 - (iii) a Party fails to attend a scheduled meeting.

18.2 Continuity

- a) Despite the existence of a dispute, the Parties must continue to perform their obligations under the Agreement unless Northern Star, by notice to the Supplier, suspends the Parties' obligations pending the outcome of the dispute.
- b) The Supplier is not entitled to any adjustment to the Price by reason of suspension of the Supplier's obligations under this Condition.

18.3 Injunctive or Urgent Relief

Nothing in these Conditions prejudices either Party's right to institute proceedings to seek injunctive or urgent declaratory relief for a dispute or any other matter arising under the Agreement.

19. CONFIDENTIALITY

19.1 Confidential Information

The Supplier must:

- a) not, and must ensure its Personnel do not, without Northern Star's prior written consent, directly or indirectly disclose any Confidential Information to any person or use the Confidential Information in whole or in part, except in fulfilling its obligations under the Agreement;
- b) not copy or otherwise reproduce any documents containing Confidential Information, except as necessary in fulfilling its obligations under this Agreement;
- c) on termination of this Agreement, or on demand by Northern Star, return all documents containing any Confidential Information, including any documents created by the Supplier which contain Confidential Information;
- d) use its best endeavors to protect the confidentiality of the Confidential Information; and
- e) comply with all reasonable requests by Northern Star regarding the protection of the Confidential Information.

20. NOTICES

20.1 Notices

- a) All notices and other documents given pursuant to this Agreement must be in writing and may be given by email, facsimile, personal delivery or prepaid post to the Party to whom the notice is addressed as set out in the Purchase Order or such other address as it may have notified to the other Party.
- b) A notice or other document sent by email is deemed to be successfully received by the recipient:

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- (i) unless the sender receives a delivery failure notification indicating that the email has not been delivered to the recipient; and
 - (ii) at the time of sending, or if the email is not sent before 5pm AKDT or AKST (as applicable) on a Business Day, at the start of the next Business Day.
- c) A notice or other document sent by facsimile is deemed to be successfully received by the recipient upon successful transmission or, if transmission is not effected before 5pm AKDT or AKST (as applicable) on a Business Day, at the start of the next Business Day.
- d) If a Purchase Order is issued by email, the Purchase Order is deemed to be successfully received by the Supplier:
- (i) unless the sender receives a delivery failure notification indicating that the email has not been delivered to the recipient; and
 - (ii) at the time of sending, or if the email is not sent before 5pm on a Business Day, at the start of the next Business Day.

21. GENERAL

21.1 Governing Law

The Agreement is governed by and is to be construed according to the laws of the State of Alaska and the Parties submit to the non-exclusive jurisdiction of the courts of the State of Alaska, located in the Third Judicial District and shall not raise the defense of lack of jurisdiction, improper venue or forum non conveniens in connection with any action filed in such district or in the federal court located therein. The Parties hereto agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply. This provision applies no matter where the Supplier resides, or where the Supplier provides the Goods and/or Services.

21.2 Severance

If any part of this Agreement is, or becomes, void or unenforceable, that part is, or will be, severed from this Agreement so that all parts that are not, or do not become, void or unenforceable remain in full force and effect and are unaffected by that severance.

21.3 Variation

This Agreement may only be varied by in accordance with clause 3.3.

21.4 Waiver

- a) A failure to exercise or delay in exercising any right, power or privilege by any Party will not operate as a waiver of that right, power or privilege.
- b) A single or partial exercise of any right, power or privilege will not preclude any other or further exercise of that right, power or privilege, or the exercise of any right, power or privilege.

21.5 Entire Agreement

The Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and contains all of the representations, warranties, covenants and agreements of the Parties in relation to the subject matter of the Agreement as at the date of this Agreement. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by the Agreement and has no further effect.

21.6 Survival

- a) Subject to clause 21.6(b), clause 1, 2.3, 4, 5, 6.2, 6.4, 7, 8.4, 9, 10 to 21, inclusive, of the Agreement survive termination of the Agreement and will continue in full force and effect;
- b) The Conditions referred to in clause 21.6(a) will cease to have any further force or effect on and from the time at which:
 - (i) a Party will be barred from taking an action against the other under the relevant clause due to the application of any Law for the expiration of time; and

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- (ii) Northern Star ceases to have any obligations under any Law where those obligations are being performed by the Supplier under the Agreement.

21.7 Further Assurance

From time to time at the request of Northern Star, the Supplier shall do and execute or cause to be done or executed all such acts, deeds and assurances whatsoever reasonably necessary for ensuring full and proper compliance with or performance of the terms of this Agreement.

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