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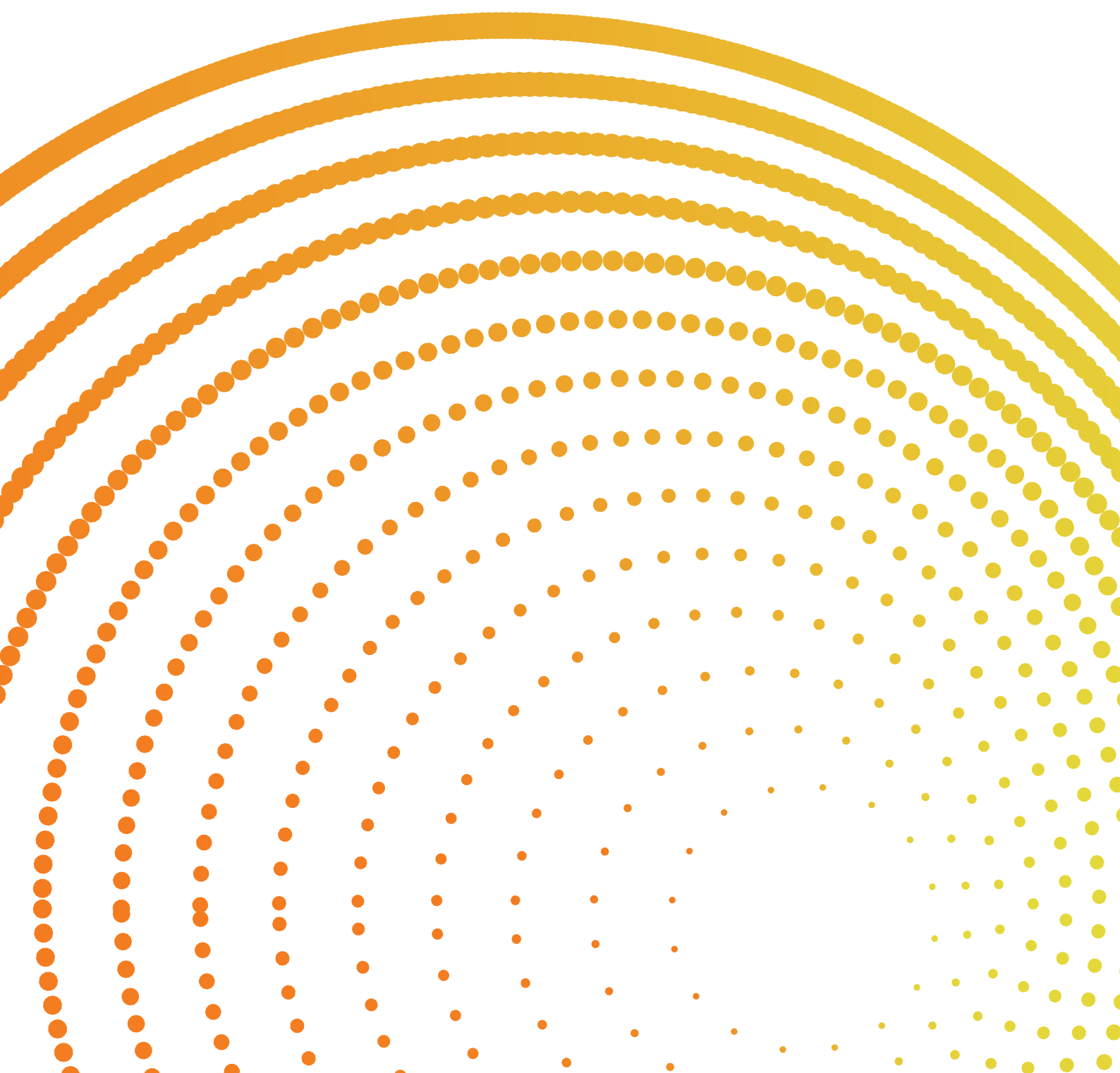
# Standard Terms and Conditions of Supply – Molycop Technologies

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## Standard Terms and Conditions of Supply – Molycop Technologies

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### 1 Goods and Services General Conditions

- 1.1 We agree to commence the supply of the Goods and/or performance of the Services from the Commencement Date to ensure we supply the Goods to the Site and/or completes the Services:
- (a) by the Delivery Date (as applicable);
  - (b) in accordance with the Milestones (as applicable); and
  - (c) in accordance with the terms of this Contract.
- 1.2 The Contract provides for terms, some of which will only apply if certain services, as specified in the Scope of Work, are to be provided. If the Scope of Work specifies that:
- (a) Software is to be provided as a part of the Goods, then, in addition to any other terms, Schedule A also applies;
  - (b) Online Services are to be provided, then, in addition to any other terms, Schedule B also applies;

### 2 Performance of the Services

- 2.1 We will perform the Services:
- (a) exercising due care, skill and judgment and using our reasonable endeavours;
  - (b) in an efficient, professional and cost effective manner in accordance with all applicable Standards and Good Industry Practices; and
  - (c) in accordance with the Contract and all guidelines, procedures and directions made by us under this ontract.
- 2.2 We will provide, at our own cost, all supervision, labour, equipment and materials necessary to undertake and complete the Services, unless otherwise specified in the Contract.
- 2.3 We will comply with all applicable Laws and the requirements of any local Government Authority and ensure that you possess all relevant authorisations, permits and Licences in order for us to supply the Goods and perform the Services.

### 3 Supply of Goods

- 3.1 Where and to the extent that the Goods comprise or include Software or Online Services, whether owned by us or a third party, then Schedule A and/or Schedule B are incorporated into the Contract. To the extent of any inconsistency between the provisions in Schedule A and/or Schedule B and the provisions in these General Conditions, the provisions in Schedule A and B will prevail.

### 4 Risk and Title

- 4.1 Risk in the Goods passes to you upon delivery (including all risks associated with loading and unloading of the Goods) as per the INCOTERMS.
- 4.2 Title in the Goods passes to you upon full payment of the Price for those Goods. Until we receive full payment for the Goods, you hold the Goods as bailee for us and a fiduciary relationship will exist between us.
- 4.3 Until you have paid for the Goods in full, you must:
- (a) keep the Goods separate and in good condition as our fiduciary, clearly showing our ownership of the Goods; and
  - (b) if required by us, allow us to take possession of the Goods in accordance with GC 18.5.
- 4.4 Unless otherwise expressly agreed in writing or set out in an invoice, we will allocate and apply amounts received from you in the following order for Milestone payments:
- (a) in or towards payment of any part of the Price which includes the Services, in the order in which the Services were performed; and
  - (b) secondly, in or towards payment of the Price which includes Goods, in the order in which those Goods were delivered.

### 5 Your obligations and warranties

- 5.1 You agree to pay the Price for the Goods and/or Services in accordance with GC 7.
- 5.2 You must provide us with access to the Site and all other areas reasonably required by us for the proper supply of the Goods and performance of the Services. Whilst we acknowledge that we may not be given exclusive possession of, or access to, the Site, you will ensure unfettered access required by us to provide the Goods and perform the Services.
- 5.3 You warrant to us that you will only install and use the Goods for internal purposes in the ordinary course of your normal business.
- 5.4 You acknowledge and agree that:
- (a) you will not re-sell, re-supply, hire out or otherwise deal with the Goods without our prior consent.
  - (b) you will use the Goods at the site nominated in the Proposal or Contract, and will not relocate the Goods to any other location except without our prior consent;
  - (c) our liability for any Defective Goods will be voided if the Goods are relocated without our prior consent; and

**6 Representatives**

- 6.1** Your Representative has authority to issue reasonable directions, notices and certificates to and receive notices from us. You may change your Representative at any time by notice to us. You are responsible for all acts and omissions of your Representative.
- 6.2** Our Representative has authority to issue notices to and receive notices from you. We may change our Representative at any time by notice to you. We are responsible for all acts and omissions of our Representative.

**7 Invoicing, payment and security**

- 7.1** We will submit an invoice to your Representative in accordance with the Proposal.
- 7.2** Each invoice submitted by us to be approved by you will include:
- (a) details of the value of the Goods provided and/or the Services performed by us; or
  - (b) Milestones due for payment for the provision of the Goods and/or Services; and
  - (c) may include details of other moneys then due to us under this Contract.
- 7.3** Subject to our compliance with GCs 7.1 and 7.2, you will pay us the amount set out in the invoice submitted by us under GC 7.1 within 30 days after the end of the month in which that invoice is received, except where you:
- (a) exercise your right to withhold, retain or set off part of the Price under GC 7.4; or
  - (b) dispute the invoice, in which case:
    - (i) you will pay the undisputed part of the invoice (if any) and withhold the balance pending resolution of the dispute in accordance with GC 19; and
    - (ii) if the resolution of the dispute determines that you are to pay an amount to us, you will pay that amount upon resolution of the dispute.
- 7.4** You may only set off from any payment due to us under the Contract debts due and payable for which we are liable to you under or in connection with this Contract.
- 7.5** You have the right to conduct an audit of the basis of our invoices using our records. This right continues for 6 months after you pay the relevant invoice. If you exercise this right, we will make available to you all relevant records and documentation.

**8 Defective Goods and Services**

- 8.1** If upon inspection or testing at any time prior to the expiry of the Defects Liability Period you find any of the Goods to be Defective Goods or Services or the results of Services to be Defective Services, you may provide

a notice to us to make good the Defective Goods or Defective Services.

- 8.2** Upon receipt of the notice under GC 8.1, we will at our option repair, replace and/or make good the Defective Goods and Defective Services within a reasonable timeframe in the circumstances.

**9 Variations**

- 9.1** We will not vary the Goods and/or Services except as directed by your Representative.
- 9.2** Your Representative may by written notice expressed as a "Variation Order" direct us to alter, amend, omit, add to or otherwise vary the Goods and/or Services.
- 9.3** Within five (5) Business Days of receipt of the notice referred to in GC 9.2, and before we carry out the Variation, we will provide you with a detailed breakdown of the increase or decrease in the Price as a result of the Variation.
- 9.4** Where a Variation involves the omission of any part or parts of the Goods and/or Services, you agree that you will not engage others to perform that part or parts so omitted.
- 9.5** The rate or price for each Variation will be determined by agreement between the parties, on the basis of the rates and prices set out in the Proposal, or if there are no applicable rates and prices set out in Proposal, then a fair and reasonable valuation of the Variation will be made by us.
- 9.6** We will not perform any Variation and will not be entitled to any payment (pursuant to the Contract or otherwise at Law, equity, statute or code) in relation to any Variation unless:
- (a) we have been directed to carry out the variation pursuant to GC 9.2; and
  - (b) the increase or decrease in the Price has been determined in accordance with GCs 9.3 and 9.5.

**10 Insurance**

- 10.1** We will take out and maintain during the period of the Contract all insurances, required by Law and the following insurances:
- (a) general liability (also known as public and products liability) insurance with coverage of at least USD\$10 million per event and in the yearly aggregate;
  - (b) workers' compensation insurance as required by applicable Law;
  - (c) any insurance as may be specified in the Proposal or agreed between the parties; and
  - (d) any other insurance that may be required by applicable Law at the Site,



**10.2** At your request, we will produce evidence of insurances in the form of an insurance certificate that we are maintaining the insurances required by this GC 10.

## **11 Liability and indemnities**

**11.1** We will indemnify you against any liability and any loss or damage to persons or property arising out of our negligent acts or omissions in relation to this Contract, except to the extent that liability or loss or damage arises out of your negligent acts or omissions.

**11.2** Neither party will be liable to the other party in any circumstances for any Excluded Loss.

**11.3** Subject to GC 11.4, our total liability to you in connection with the Contract:

- (a)** in respect of Defective Goods, is the repair or replacement of the Defective Goods;
- (b)** in respect of Defective Services, is the performing of the Services again or the cost of having the relevant Services reperformed by a third party;
- (c)** for damage to or destruction of property or for death of, or personal injury to any person, capped at USD\$5 million; and
- (d)** for all other claims that do not fall within the scope of (a) to (c) above, the Price paid under the Contract in the 12 month period preceding the matter or event giving rise to the claim.

**11.4** GCs 11.2 and 11.3 does not limit our liability:

- (a)** under GCs 2.3 and 12.4; or
- (b)** in cases of fraud, wilful misconduct or illegal or unlawful acts.

## **12 Intellectual property**

**12.1** You retain the Intellectual Property Rights in your Background IP. You give us licence to use your Background IP for the sole purpose of the provision of the Goods and/or Services under the Contract.

**12.2** You agree and acknowledge that all Project IP developed or created by us in connection with the Contract will be vested in and owned by us.

**12.3** We grant you a perpetual, non-exclusive, worldwide, sub-licensable and royalty free licence to use our Background IP and any Project IP for the sole purpose of owning, operating, repairing and maintaining the Goods and/or Services. You must not modify, decompile, reverse engineer, disassemble or otherwise deal with our Background IP or Project IP, or allow any other person to do the same, for any other purpose.

**12.4** We warrant that the supply of the Goods and/or the performance of the Services in accordance with the Contract will not infringe the Intellectual Property Rights of any third party.

**12.5** We agree to notify you as soon as we become aware of any suspected, threatened or actual infringement of any Intellectual Property Rights in:

- (a)** our Background IP; or
- (b)** Project IP.

**12.6** You agree to provide all reasonable assistance we may request to protect the Intellectual Property Rights in:

- (a)** our Background IP; and
- (b)** Project IP.

**12.7** For the avoidance of doubt, the licence for your use and Intellectual Property Rights in the Software and Online Services as a part of the Goods or Services will be in accordance with the Software or Online Services Licences, respectively.

**12.8** You acknowledge and agree that you will be bound by the terms and conditions of the Software and/or Online Services Licences to the extent that we provide Software and/or Online Services under the Contract, or the Goods supplied include Software.

## **13 Confidential information**

**13.1** Each party undertakes that it will not, either during the term of the Contract or at any time thereafter (except to the extent necessary to comply with its obligations under this Contract), disclose to any person any information of or relating to the other party of which it has become possessed as a result of the Contract or the negotiations preceding the Contract including the terms of this Contract, all information and documentation supplied by you or us or information to which you or we have access in the performance of this Contract.

**13.2** The parties must not publish alone or in conjunction with any other party or organisation any information, drawing or photograph concerning the Contract, proposal or supporting documentation except with the other party's written consent and subject to such conditions as we may prescribe.

**13.3** Nothing in the Contract prohibits disclosure of information which:

- (a)** is in the public domain otherwise than as a result of a breach of this GC 13;
- (b)** is received from a third party provided that it was not acquired directly or indirectly by that third party as a result of a breach of this GC 13;
- (c)** is required to be disclosed by Law or Government Authority having authority over a party; or
- (d)** is for the purposes of providing legal advice.

**14 Taxes**

- 14.1** Should any Taxes be levied on, in respect of, or in relation to, the supply of the Goods and/or the performance of the Services, these will be to your account.
- 14.2** Except where expressly stated otherwise, all amounts referred to in the Contract are exclusive of any Transaction Tax. Where any supply occurs under or in connection with the Contract or the Goods and Services, the party making the supply ("Supplier") is entitled to increase the amount payable for the supply by the amount of any applicable Transaction Tax.
- 14.3** Where under the Contract we are entitled to any adjustment to the Price, and such adjustment is based on the reasonable or actual cost to us of performing any work, any input tax credits available to us in relation to performing such work will be deemed to reduce the cost of such work.
- 14.4** Where the amount payable to the Supplier for a supply under or in connection with the Contract or the Services is based on the actual or reasonable costs incurred by the Supplier, the amount which the Supplier is entitled to be paid will be reduced by any input tax credits available to the Supplier in respect of such costs.
- 14.5** If applicable, a party will not be obliged to pay any amount in respect of GST on a supply to the other party unless and until a tax invoice that complies with the GST Law has been issued in respect of that supply. Each party agrees to do all things, including providing invoices or other documentation, that may be necessary or desirable to enable or assist the other party to claim input tax credits to the maximum extent possible, or itself claim all input tax credits that might be available to it, in order to reduce the amount recoverable from the other party under this Contract.
- 14.6** You acknowledge and agree that if a Law requires you to deduct an amount in respect of withholding tax from a payment under the Contract such that we would not actually receive on the due date the full amount payable under this Contract, then on the due date:
- (a) you must deduct from the Price in the invoice the amount for the withholding tax; and
  - (b) you must pay an amount equal to the amount deducted to the relevant Government Authority in accordance with applicable Law and give the original receipt to us; and
  - (c) you must pay us an additional amount to ensure that the amount we receive for an invoice equals the full Price that we would have received for that invoice had no such deduction or withholding been required.

**15 Force Majeure**

- 15.1** If, as a result of an Event of Force Majeure, a party becomes unable, wholly or in part, to perform any of its obligations under the Contract or is delayed in performing those obligations:
- (a) the affected party must immediately give notice to the other party setting out full details of the Event of Force Majeure and the reasons for the Event of Force Majeure preventing that party from, or delaying that party from, performing the affected obligations under the Contract;
  - (b) the affected obligations identified in the notice referred to in GC 15.1(a) will be suspended but only so far as, and for so long as, the performance of those obligations is affected by the Event of Force Majeure; and
  - (c) the affected party must use its best endeavours to overcome or remove the effects of the Event of Force Majeure as quickly as possible.
- 15.2** Upon completion of the Event of Force Majeure, the affected party must as soon as reasonably practicable recommence the performance of the affected obligations.
- 15.3** You have no liability and we have no entitlement for:
- (a) any costs, losses, expenses, damages or the payment of any part of the Price during an Event of Force Majeure; and
  - (b) any delay costs in any way incurred by you due to an Event of Force Majeure.
- 15.4** An Event of Force Majeure does not relieve a party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event.

**16 Suspension**

- 16.1** You have the right, at any time and for any reason, to suspend performance of our obligations under the Contract by giving us notice.
- 16.2** When we receive a notice of suspension from you in accordance with GC 16.1, we must suspend performance of the relevant obligations until such time as you direct us to resume performance of those obligations by notice in writing. At such time, we must promptly recommence the performance of those obligations in accordance with this Contract.
- 16.3** Unless the suspension is caused by any breach or default by us of our obligations under the Contract, we will be entitled to claim from you an extension of time for the Date of Delivery and additional costs incurred as a result of the suspension in accordance with GC 17.
- 16.4** If the period of suspension directed by you under GC 16.2 is for a period greater than three (3) consecutive months,



we may terminate the Contract by seven (7) days written notice to you.

**16.5** Subject only to GC 16.3, we will not be entitled to make any claim against you in connection with a direction under GC 16.2.

**16.6** We may suspend the performance of any or all of the Services or supply of Goods if you have not made payment in accordance with GC 7 and GC 16.3 will apply.

## **17 Extension of time**

**17.1** We will give you written notice of all incidents, circumstances or events of any nature affecting or likely to affect our ability to deliver the Goods and/or perform the Services by the Delivery Date.

**17.2** Within 14 days after the date of the notice issued under GC 17.1, we will give a further notice setting out all material details of the event and mitigating actions taken by us.

**17.3** The Delivery Date will be extended if the supply of the Goods and/or Services has been delayed by:

- (a) Event of Force Majeure;
- (b) suspension in accordance with GC 16.3; and
- (c) any other act or omission of you, your Representative, or your Personnel.

**17.4** If you grant us an extension of time to the Delivery Date under GCs 17.3(c) and 17.3(c), you must reimburse us for costs actually, reasonably and properly incurred as a direct consequence of the delay (evidenced on an open book basis).

## **18 Termination**

**18.1** You may terminate the Contract in its entirety for any reason at all upon 90 days' written notice to us.

**18.2** You may terminate the Contract in its entirety and with immediate effect, by notice to us, if:

- (a) we or any of our personnel commits an act of fraud, wilful misconduct or an illegal or unlawful act in respect of any matter in connection with this Contract;
- (b) we are in breach of any provision of the General Conditions and you reasonably determine that the breach is not capable of remedy;
- (c) we are in breach of any provision of the Contract which is capable of remedy and we fail to remedy that breach to your reasonable satisfaction within a reasonable period agreed between parties in the circumstances after receipt of a notice specifying the breach; and
- (d) you are expressly entitled to exercise a right of termination under any other provision of the Contract.

**18.3** Either party may terminate the Contract at any time by notice to the other party, without prejudice to any rights

at law or otherwise, if either party commits an Act of Insolvency.

**18.4** We may terminate this Contract:

- (a) by notice to you if you have failed to make a payment in breach of GC 7, and we have provided you with a notice requiring payment within 20 Business Days of the expiry of the period in GC 7.3, except with respect to any payment or portion that you dispute under GC 19; and
- (b) immediately under GCs 24 or 25.

**18.5** If we terminate the Contract under GC 18.4, you acknowledge and agree that for any Goods that have not been paid for in full, we may as of the date of termination:

- (a) take possession of those Goods, wherever they are located;
- (b) enter upon your premises for that purpose;
- (c) appoint any person to be a receiver of all or any of those Goods; and
- (d) remove your access to the Software and/or Online Services.

**18.6** If we receive a notice of termination from you, or we terminate by notice to us, we must:

- (a) stop work (except to the extent specified in the notice from you);
- (b) take such action as necessary or as we direct, for the transfer, protection and preservation of our property; and
- (c) use reasonable endeavours to minimise the costs of termination to you.

**18.7** If the Contract is terminated in accordance with GCs 18.1 or 18.4, you will be liable for the payment for:

- (a) the Price for Goods and/or Services provided to you prior to the effective date of termination and not included in any previous payment by you;
- (b) the cost of materials reasonably ordered by us for the purpose of providing the Goods and/or Services prior to the date of termination, which we are legally liable to accept and cannot otherwise utilise;
- (c) reasonable and substantiated costs of demobilisation; and
- (d) reasonable costs of complying with any directions given by you upon, or subsequent to, termination.

**18.8** For the avoidance of doubt, any Software or Online Services invoiced in advance:

- (a) as a part of a Milestone; or
- (b) as a monthly, quarterly or annual invoice; is not refundable in the case of termination under GCs 18.1 or 18.4.



**19 Dispute Resolution**

- 19.1** If a dispute arises, the parties must, prior to the initiation of any legal proceedings, use their best efforts in good faith to reach a reasonable and equitable resolution of the dispute.
- 19.2** The dispute must be referred to the Representatives appointed by you and us for resolution by written notice specifying that it is a notice given under this GC 19 giving full particulars of the nature and extent of the dispute.
- 19.3** If the dispute is not resolved within 20 Business Days of a referral in accordance with GC 19.2, the dispute must be referred to a Panel for resolution. Each party must nominate a senior representative for the Panel within 3 Business Days of the referral to the Panel in accordance with this GC 19.3.
- 19.4** If the dispute is not resolved by the Panel within 20 Business Days of the referral, either party may commence legal proceedings in accordance with this GC 19.
- 19.5** The Panel will determine its own procedures for the resolution of a dispute. Unless otherwise agreed by the parties, all discussions involving the Panel will be conducted on a without prejudice basis.
- 19.6** Decisions of the Panel may only be made by unanimous agreement of the members of the Panel.
- 19.7** Any decision of the Panel which is recorded in writing and signed by each member of the Panel is binding on the parties.
- 19.8** Neither party may commence legal proceedings unless the parties have undertaken the processes set out in GCs 19.1 to 19.4 and those processes have failed to resolve the dispute or one of the parties has attempted to follow these processes and the other party has failed to participate.
- 19.9** Nothing in this GC prevents a party seeking urgent injunctive relief or similar interim relief from a court.
- 19.10** Despite the existence of a dispute, the parties must continue to perform their respective obligations under this Contract.
- 19.11** This GC 19 survives the completion, expiry or termination of this Contract.

**20 Assignment and subcontracting**

- 20.1** You may not assign or novate your rights and obligations under the Contract without our prior written consent.
- 20.2** We have the right to assign or novate any or all of our rights and obligations under this Contract.
- 20.3** You must not subcontract any of your obligations under the Contract without our prior written consent.

**21 Notices**

- 21.1** Any notice, approval, consent or other communication in relation to the Contract must be:
- (a) in writing;
  - (b) marked to the attention of the relevant Representative; and
  - (c) either:
    - (i) sent by prepaid ordinary post (airmail if appropriate) to the address of the relevant Representative; or
    - (ii) sent by email to the email address of the relevant Representative.
- 21.2** However, if the addressee has notified a change of postal address or fax number, then the communication must be to that address or number.
- 21.3** A notice, approval, consent or other communication takes effect from the time it is received unless a later time is specified in it.
- 21.4** A letter or email is deemed to be received:
- (a) in the case of a posted letter, on the fifth day after posting (seventh in the case of a letter sent by airmail); and
  - (b) in the case of an email, on production of a transmission report by the email software from which the email was sent which indicates that the email was sent in its entirety to the email address of the recipient.

**22 Conflict of interest**

- 22.1** The parties must exercise reasonable care and diligence to prevent any actions or conditions which could result in a conflict with the counterparty's best interests.
- 22.2** The parties' obligations under this GC 22 apply to the activities of employees, agents, contractors and/or subcontractors in their relations with our employees, agents, contractors, subcontractors and/or any third parties associated with the Contract (as well as their families).
- 22.3** The parties' obligations under this GC 22 include, but are not limited to, establishing precautions to prevent employees, agents, contractors and/or subcontractors from making, receiving, providing or offering gifts, payments, loans, substantial entertainment or other considerations for the purpose of influencing individuals to act contrary to a counterparty's best interests.
- 22.4** Each party must immediately notify the other in writing of any and all violations of this GC 22 upon becoming aware of those violations.

**23 Forced Labour or Slavery****23.1** You warrant that:

- (a) you have thoroughly investigated its labour practices, and those of its Personnel, to ensure that there is no Forced Labour or Slavery used anywhere in the your business or by any of your personnel;
- (b) you have put in place all necessary processes, procedures, investigations and compliance systems to ensure that the warranties made in this GC will continue to be the case at all times; and
- (c) you have taken, and will take in the future, all necessary actions and investigations to validate the warranties made in this GC.

**24 Anti-Bribery and Corruption**

**24.1** You acknowledge that bribery and corruption are strictly prohibited under Applicable Anti Bribery and Corruption Laws. You warrant to us that you will comply with, and will ensure that your Personnel employees, contractors, other agents comply with, all of the provisions of the Applicable Anti Bribery and Corruption Laws in connection with the conduct of your business. You and your and your Personnel will not:

- (a) pay or accept any commission or fees, or make or accept any payments or rebates to or from any of our Personnel or favour any of those persons with gifts or entertainment of unusual or substantial value, or enter into any business arrangements with any of those persons, that would result in a detriment to us or is contrary to fair dealing;
- (b) provide or offer to provide a benefit or anything of value (which is not legitimately due) to a public official (including a local or foreign public/government official) to retain or obtain a business advantage for you or us; or
- (c) provide bribes (in any form) or facilitation payments to anyone in the course of performing obligations under this Contract.

**24.2** We may, without limiting any of its rights under the Contract or otherwise and without any liability to you, immediately terminate the Contract in our sole discretion if in our reasonable opinion you or your Personnel fail to comply with an Applicable Anti Bribery and Corruption Law or this GC 24.

**25 Sanctions****25.1** You warrant:

- (a) that you are not owned or controlled directly or indirectly, by any persons listed on:
- (i) the “Specially Designated Nationals and Blocked Persons” list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury (“OFAC”) published and updated from time to time; or

- (ii) the “Consolidated List” maintained by the Australian Sanctions Office of the Australian Department of Foreign Affairs and Trade (“DFAT”) published and updated from time to time; (“Sanctions Lists”).
- (b) none of your Personnel are listed on any of the Sanctions Lists; and.
- (c) that you are not owned or controlled directly or indirectly by any person for the benefit of any country or territory, to which United States and Australian persons are prohibited from doing business with under any Law administered pursuant to:
- (i) the OFAC regulations or which are otherwise subject to any United States sanctions administered by OFAC; or
- (ii) the United Nations Security Council Sanctions implemented through Australian legislation and Australian autonomous sanctions implemented under the *Autonomous Sanctions Act 2010* (Cth).

**25.2** The warranties in this GC 25 continue to apply for the term of this Contract. We may, without limiting any of its rights under the Contract or otherwise and without any liability to you immediately terminate the Contract in our sole discretion if, in our reasonable opinion, you or any of your related bodies corporate are in breach of these warranties at any time.

**26 Entire agreement**

**26.1** The Contract constitutes the entire agreement between the parties and sets out a full statement of the contractual rights and liabilities of the parties in relation to the Goods and/or Services and no negotiations between them nor any document agreed or signed by them prior to the date of the Contract in relation to the Goods and/or Services is of any effect.

**26.2** The Contract applies to all Goods provided or Services carried out before, on and after the Commencement Date.

**27 Other matters**

**27.1** Any of our rights under the Contract may only be waived by us in writing signed by a duly authorised representative of us.

**27.2** The Contract may not be varied except in writing signed by a duly authorised representative of each of the parties.

**27.3** We may exercise a right, remedy or power in any way we consider appropriate. If we do not exercise a right, remedy or power at any time, this does not mean that we cannot exercise it later.

**27.4** The rights, remedies and powers of the parties under the Contract are in addition to any rights, remedies and powers provided by Law.



**28 Governing law**

- 28.1** The Contract is governed by the laws of Western Australia, Australia, or any other place nominated by us in the proposal.
- 28.2** The rights and obligations of the parties under or in connection with the Contract are not governed by any part of the Vienna Convention on Contracts for the International Sale of Goods 1980 [or the Sale of Goods (Vienna Convention) Act 1986 (WA)].
- 28.3** For the avoidance of doubt, unless expressed otherwise the rights and obligations of the parties under or in connection with the Contract are not governed by any of the Incoterms.
- 28.4** The parties agree to submit to the exclusive jurisdiction of the courts of Western Australia, or other place nominated in accordance with GC 28.1. Each party waives any right it has to object to an action being brought in those courts including by claiming that action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

**29 Definitions and Interpretation**

**29.1** In these General Conditions, unless the contrary intention appears:

**Act of Insolvency** means in respect of a party:

- (a) the board of the party passes a resolution under section 436A of the *Corporations Act 2001* (Cth);
- (b) the party is placed into administration pursuant to Part 5.3A of the *Corporations Act 2001* (Cth);
- (c) a deed of company arrangement is entered in respect of the party;
- (d) an application is made to a court for the winding up of the party;
- (e) the party resolves that it be wound up voluntarily;
- (f) a winding up order is made in respect of the party;
- (g) a receiver or receiver and manager is appointed to any substantial assets of the party;
- (h) a court orders that there be a meeting of creditors or members of the party for any purpose related to Part 5.1 of the *Corporations Act 2001* (Cth);
- (i) a mortgagee takes possession of any substantial assets of the party; or
- (j) the party informs the other party or any creditor of the party, in writing, that it is insolvent.

**Applicable Anti Bribery and Corruption Laws** means any law applicable to us or related bodies corporate or the activities described in the Contract relating to the prohibition of bribery or corruption including, but not limited to:

- (a) *United States Foreign Corrupt Practices Act 1977*;
- (b) *United Kingdom Bribery Act 2010*;

(c) *Canadian Criminal Code and Canadian Corruption of Foreign Public Officials Act 1999*; and

(d) *Australian Criminal Code 1995* (Cth) and the *Crimes Legislation Amendment (Combatting Foreign Bribery) Act 2024* (Cth).

**Background IP** means Intellectual Property Rights owned by or licensed to a party (including know how and technical information) which exists prior to the date of the Contract, but does not include Project IP.

**Business Day** means a day when the banks in Perth are open for business.

**Commencement Date** means the date of commencement of the provision of the Goods and/or Services as set out in the Purchase Order, or if a Commencement Date is not stated in the Purchase Order, the date of the Purchase Order.

**Confidential Information** means all commercial, technical and other information in any form whatsoever in the possession or knowledge of a party which is disclosed to the other party at any time in connection with this Contract, which is confidential in nature, including any information of that sort which is provided verbally to a party by any personnel of the other party.

**Contract** means this agreement comprising the Purchase Order, the General Conditions, the Schedules, the Proposal and any other documents annexed to this document or specifically incorporated by reference (which in the event of any inconsistency, are to be construed in this order).

**Defective Goods** means Goods which are not in conformity with the Contract, or are of inferior quality or workmanship.

**Defects Liability Period** means 12 months after delivery of the Goods or completion of the Services.

**Defective Services** means Services or the results of any Services which are not in conformity with the Contract, or are of inferior quality or workmanship.

**Delivery Date** means the date specified in the Purchase Order, or if a Commencement Date is not stated in the Purchase Order, the date of stated in the Proposal.

**Event of Force Majeure** means each of the following events or circumstances:

- (a) named cyclone or hurricane and any rain-bearing depression, the result of a cyclone or hurricane;
- (b) fire, earthquake, landslide, tsunami, mudslide or other catastrophic natural disaster;
- (c) war (whether declared or not), insurrection, revolution, riot, civil disturbance terrorism, military usurped power, sabotage or other like hostilities;
- (d) a governmental restraint (including government travel advice to avoid travel to a country); and
- (e) industrial-related dispute including strikes, lockouts, industrial difficulties, labour difficulties, work bans, blockades or picketing.



**Excluded Loss** means loss of revenue and profit (other than revenue or profit derived directly from payments for the Goods and/or Services under the Contract); loss or denial of opportunity; loss of profits; loss of production; loss of sales or business; loss of or damage to goodwill; loss of reputation; loss of anticipated savings; loss of use or corruption of software, data or information; and all other loss which is indirect, remote or unforeseeable loss.

**Forced Labour or Slavery** means “slavery” and “forced labour” as these terms are defined by the International Labour Organisation (ILO) from time to time, including in any present or future ILO conventions.

**General Conditions** means these general conditions comprising GCs 2 to 29.

**Goods** means the goods to be provided by us in accordance with the Contract as specified in the Proposal (including the Software and Online Services, as applicable) .

**Good Industry Practices** means the most stringent of the practices which are generally engaged in or observed by all industries with respect to services similar to the Services.

**Government Authority** means any national, state, local, regional, territorial or municipal government, ministry, governmental department, commission, board, bureau, agency, instrumentality, executive, legislative, judicial or administrative body, having jurisdiction over the Goods and/or the Services, the Site or the Contract.

**GST** has the meaning given to that term in the GST Law.

**GST Law** has the meaning given to that term in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**INCOTERMS** means Incoterms 2020 published by the International Chamber of Commerce (ICC) and as set out in the proposal.

**Intellectual Property Rights** includes the protected rights attaching to inventions, patents, registered designs, trademarks, copyright, circuit layouts and confidential information and does not include our rights or those of any third party in the Software or the Online Services.

**Law** means any statute, ordinance, code, law, decree, circular, rule or regulation by any Government Authority.

**Licences** means all licences, qualifications, registrations and other statutory requirements necessary for the performance of the Services under this Contract.

**Milestone** means the milestones that are to be achieved by us as set out in the Proposal or Purchase Order.

**Online Services** means the hosted technology and management solution for processing data and information about inlet and outlet conditions of mill equipment, including all updates, modifications, and enhancements to the Online

Services, as made generally available by us to our customers.

**Online Services Licence** means the licence for your use of the Online Services at Schedule B and includes any third party or our protected intellectual property rights attaching to Online Services.

**Our Background IP** means Intellectual Property Rights owned by or licensed to us (including know-how and technical information) which exists prior to the date of the Contract but does not include Contractor Background IP or Contract IP.

**Panel** means the panel established in accordance with GC 19.3.  
**parties** means you and us.

**party** means you or us.

**Personnel** means directors, officers, employees, representatives, contractors and agents.

**Price** means the price specified in the Proposal, subject to any increases or decreases as may be made in accordance with this Contract.

**Proposal** means the proposal or quotation for supply of Goods and/or Services prepared and submitted by us to you to which these General Conditions are attached or are referenced.

**Project IP** means all Intellectual Property Rights (present or future) created, discovered or coming into existence as a result of, for the purpose of, or in connection with, the provision of any Goods or Services or the Contract and does not include Background IP.

**Purchase Order** means the document entitled ‘Purchase Order’ issued by you for the supply of Goods and/or Services in accordance with the Contract.

**Representative** means the authorised representative nominated by each party or any other person appointed by the relevant party and notified to the other party from time to time in accordance with GC 6.

**Sanctions Lists** has the meaning given at GC 25.1.

**Services** means the services to be performed by us in accordance with the Contract and as specified in the Proposal.

**Site** means the site for the Contract.

**Software** means the computer programs referred to in the Contract or the Software Licence including all updates, modifications, and enhancements to the Software, as made generally available by us to our customers.

**Software Licence** means the licence for your use of the Software at Schedule A and includes any third party or our protected intellectual property rights attaching to Software.

**Standards** means all industry standards and government regulations applicable to the Services.

**Taxes** means any and all present and future sales, use, personal, property, real property, value added, goods and



services, turnover, stamp, documentary, interest equalisation, business, occupation, excise, income, corporation, profits, gains, gross receipts, or other taxes, fees, withholdings, imposts, levies, duties or other charges of any nature whatsoever or whensoever imposed (other than taxes on our net income) by any government, governmental, semi-governmental or other relevant authority, together with any penalties, fines or interest thereon or similar additions, imposed, levied or assessed or otherwise payable.

**Transaction Tax** means the GST as well as any identified or new transaction taxes levied by a Government Authority in accordance with applicable Law that is in existence as at the date of the Proposal.

**Variation** means any modification, addition, omission, or other variation to, in or from the Services in accordance with GC 9.

**we** and **us** and **our** means either Molycop Technologies Pty Ltd (ABN 85 154 346 004) of Level 13 Suite 1301, 59 Goulburn Street, Sydney NSW 2000, or, Molycop Technologies LLC of 4647 NW 6th Street, Suite E, Gainesville, FL, 32609, as set out in the Proposal.

**you** and **your** means the person named in the Proposal and/or the Purchase Order as the customer.

**29.2** In this Contract, unless the contrary appears:

- (a) a reference to the Contract or another instrument includes any variation or replacement of either of them;
- (b) the singular includes the plural and vice versa;
- (c) the word person includes a firm, a body corporate, an unincorporated association or an authority;
- (d) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (e) if a period of time is specified and dates from a given day or the day of an actual event, it is to be calculated exclusive of that day;
- (f) a reference to a GC or schedule is a reference to a GC or schedule in this Contract; and
- (g) the words "including" and "include" are a reference to "including, but not limited to".

**29.3** Headings are inserted for convenience only and do not affect the interpretation of this Contract.



[molycop.com](https://molycop.com)

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