

## **TERMS AND CONDITIONS**

These Terms and Conditions (the “Agreement”) shall apply to purchases of materials and/or services by MP Mine Operations LLC and, as applicable, its affiliates (collectively, the “Customer”) from the supplier listed in the accompanying purchase order (“Supplier”). This Agreement contains the only terms which govern the purchase of goods (“Goods”) and services (“Services”) by Customer from Supplier. Supplier’s electronic acceptance, signature, acknowledgement of the Agreement, or commencement of performance, constitutes Supplier’s acceptance of this Agreement.

(1) **Termination.** In addition to the termination provisions in the Agreement, Customer may terminate the Agreement for any reason whatsoever, with or without cause, and without prejudice to any other right or remedy described in the Agreement, upon THIRTY (30) days written notice. Customer agrees to pay to Supplier the reasonable value of Supplier’s Work to the date of termination, provided that if Customer terminates this Agreement because of Supplier’s failure to perform the Work as specified, Supplier shall be liable for all damages, costs, and expenses (including attorney’s fees and costs of all discovery and litigation) resulting directly from such failure.

(2) **Mutual Indemnification.** Notwithstanding anything to the contrary contained herein, to the fullest extent permitted by law, Supplier agrees to indemnify, protect, defend and hold Customer and its parent company MP Materials Corp. and its subsidiaries, affiliates, and their respective officers, directors, managers, employees, agents, shareholders, members, and successors and assigns, heirs, administrators, and personal representatives (collectively “MP Indemnitees”) harmless from and against any and all claims, liabilities, obligations, losses, suits, actions, legal proceedings, damages, costs, expenses, awards, or judgments, including, without limitation, reasonable attorney’s fees and costs (whether or not suit is filed), any MP Indemnitees may suffer or incur or be threatened with and whether based upon statutory, contractual, or other theory that relate to or arise out of or result from the negligence, intentional acts and/or omissions of Supplier or its subcontractors, agents, employees or affiliates. The indemnified party shall have the right, at its sole option and expense, to participate in the defense of any such claims without relieving the indemnifying party of its obligations hereunder. The obligations of this paragraph shall survive any expiration or termination of this Agreement. Nothing in this paragraph shall require the Supplier to indemnify the MP Indemnitees for that portion of any claim arising out of the negligence or willful misconduct of any MP Indemnitee. Customer agrees to provide prompt written notice of any claim, all information related to and reasonable cooperation in connection with the claim, and sole control of the defense and settlement of the claim, provided that the Customer’s prior written consent must be obtained in the event such settlement: a) does not include a release of all covered claims pending against the Customer; or b) contains an admission of liability or wrongdoing by the Customer.

Notwithstanding anything to the contrary contained herein, to the fullest extent permitted by law, Customer agrees to indemnify, protect, defend and hold Supplier and its subsidiaries, affiliates, and their respective officers, directors, managers, employees, agents, shareholders, members, and successors and assigns, heirs, administrators, and personal representatives (collectively “Supplier Indemnitees”) harmless from and against any and all claims, liabilities, obligations, losses, suits, actions, legal proceedings, damages, costs, expenses, awards, or judgments, including, without limitation, reasonable attorney’s fees and costs (whether or not suit is filed), any Supplier Indemnitees may suffer or incur or be threatened with and whether based upon statutory, contractual, or other theory that relate to or arise out of or result from the negligence, intentional acts and/or omissions of Customer or its subcontractors, agents, employees or affiliates. The indemnified party shall have the right, at its

sole option and expense, to participate in the defense of any such claims without relieving the indemnifying party of its obligations hereunder. The obligations of this paragraph shall survive the expiration or termination of this Agreement. Nothing in this paragraph shall require the Customer to indemnify the Supplier Indemnitees for that portion of any claim arising out of the negligence or willful misconduct of any Supplier Indemnitee. Supplier agrees to provide prompt written notice of any claim, all information related to and reasonable cooperation in connection with the claim, and sole control of the defense and settlement of the claim, provided that the Supplier's prior written consent must be obtained in the event such settlement: a) does not include a release of all covered claims pending against the Supplier; or b) contains an admission of liability or wrongdoing by the Supplier.

**(3) Delivery of Goods and Performance of Services.**

- a. Supplier shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties (the "Delivery Date"). Supplier acknowledges that time is of the essence with respect to Supplier's obligations hereunder and the timely delivery of the Goods and Services, including all performance dates, timetables, project milestones and other requirements in this Agreement. Supplier expressly agrees that failure to timely meet any Delivery Date for Goods and/or Services in the quantity and manner specified in the Agreement will constitute a material breach by Supplier of the Agreement for which Customer may terminate all or any part of the Agreement immediately by delivering written notice to Supplier upon the occurrence of such failure. Supplier shall indemnify Customer against any losses, claims, damages, and reasonable costs and expenses directly attributable to Supplier's failure to deliver the Goods or Services on the Delivery Date.
- b. Supplier shall comply with all export and import laws of all countries involved in the sale of Goods or Services under this Agreement or any resale of the Goods by Supplier.
- c. Supplier shall provide the Services to Customer as described and in accordance with the schedule set forth in the applicable Purchase Order and, if applicable, any corresponding Scope of work, in accordance with the terms set forth in this Agreement.

**(4) Supplier's Obligations Regarding Services.**

Supplier shall:

- a. before the date on which the Services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary licenses, permits, and consents, including, as required, the appropriate California contractor's license, and comply with all relevant federal, state, and local laws, rules and regulations applicable to the provision of the Services;
- b. maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Supplier in providing the Services in such form as Customer shall approve. During the term of this Agreement, upon Customer's written request, Supplier shall allow Customer to inspect and make copies of such records and interview Supplier personnel in connection with the provision of the Services;
- c. not subcontract or delegate any part any of Suppliers' services, goods and/or duties under this Agreement unless Supplier shall first obtain written permission from Customer before it

engages, hires or otherwise authorizes any third-party subcontractor to perform and/or provide any of Suppliers' services, goods and/or duties hereunder (each such approved subcontractor or other third party, a "Permitted Subcontractor"). Supplier understands and agrees that failure to obtain Customer's written permission may result, in Customer's sole discretion and without notice, in the termination of the Agreement. Pursuant to such termination, Customer shall be responsible for any fees owed to Supplier up to termination and nothing more. Customer's approval shall not relieve Supplier of its obligations under the Agreement, and Supplier shall remain fully responsible for the performance of each such Permitted Subcontractor and its employees and for their compliance with all of the terms and conditions of this Agreement as if they were Supplier's own employees. Supplier agrees to accept responsibility for any and all acts and omissions of its subcontractors, as if said acts and omissions had been committed by the Supplier itself, including any failures to comply with applicable laws. Nothing contained in this Agreement shall create any contractual relationship between Customer and any Supplier Permitted Subcontractor or supplier;

- d. require each Permitted Subcontractor to be bound in writing by the confidentiality provisions of this Agreement, and, upon Customer's written request, to enter into a non-disclosure or intellectual property assignment or license agreement in a form that is reasonably satisfactory to Customer;
- e. ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Supplier, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the Services;
- f. ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by the Customer; and
- g. keep and maintain any Customer equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with the Customer's written instructions or authorization.

**(5) Environmental Health and Safety Compliance.** Supplier acknowledges that providing a safe and healthy workplace and protection of the environment is Customer's priority and agrees to abide by that priority in all of its actions that relate to Customer. Supplier agrees, represents and warrants in providing Goods and Services hereunder that it has copies of and will fully comply with all applicable federal, state and local laws, rules, regulations, standards and other governmental requirements including but not limited to: the Federal Occupational Safety and Health Act ("OSHA"), the Federal Mine Safety and Health Act ("MSHA"), the California Safe Drinking Water and Toxic Enforcement Act of 1986 (also known as Proposition 65), and the statutes enforced by the U.S. Environmental Protection Agency, their state and local equivalents (including but not limited to the California Department of Public Health, the Lahontan Regional Water Quality Control Board, and the Mojave Desert Air Quality Management District) and all regulations, policies and orders issued by or pursuant to them (collectively, the "Acts").

Supplier agrees to comply with all of Customer's safety, health and environmental rules and procedures relating to work performed on, and access and use of, Customer's facilities. Supplier shall immediately notify Customer (and if requested provide a detailed written report) of every accident or incident

involving injury to personnel or occupational illness or damage to Customer's property or environmental incident or event occurring in connection with this Agreement and agrees to assist Customer with any investigation thereof.

**(6) Insurance Requirements.** All insurance shall be maintained to continuously cover any losses, claims or other causes of action arising directly or indirectly out of the services and/or products provided hereunder, including coverage for claims occurring during the term of this Agreement, but not reported until after the termination date. The coverage required hereunder shall be primary and not contributory to any insurance coverage carried by Customer and may not be canceled prior to the end of the term of the Agreement without SIXTY (60) day advance written notice to Customer. At all times Supplier shall provide or cause to be provided the following types of insurance with the minimum limits stated, and if Supplier obtains insurance with higher limits than the stated amount, then said limits shall apply:

- a. **Commercial General Liability** insurance with limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The policy(s) shall be endorsed to provide blanket contractual liability coverage, products/completed operations coverage and ongoing operations coverage.
- b. **Worker's Compensation** insurance complying with the statutory limits for the laws of the state in which the services are performed or products are received, and **Employer's Liability** insurance with a limit of liability of not less than \$1,000,000 per occurrence.
- c. **Automobile Liability** insurance with a combined single limit of not less than \$1,000,000 per occurrence, and endorsed to cover all owned, non-owned and hired vehicles while used in connection with the work under the Agreement.
- d. **Excess/Umbrella Liability** insurance with a combined single limit of not less than \$5,000,000, following form and excess of the Commercial General Liability insurance and Automobile Liability insurance set forth above.
- e. **Errors and Omissions Liability** insurance with a minimum limit of not less than \$1,000,000 per occurrence.
- f. **Technology/Cyber Liability** insurance with a combined single limit of not less than \$1,000,000 per occurrence, including an extended reporting period of THIRTY SIX (36) months, or if not commercially reasonable, no less than TWELVE (12) months.

The above insurance shall be endorsed to name the Customer, specifically: **MP Mine Operations LLC and its parent, affiliates, and their respective officers, directors, shareholders, members and employees** (collectively, the "Customer Indemnified Parties"), as additional insureds with coverage at least as broad as the coverage provided to Supplier, including but not limited to coverage for ongoing operations and products/completed operations. Supplier shall provide Customer with a Certificate of Insurance reflecting the limits mentioned above (i) prior to the commencement of the work and (ii) promptly upon request by Customer following commencement of the work.

The policies listed above shall be endorsed to include a waiver of subrogation by the insurer(s) in favor of the Customer Indemnified Parties. If Supplier maintains any form of property insurance to

cover damage or loss to equipment, machinery or personal property, such insurance shall be endorsed to provide a waiver of subrogation in favor of the Customer Indemnified Parties.

Any insurance, primary or excess, obtained by the Customer Indemnified Parties shall be non-contributory unless and until the limits of liability of all primary and Excess/Umbrella Liability policies obtained by Supplier are exhausted by payment of judgments or settlements.

- (7) **Confidential Material.** In the performance of this Agreement, the parties might have access to confidential records and information, including, but not limited to, technical, development, marketing, organizational, financial, managerial, administrative and sales information, data, specifications and processes presently owned or at any time hereafter developed or used by the other party, or its parent company or affiliates, that is not otherwise part of the public domain (collectively, the “Confidential Material”). All such Confidential Material is considered secret and is disclosed in confidence. The parties acknowledge that the Confidential Material, as it pertains to either party, constitutes that party’s proprietary information and draws independent economic value, actual or potential, from not being generally known to the public or to other persons who could obtain economic value from its disclosure or use, and that said party has made efforts reasonable under the circumstances, of which this paragraph is an example, to maintain its secrecy. Except in the performance of a party’s duties hereunder or as required by a court order, both parties shall not, directly or indirectly for any reason whatsoever, divulge, communicate, use or otherwise disclose any such Confidential Material. In the event either party is required to disclose any Confidential Material pursuant to a court order, the disclosing party shall provide the other reasonable advance written notice of the proposed disclosure. Each party shall take all reasonable actions appropriate to maintain the secrecy of all Confidential Material. Anything incorporating a party’s Confidential Material shall be and remain that party’s sole and exclusive property and shall be included as part of the Confidential Material. Upon termination of this Agreement, or whenever requested, either party shall promptly deliver to the other any and all of the Confidential Material, not previously delivered, that is in the possession or under the control of said party. These obligations shall survive the termination of this Agreement.

(8) **Force Majeure.**

- a. **Definition of Force Majeure.** A “*Force Majeure Event*” means an event, condition or circumstance and the effects thereof, which is or are beyond the reasonable control, directly or indirectly, of the affected Party (the “*Affected Party*”) resulting in the total or partial failure of the Affected Party to perform its obligations under this Agreement (other than payment obligations), but only if and to the extent that: (i) such event, condition or circumstance (a) is or was without the fault or negligence of the Affected Party and (b) is or was not the direct or indirect result of any breach by the Affected Party of any of its obligations under this Agreement, and (ii) the Affected Party is taking or has taken all reasonable precautions and exercised due care to avoid and to mitigate the consequences thereof, and has taken reasonable alternative measures to avoid effect thereof on the Affected Party’s ability to perform its obligations under this Agreement. Provided that the general test set out above is met, Force Majeure Events include, but are not limited to: (A) acts of God, hurricanes, storm surge, floods, tornados, windstorm, lightening, earthquakes, volcanos and other similar natural phenomena; (B) wars, civil disturbances, riots, insurrections, acts of terrorism and sabotage; (C) industry-wide strikes, lockouts or other labour disputes; (D) illegal or wrongful actions or omissions of any local, state, or federal governmental authority; and (E) actions by any governmental authority, including in the event of national or regional emergencies, preventing full

performance by a Party to this Agreement. In no event shall a change in law be deemed a Force Majeure Event.

- b. Notification of Force Majeure Event. With respect to any Force Majeure Event, the Affected Party shall notify the other Party as promptly as possible, but in any event no later than five (5) Business Days after such Party becomes aware of, (i) the occurrence and nature of such Force Majeure Event, a description of the extent to which the Force Majeure Event affects the Affected Party's obligations under this Agreement, the anticipated duration thereof, and the actions being taken to remedy or mitigate the effect of such Force Majeure Event, and (ii) the cessation of such Force Majeure Event or the date when such Force Majeure Event no longer renders it impossible for such Affected Party to perform its obligation hereunder, as the case may be. At the reasonable request of the other Party from time to time during any Force Majeure Event, the Affected Party shall provide to the other Party progress reports describing actions being taken to remedy or mitigate the effect of such Force Majeure Event.
- c. Effect of Force Majeure Event.
  - i. Upon notice from the Affected Party in accordance with Section 8.b, any obligation of the Affected Party shall be suspended to the extent that the Affected Party's failure to perform such obligation is attributable to a Force Majeure Event; provided, however, that (i) all other obligations of the Affected Party shall not be suspended and shall remain in effect; (ii) no Force Majeure Event shall suspend or excuse the obligation of an Affected Party to pay any amounts due hereunder, so long as the other Party uses all reasonable commercial efforts to resell Goods or otherwise mitigate amount of money owed by the Affected Party; and (iii) a Party in default may not invoke a Force Majeure Event commencing subsequent to such default as an excuse therefor to the extent relating to any time when the Force Majeure Event did not exist.
  - ii. A Force Majeure Event 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.
  - iii. Upon completion of a Force Majeure Event effecting Supplier, Supplier must as soon as reasonably practicable recommence the performance of its obligations under the Agreement. Supplier must provide a revised proposed schedule of deliverables to minimize the effects of the prevention or delay caused by the Force Majeure Event. Supplier is entitled to incurred costs up to and including the date of the Force Majeure event.
  - iv. During a Force Majeure Event affecting the delivery of Goods, (i) the Parties shall use all reasonable commercial efforts to arrange for delivery of alternative Goods, and (ii) in any event, Customer may purchase alternative Goods from any other supplier.
  - v. Should a Force Majeure Event affecting the Supplier cause a significant delay of Supplier's delivery of Services, Customer may, at its discretion, (a) grant an extension of time, or (b) require Supplier to regain the schedule. In either event, Customer shall compensate Supplier for additional costs reasonably incurred thereby; provided that no adjustment shall be made for any delay to the extent that performance would have been



delayed by any other cause, including the fault or negligence of Supplier, or for which an adjustment is provided or excluded under any other provision of this Agreement.

- d. Termination of Agreement Due to Force Majeure Event. Customer shall have the right to immediately terminate this Agreement if Supplier's performance is delayed or will be delayed more than thirty (30) days.

(9) **General Provisions.**

- a. **Compliance with Laws.** Each party agrees to: (a) comply with all local, state and federal laws, rules, regulations and statutes (collectively, the "Laws") applicable to each's business and this Agreement, (b) maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement including, as required, the appropriate California Contractor's license, (c) keep reasonable records evidencing their compliance with said Laws, (d) upon the other's reasonable request, provide these records to said party and (e) promptly notify the other party if it becomes aware of any non-compliance with the Laws.
- b. **Warranties.** Supplier represents and warrants that all services will be performed in a professional, competent and timely manner, and in full compliance with industry standards and all applicable laws and regulations. Unless otherwise set forth in a purchase order, statement of work or other similar item, all services and deliverables of Supplier are warranted to be free from defects in workmanship and materials for a period of ONE (1) year. Supplier shall replace or repair any defective service or deliverable during the above warranty period at no cost to Customer.
- c. **Audit.** Supplier agrees to maintain adequate internal controls and keep books and records according to standard accounting principles. Customer shall have the right, at its option and expense, to audit the Supplier's books and records of the services, deliverables and payments under this Agreement. Customer shall exercise its option to audit not more than once per year and only upon advance reasonable written notice to Supplier.
- d. **Limitation of Liability.** In no event shall either Party be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Agreement. Notwithstanding the foregoing, nothing in the Agreement shall exclude or limit either Party's liability to the other Party for fraud, personal injury or death cause by its negligence, willful misconduct, violation of law, or damages and liabilities to the extent covered by a party's insurance.
- e. **Independent Contractors.** Supplier is and shall perform its services hereunder as an independent contractor and shall have sole control, supervision and responsibility over its employees. Supplier shall not be deemed to be an agent, member, employee, partner, joint venturer or legal representative of Customer. Neither party shall have the authority to assume or create any obligation or commitment on behalf of the other in any way whatsoever.
- f. **Invoices/Payment.** Customer shall pay all properly invoiced amounts due to Supplier for Goods or Services satisfactorily rendered in accordance with this Agreement within 45 days of Customer's receipt of such invoice, except for any amounts disputed by Customer in good faith.

Customer may at any time reduce the amount of any payment or benefit otherwise payable to or on behalf of Supplier by the amount of any obligation of the Supplier to or on behalf of Customer or any of Customer's affiliates/subsidiaries that is or becomes due and payable.

- g. **Taxes/Additional Charges.** The price for the Goods and/or Services already includes all: (i) taxes, duties, customs, tariffs, imposts and government-imposed surcharges; (ii) amortized costs of related design, engineering, technical and other services and special tools, jigs, dies and molds related to manufacture of the Materials or performance of the Services; and (iii) packaging, freight, shipping and handling, insurance and other additional charges and surcharges of any kind. Supplier and Customer will cooperate in all legal efforts to minimize taxes, duties, customs, tariffs, imposts, and government-imposed surcharges resulting from the performance of this Agreement, at no cost to the other party.
- h. **Interpretation; Waiver.** If any provision, phrase or language, or part thereof, in this Agreement is found to be illegal, void or unenforceable, the remaining provisions, phrases and language shall remain in full force and effect. Any failure or delay by either party to exercise any right, remedy, power or privilege under this Agreement shall not operate as a waiver thereof. Any waiver by either party must be in writing and executed by a person authorized to bind the party making the waiver.
- i. **Integration.** This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral, with respect to the subject matter hereof. This Agreement may be amended only by a written document signed by duly authorized representatives of both parties.
- j. **Successors and Assigns.** This Agreement shall bind the parties hereto and their permitted successors or assigns. Supplier shall not assign or transfer its rights or obligation under the Agreement without the prior written consent of Customer which shall be at Customer's sole discretion; any assignment in violation of this Section shall be void and of no force or effect. Customer may assign its rights under this Agreement without prior written consent, to any of its subsidiaries or affiliates or in connection with a merger, sale or transfer of all or substantially all of its assets. A change of ownership or control of Customer shall not be considered an assignment for purposes of this paragraph.
- k. **Material Breach, Cure.** In the event Supplier breaches any of the material terms or conditions of this Agreement, and such breach is not cured within thirty (30) days after receipt of written notice specifying the nature of the breach, Customer may terminate the Agreement with no further delay or obligation hereunder, and shall be entitled to a pro-rata refund of any amount prepaid to Supplier that remains unused or unearned up to the date of termination.
- l. **Insolvency.** Either party may terminate this Agreement without notice or the passage of time if the other party: (i) files a voluntary petition for bankruptcy; (ii) becomes subject to an involuntary petition of bankruptcy that is not dismissed within sixty (60) days; (iii) makes a general assignment of its assets for the benefit of creditors; (iv) becomes subject to the appointment of a receiver having control over a majority of its assets; or (v) becomes unable to pay its debts when due in the ordinary course of business.



- m. **Survival.** The provisions of this Agreement, including Supplier's guaranties, releases and indemnities and the benefit thereof, that by their terms are intended to survive, shall survive as valid and enforceable obligations notwithstanding any termination, cancellation or expiration of the Agreement.
- n. **Choice of Law; Venue; Attorney's Fees.** The parties agree to use their best efforts to resolve any disputes under this Agreement through informal means. In the unlikely event that formal action must be taken, California law shall govern all aspects of this Agreement. Venue for any legal action between the parties shall take place in the state or federal courts located in California, and the parties agree not to challenge the jurisdiction of such court. The prevailing party in any action shall be entitled to recover, in addition to damages, all legal costs and reasonable attorney's fees. To the extent allowed by law, the parties waive the right to a jury trial in any action or proceeding related to this Agreement.
- o. **Intended Beneficiaries.** Supplier and Customer agree that Customer and each of its affiliates (as applicable) are intended beneficiaries of the Agreement to the extent necessary for them to enforce the terms of the Agreement in any appropriate court of law.
- p. **Notices.** Notices required under this Agreement shall be sent by certified mail via the U.S. Postal Service or other common carrier with return receipt requested, and with a copy simultaneously being e-mailed to the designated representatives of the parties. Such notices shall be deemed to have been received and effective as of the date notice is actually received as evidenced by the signed delivery confirmation.