

1. Agreement

- 1.1. The contract between Got'em Group Pty Ltd ACN 48 137 226 941 (**Got'em Group**) and you the client (**Client**) relating to the Services are subject to these terms and conditions (**Terms**) and the Purchase Order and/or other documents (if any) including any Quotation to which these Terms are attached, (together the **Contract**).
- 1.2. These Terms will be deemed to have been accepted where Client requests Got'em Group Pty Ltd to introduce Temporary Personnel or Permanent Personnel.

Client Details

Company Name: Ora Banda Minin Ltd
 ABN / ACN: 69 100 038 266 / 100 038 266
 Postal Address: PO Box 464, West Perth, WA 6872

I warrant that I am authorised to sign these Terms of Business for and on behalf of the Client.

Full Name: Derek Byrne
 Position: General Manager - Davyhurst Operations
 Signature: _____
 Date: _____

Safety Contact Details (In accordance with Got'em Group's OH&S policies, the Client is to provide the below information).

Full Name: Steve Muir Position: Senior Safety Advisor
 Mobile: 0406 992 772 Email: steve.muir@orabandamining.com.au

Fees for Permanent Staff		Fees for Temporary Staff (Labour Hire)	
(Permanent placement fee is based on the total first year's remuneration which includes superannuation and benefits that form part of the Gross Taxable Pay. First year's remuneration is annualised in the event that the initial permanent contract term is less than 12 months)		(Fees for labour hire staff are charged per hour plus GST. A Charge rate schedule will either be outlined in document GG_OPS_FRM_0004 Schedule of rates, in this table below under the fee rate, or via email from a Got'em Group authorised representative)	
Remuneration	Fee Rate	Fee Rate	
\$0 +	10%		

2. Definitions

Consequential Loss means loss of product, loss of contract, loss of profit, loss of business reputation, loss of opportunities, loss of production, loss of revenue howsoever arising and whether in an action in contract, tort (including negligence), in equity, under statute or on any other basis.

CPI means the All Groups Consumer Price Index for Perth, Western Australia, published by the Australian Bureau of Statistics or if the basis upon which it is determined is substantially altered then it may reasonably be determined to be as near to the CPI previously referred to as possible.

Permanent Personnel means one or more Personnel who are placed with a Client on a permanent basis.

Personnel means any Got'em Group employees or contractors supplied to Client as part of the Services and the term "Personnel" includes Temporary Personnel and/or Permanent Personnel, as the context requires.

Purchase Order has the meaning in clause 3.3 of these Terms.

Quotation means the quotation (if any) issued to the Client by Got'em Group at the request of the Client.

Rate or Rates means the particular rate or rates from the Schedule of Rates that are applicable to Personnel under the Contract.

Schedule of Rates means Got'em Group's schedule of Personnel rates as may be updated from time to time.

Services means any labour hire and other services provided by Got'em Group's to Client from time to time including, where applicable, the provision of Personnel. **Service Request** means a written request or purchase order from Client to Got'em Group for Personnel in accordance with this Contract.

Temporary Personnel means one or more Personnel who are placed with a Client on a temporary or contract basis other than Permanent Personnel.

Trade Category means the category of trade for which Got'em Group can supply Personnel.

3. Supply of Personnel

- 3.1. The Client will requisition the Services from time to time by sending a Service Request to Got'em Group.
- 3.2. Got'em Group will provide a Quotation for the Services to Client following receipt of the Service Request. The Quotation will contain the Rates for the Services in accordance with the Schedule of Rates.

- 3.3. Once all of the details in the Quotation are agreed Got'em Group requires Client to issue a purchase order (**Purchase Order**) for the Services requested which will be governed by these Terms.
- 3.4. The Service Request must contain the following:
 - (a) a description of the Services required by the Client including: (i) the number of Personnel required and their Trade Categories; (ii) the dates the Services are required; and (iii) any other requirements.
 - (b) the site at which the Services are required; and
 - (c) the scope of work to be undertaken by the Personnel;
- 3.5. Each Purchase Order must contain the following information:
 - (a) description of the Services ordered by the Principal;
 - (b) the site for which the Services are required or will be performed by the Service Provider.
 - (c) the applicable Rates for the Personnel and the Services in accordance with the Schedule of Rates; and
 - (d) a copy of these Terms.
- 3.6. The Schedule of Rates is current as at the date of Contract and will form part of the Contract.
- 3.7. Unless otherwise specified in the Contract, any Quotation provided by Got'em Group Pty Ltd for the supply of Services will lapse and have no effect 7 days from the date of issue and may be withdrawn by Got'em Group at any time prior to acceptance by the Client for any reason. A Quotation is not to be construed as an obligation to supply but merely an invitation to treat and no contractual relationship shall arise from it unless and until the Service Request containing the Quotation is accepted by the client.
- 3.8. The Service Request, once accepted by Got'em Group, forms part of the Contract and may not be terminated except pursuant to these Terms or with the prior written consent of Got'em Group.
- 3.9. The Client is responsible for:
 - (a) taking up references as to a candidate's qualifications, capabilities, integrity, medical history, and suitability to meet the job specification; and
 - (b) obtaining all necessary work permits.
- 3.10. Subject to clause 3.10, Got'em Group will supply the Client with Personnel that:
 - (a) meet the minimum requirements/qualifications for each applicable Trade Category; and
 - (b) have the necessary experience.

4. Temporary Personnel

- 4.1. Client is responsible for:
 - (a) the care and supervision of all Temporary Personnel;
 - (b) providing a safe working environment for all Temporary Personnel;
 - (c) putting in place appropriate practices and procedures for Temporary Personnel to avoid harming the safety and health of other people and property.

5. Pricing

- 5.1. The Client will pay Got'em Group, in respect of the Services provided by Got'em Group, in accordance with the Schedule of Rates and as set out in clause 6 of these Terms.
- 5.2. Each Rate includes all compensation for incidentals, direct and indirect expenses, administration costs, office costs, government charges, Insurances and all taxes (excluding GST) and other fees required for the Personnel's performance of the Services.
- 5.3. The Rates are subject to adjustment during the term of this Contract, where the Costs increase or decrease. If Costs increase or decrease, Got'em Group will notify the Client of the change to the Costs and its effect on the Rates.
- 5.4. The Rates may also be subject to change at Got'em's sole discretion, where the nature of the work to be undertaken by Temporary Personnel changes or where conditions applicable at the Client's or third party's site changes at any time and from time to time.

6. Payment

- 6.1. Invoices issued by Got'em Group are payable only in Australian dollars. Unless prior arrangements have been made, payment for the supply of Services by Got'em Group is due in full within 30 days of the date of the invoice.
- 6.2. Got'em Group may refuse to accept payment by credit card and may impose conditions on any acceptance of payment by credit card.
- 6.3. If the Client pays by cheque, then payment only occurs when all cheques have been presented and cleared in full.
- 6.4. No payment due from or payable by the Client shall be set-off or withheld on account of any claim asserted by Client.
- 6.5. Got'em Group may require the Client to provide security for payment in a form acceptable by Got'em Group prior to the supply of any Services.
- 6.6. If the Client fails to pay any amount to Got'em Group when it is due, Got'em Group (in addition to any other rights it may have) shall be entitled to terminate the Contract under clause 13 of these Terms, without liability.
- 6.7. At its discretion, Got'em Group may require a deposit to be paid on the supply of Services. Any such requirement, including as to the timing of the deposit, will be notified to the Client.
- 6.8. The Client is not entitled to withhold any payment by way of retention unless the terms and conditions of the retention are agreed in writing by Got'em Group.
- 6.9. Only the Client is liable to pay amounts payable to Got'em Group.

7. Workplace Health and Safety

- 7.1. The Client must:
- make all reasonable attempts to ensure that all work carried out by the Personnel complies with all workplace health and safety requirements in accordance with the laws of the State or Territory in which the work is carried out.
 - ensure that the Personnel are not exposed to risks to their health or safety or hazards arising from the provision of work under these Terms.
 - ensure that any equipment or facilities provided for use in the provision of work under these Terms are safe and without risks to health and safety when properly used.
 - ensure that systems of work and the working environment are safe and without risks to health; and
 - provide such information, instruction, training, and supervision as may be necessary to ensure that the work provided under these Terms are provided without hazards or risks to health and safety.
- 7.2. The Client will indemnify Got'em Group for and against any and all costs losses, (including Consequential Losses), fees (including legal fees), expenses, liability or damages suffered or incurred by Got'em Group Pty Ltd following a breach of clause 7.1 by Client or any of Client's officers, employee's agents or personnel

8. Client representations and warranties

- 8.1. The Client represents and warrants to Got'em Group Pty Ltd that:
- it has full power and authority to enter into and perform its obligations under the Contract.
 - all information provided to Got'em Group Pty Ltd by or on behalf of the Client is true and correct in all material respects and is not, whether by omission of information or otherwise, misleading.
 - it has not withheld from Got'em Group Pty Ltd any document, information, or other fact material to the decision of Got'em Group Pty Ltd to enter into a contract with the Client.
 - it is solvent within the meaning of section 95A of the Corporations Act 2001 (Cth); and
 - it has made its own independent enquiries from appropriate professionals on all statutory and regulatory compliance issues as relates to the Contract.
- 8.2. The representations and warranties given in this clause 9 survive the Contract.

9. Permanent Replacement Guarantee

- 9.1. Subject to this clause 9, in the event that any Personnel leaves their employment with the Client within 90 days of commencement for any reason other than through redundancy, Got'em Group Pty Ltd will replace such Personnel at no extra cost to the Client.
- 9.2. The replacement guarantee referred to in clause 9.1 is:
- only applicable to Permanent Personnel; and
 - only applicable to the original candidate placed in the position.
- 9.3. Any replacement candidate must be employed by Client in the same position and on the same terms as the original candidate.
- 9.4. In the event that the client increases the salary package for the replacement candidate, the monetary value of the old salary package will remain the same and at the discretion of Got'em Groups's may be waived

9.5. Clause 9.1 is subject to and conditional on the Client:

- providing written notice of termination of such Personnel to Got'em Group Pty Ltd within 30 days of the date of such termination; and
- not otherwise being in breach of this Contract or any other contract between the Client and Got'em Group Pty Ltd
- having paid all amounts payable to Got'em Group Pty Ltd under the terms of this Contract to the time of termination.

10. Temporary Personnel Guarantee

- 10.1. Temporary Personnel are guaranteed throughout the term of the assignment. In the event that Client is not satisfied (acting reasonably) with the Temporary Personnel Client must notify Got'em Group Pty Ltd within 4 hours of the commencement of the assignment. Got'em Group Pty Ltd will immediately work with the Client to find a suitable replacement.
- 10.2. Got'em Group Pty Ltd will not charge the Client for any Temporary Personnel withdrawn from an assignment, notified to Got'em Group Pty Ltd within 4 hours of commencement in accordance with clause 10.1 of these Terms.

11. Got'em Group Pty Ltd warranties and liability

- 11.1. To the fullest extent permitted by law and except as otherwise provided herein all warranties, guarantees, conditions, rights and remedies, express or implied, statutory or otherwise in relation to the Services, are hereby expressly excluded (except to the extent such liability is legally incapable of being excluded or limited).
- 11.2. Got'em Group Pty Ltd will not be liable for any losses or damages suffered by the Client as either a direct or indirect consequence of any regulatory non-compliance whatsoever resulting from any act or omission on the part of the Client.
- 11.3. To the fullest extent permitted by law, the operation of Part 1F of the Civil Liability Act 2002 (WA) is excluded in relation to any and all claims, rights, obligations and liabilities arising under or in relation to these Terms howsoever such claims, rights, obligations or liabilities are sought to be enforced, and the parties agree that their rights, obligations and liabilities will be those which would exist if Part 1F of the Civil Liability Act 2002 (WA) did not apply.

12. Services

- 12.1. With regard to any Services, Got'em Group Pty Ltd will not be liable for any injury, loss or damage incurred, whether direct, consequential, incidental, punitive, exemplary or indirect, by statute, in tort or in contract.
- 12.2. Got'em Group Pty Ltd will not be liable for delay, failure, or inability to deliver the Services (or any part of them).
- 12.3. Client engages Got'em Group Pty Ltd to provide the Services as an independent contractor.
- 12.4. Got'em Group Pty Ltd is not Client's employee, partner, legal representative, agent, joint ventures or franchisee.
- 12.5. Client has no right or authority to bind Got'em Group Pty Ltd, assume or create any obligations for or on behalf of Got'em Group Pty Ltd, or make any representations or warranties for or on behalf of Got'em Group Pty Ltd.
- 12.6. Got'em Group Pty Ltd has no right or authority to bind Client, assume or create any obligations for or on behalf of Client, or make any representations or warranties for or on behalf of Client.
- 12.7. The Personnel are not Client's employee's, partners, legal representatives, agents, joint venturers or franchisees. No contractual relationship will exist between Client and the Personnel. The Personnel have no right or authority to bind Client or Got'em Group Pty Ltd, assume or create any obligations for or on behalf of Client or Got'em Group Pty Ltd, or make any representations or warranties for or on behalf of Client or Got'em Group Pty Ltd.
- 12.8. Subject to these Terms, the Personnel are not entitled to any benefit from Client usually attributable to an employee.

13. Termination

- 13.1. It is an event of termination (**Termination Event**) if:
- the Client fails to pay any money payable to Got'em Group Pty Ltd when it is due;
 - the Client breaches the Contract in a material respect and, in Got'em Group's opinion, the breach cannot be remedied;
 - the Client breaches the Contract in a material respect other than no payment of money due and, in Got'em Group's opinion, the breach can be remedied, the Client does not remedy the breach within 30 days after Got'em Group Pty Ltd gives the Client notice of the breach;
 - a judgment in an amount exceeding \$50,000 or its equivalent in any other currency is obtained against the Client in an amount exceeding \$50,000 and is not set aside or satisfied within 30 days;
 - the Client suspends payment of its debts generally or it becomes unable to pay its debts when due;
 - an application or order is made for the bankruptcy, winding up or dissolution of the Client, or a resolution is passed or any steps are taken to pass a resolution for the bankruptcy, winding up or dissolution of the Client;
 - the Client enters into, or resolves to enter into, any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;
 - the Client ceases, or threatens to cease, to carry on business; or
 - a receiver, receiver and manager, administrator, trustee or similar official is appointed over any of the Client's assets or undertakings.
- 13.2. If a Termination Event occurs, Got'em Group Pty Ltd may (without affecting the accrued rights and obligations of the parties) in addition to any other rights or remedies it may have to do all or any of the following:
- terminate the Contract immediately by notice to the Client; and/or suspend
 - the Services under any Contract;
- 13.3. The Client must pay all costs and expenses incurred by Got'em Group arising from any Termination Event and will indemnify Got'em Group against any claim, liability or cost incurred by Got'em Group as a result of any breach by the Client of its obligations pursuant to the Contract.

- 13.4. Except as provided in the following sub-clause the Client may not terminate a Contract or otherwise cancel any Purchase Order unless:
- Got'em Group agrees in writing to the termination; and
 - the Client pays to Got'em Group the reasonable loss, cost and expense of Got'em Group as assessed by Got'em Group in connection with such termination; and upon such termination Got'em Group shall be regarded as discharged from any further obligations under any Contract with the Client.
- 13.5. The Client may terminate a Contract for the default of Got'em Group only if:
- the Client serves written notice of the alleged default on Got'em Group requiring the default to be remedied; and
 - Got'em Group fails to remedy the default within forty-five (45) days after receipt of the Client's written notice and such termination will be without prejudice to the respective parties rights pursuant to that Contract.
- 14. Dispute resolution**
- 14.1. The parties using their best endeavors and acting in good faith must attempt to resolve any dispute arising under the Contract, prior to commencing any court proceedings, in accordance with this clause 15.
- 14.2. Negotiations shall be conducted in English between representatives of the parties who have authority to settle the dispute.
- 14.3. Negotiations must be conducted within 30 days of a party providing written notice to the other party of the matter and circumstances giving rise to the dispute (**Notice of Dispute**).
- 14.4. If the dispute has not been resolved within 30 days of a party giving a Notice of Dispute, the parties must refer the dispute to a mediator with all mediator fees and expenses payable equally between the parties.
- 14.5. If a mediator cannot be agreed upon within 30 days of a party giving a Notice of Dispute, either party may request the President of the Law Society of Western Australia to appoint a mediator.
- 14.6. Mediation must take place in accordance with any directions of the mediator within 60 days of the date of the Notice of Dispute.
- 14.7. Any dispute not resolved by negotiation or mediation may then be submitted to a court of competent jurisdiction in Western Australia.
- 15. Overdue moneys and costs**
- 15.1. The Client agrees:
- to pay interest at the rate of 10% per annum on any money payable pursuant to the Contract which may from time to time be overdue and on damages which may be recoverable pursuant to the Contract; and
 - to pay to Got'em Group on demand by Got'em Group the amount of any costs and expenses including legal, collection and storage costs incurred by Got'em Group on a full indemnity basis by reason of default by the Client under the Contract.
- 16. Costs**
- 16.1. The Client must pay all duty, (including all fines, penalties, and interest), and other government imposts payable on or in connection with the Contract and any transaction contemplated by the Contract, when due if requested in writing by Got'em Group.
- 17. Competition and Consumer Act 2010 (CCA)**
- 17.1. Where the provisions of the Competition and Consumer Act 2010 (Cth) (**CCA**) apply, the provisions of these Terms will be read subject to the application of the CCA and in the case of any conflict, the provisions of the CCA will apply.
- 18. Authority**
- 18.1. The person purporting to enter into the Contract for and on behalf of the Client hereby covenants and agrees with Got'em Group that he or she has the authority of the Client to enter into the Contract and bind the Client accordingly, and hereby indemnifies Got'em Group against any losses, costs and claims incurred by Got'em Group in the event of a breach of such covenant.
- 19. Credit limit**
- 19.1. If Got'em Group grants any credit facility or nominates any credit limit, this is an indication only of its intention at the time. Got'em Group can vary or withdraw any credit facility at any time at its discretion and without any liability to the Client or any other party. Credit facilities granted, if any, are not transferable without the consent in writing of Got'em Group.
- 20. Confidentiality**
- 20.1. Each party must treat the existence and terms of the Contract as confidential and will procure that its advertising agents, other agents, contractors and representatives (Agents) treat as confidential unless disclosure is required by law. No announcement or communication relating to the negotiations of the parties or the existence, subject matter or terms of the Contract may be made or authorised by a party unless the other party has first given its written approval.
- 21. Non-solicitation of Personnel**
- 21.1. Notwithstanding anything to the contrary, neither Client nor any of its related bodies corporate or associates (as such terms are defined in the Corporations Act 2001 (Cth)) will induce, solicit or attempt to induce or solicit any Personnel to enter into any contract or arrangement directly with Client (or any of its related bodies corporate or associates) or any third party rather than through Got'em Group without the prior written consent of Got'em Group, for the purpose of this clause for a minimum period of 6 months.
- 21.2. Got'em Group may in its sole discretion, agree to a transfer of employment of Personnel to Client (or a related body corporate of Client) subject to Client paying Got'em Group an amount equal to 12.5% of the annual Rate applicable to such Personnel plus superannuation.
- 21.3. The restraint in clause 22.1 survives the termination of the Contract for any reason for a period of 12 months following such termination, or if that period is deemed to be unreasonable, for a period of 6 months following such termination, or if that period is deemed to be unreasonable, for a period of 3 months following such termination.
- 21.4. The Client acknowledges that the restraint in clause 22.1 is reasonable for the protection of the business of Got'em Group and that Got'em Group may seek injunctive relief to enforce such restraint.
- 22. General**
- 22.1. The Contract is governed by the laws of Western Australia. The Client and Got'em Group submit to the non-exclusive jurisdiction of the courts of Western Australia.
- 22.2. Waiver of any right, power, authority, discretion or remedy arising upon a breach of or default under this agreement must be in writing and signed by the party granting the waiver.
- 22.3. Nothing in the Contract shall constitute an agency, employment or partnership relationship between the parties or any of their respective employees, contractors, servants or agents, unless an agreement in writing provides otherwise.
- 22.4. If any term or part of these Terms is found to be illegal or unenforceable, that part or term shall be deemed not to be part of these Terms and the remainder of these Terms shall continue in full force and effect.
- 23. Insurances**
- 23.1. Got'em Group to supply all Certificates of Currency to the Client on anniversary or on renewal date.
- 24. Interpretation**
- 24.1. In these Terms headings and bold type are for convenience only and do not affect the interpretation of these Terms and, unless the context otherwise requires:
- words importing the singular include the plural and the converse;
 - where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
 - an expression importing a natural person includes an individual, a firm, a body corporate, an unincorporated association and any government agency;
 - a reference to legislation or to a provision of legislation includes any modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
 - a reference to a party to a document includes that party's successors and permitted assigns; and
 - the meaning of terms is not limited by specific examples introduced by expressions "including" or "for example", or similar expressions.