

OPEN MINERAL AG - GENERAL TERMS AND CONDITIONS OF CIF SALE**1 APPLICABILITY**

1.1 These general terms and conditions shall apply to and supplement all contracts concluded by Open Mineral AG, as Seller and another party as Buyer.

1.2 In the event of any conflict, ambiguity or inconsistency between the provisions of these general terms and conditions and the provisions of the contract confirmation, the provisions of the contract confirmation shall prevail.

1.3 The Buyer's failure to promptly notify the Seller of any objection to these general terms and conditions shall constitute acceptance by the Buyer of these terms and conditions.

2 DELIVERY, RISK TITLE AND INSURANCE

2.1 The goods shall be delivered by the Seller as per these general terms and conditions and the contract confirmation.

2.2 Delivery shall be completed and risk shall pass to the Buyer in accordance with the applicable provisions of INCOTERMS 2010. No arrival date shall be guaranteed by the Seller

2.3 Notwithstanding delivery of, or the passing of risk in, the goods to the Buyer or any law, rule, regulation or contractual provision to the contrary, title to the goods shall not under any circumstances whatsoever pass to the Buyer until the contract price and any other sums due to the Seller at that time have been received in full without any counterclaim and offset. Without prejudice to the foregoing or the Seller's other rights, in case of contractually agreed upon deferred payment terms and Buyer subsequently defaulting on its payment obligations, in taking delivery and possession of the goods or consuming them before the due date of the payment, Buyer is deemed to have irrevocably agreed, should the Seller so demand, to return the goods or (to the extent that is not possible) their contractual value, to Seller irrespective of any claim Buyer may have, promptly upon Seller's demand.

2.4 If Buyer is in default for not paying for the goods, as set out in clause 2.3 above, until such time as title to the goods has passed to the Buyer and without prejudice to the Seller's other rights:

2.4.1 the Seller shall have an absolute authority to re-possess, sell or otherwise deal with or dispose of all or any part of the goods in which title remains vested in the Seller. No court order shall be necessary for this purpose; and

2.4.2 the Buyer shall not do or contract to do anything that encumbers or gives, or purports to encumber or give, any security interest, lien or other right (including but not limited to any possessory right) to any person over any part of the goods, and any such attempt shall be deemed null and void.

2.5 If the contract confirmation provides for multiple deliveries, each delivery shall be considered a separate contract. Any failure by the Seller to make one or more deliveries shall not entitle the Buyer to refuse other deliveries under the contract or entitle the Buyer to terminate the contract

2.6 Subject to clause 2.3 above, title to the cargo shall pass from the Seller to the Buyer as soon as the full payment has been received by the Seller from the Buyer.

2.7. The Marine Insurance shall be covered under the Seller's insurance policy for 110% of the full provisional CIF cargo value until the vessel, carrying the Material, arrives at the port of discharge.

3 INSPECTION AND ACCEPTANCE

3.1. The final and binding weight, moisture and assay shall be basis samples taken at the port of discharge or at the receiving smelter in Seller's option upon unloading of the containers under the supervision of an independent internationally recognized inspection company appointed by the Buyer at Buyer's cost. The Seller shall have the right to either appoint its own inspection company at its own cost or agree to a co-joint appointment with the Buyer of an internationally recognized inspection company, in which case the cost shall be shared equally by the parties. The Buyer to guarantee full access to the Seller's appointed supervision company throughout the full operation of sample taking, moisture determination and sample preparation, and sample sealing without any further cost for to the Seller or Seller's supervision company.

3.1.2 In case of shipment to P.R. of China, the final and binding weighing, sampling and moisture determination shall be carried out at the port of unloading of the containers by CIQ (China inspection and Quarantine). The Seller shall have the right to appoint at his own cost, an supervision company.

The Buyer to guarantee full access to the Seller's appointed supervision company throughout the full operation of sample taking, moisture determination and sample preparation, and sample sealing without any further cost for to the Seller or Seller's supervision company

3.2 The final weight and moisture certificate shall be signed by both the Buyer's and the Seller's appointed supervision companies or by the co-jointly appointment supervision company.

3.3 The lot size shall be 500 wmt, 250 wmt or any other size of quantity and shall be mutually agreed upon prior unloading of the containers.

3.4. Unless otherwise agreed, 8 set of samples shall be prepared: 2 sets for the Buyer, 2 sets for the Seller, 2 sets for the producer, 2 sets reserve. The reserve sample shall be kept by the Seller's appointed supervision company.

3.5. The weighing of the cargo and/or containers shall be strictly made by a calibrated truck scale with valid calibration certificate in place. The Seller reserving the right to request a new calibration of the truck scale at cost and expense of the Buyer, supervised by the Seller's appointed supervision company.

3.6. The final assays shall be established by a conjointly appointed internationally recognized laboratory out of the following list,

SGS Nederland B.V.Maliedijk 18
Spijkenisse, 3208 LA
Netherlands

or

Alfred H Knight
Kings Business Park
Prescot
Knowsley
L34 1PJ
United Kingdom

or

LSI Laboratory
Pittsburghstraat 9
3047 BL Rotterdam
The Netherlands

or

MTC Testing Technical Co. Ltd
A708, BGRIMM R&D Center
No 22, Beixing Road East
Daxing District
Beijing 102628
P.R. China

or

Bachelet Laboratories
Avenue du Pré-Aily 26
4031 ANGLEUR (LIEGE)
Belgium

made on – unless otherwise agreed - lot x lot basis for the payable element(s) and on composite basis for the penalty elements. The assaying cost shall be borne by the Buyer.

4. INDEMNIFICATION

4.1 Except as expressly set forth in clause 3, the Seller makes no warranty, express or implied, with respect to goods delivered by the Seller hereunder, including any warranty of merchantability or fitness for a particular purpose, and the seller shall have no liability with respect to any such warranty that may be extended by the buyer to any third person.

OPEN MINERAL AG - GENERAL TERMS AND CONDITIONS OF CIF SALE**5 PAYMENT**

5.1. The Payment shall be effected by the Buyer to the Seller in USD and shall be secured by a confirmed irrevocable letter of credit (L/C), opened in a form acceptable to the Seller, by a first class internationally recognized bank to the Seller's nominated bank, at 110% of the cargo's provisional value including full interest if any, within 7 Swiss bank working days after the contract confirmation has been issued by the Seller.

5.2. The L/C shall be opened in form and substance as per details advised by the Seller to the Buyer, strictly as per latest UCP rules and regulations and shall be in full line to the contract confirmation.

5.3. The L/C shall be advised through the nominated advising bank and shall be freely negotiable by any bank at the counters of the advising bank, TT reimbursement allowed.

5.4. In case the L/C value does not cover the cargo value due to price fluctuation, the Buyer shall arrange a L/C increase within 3 bank working days in Switzerland upon notification by the Seller.

5.5. All banking charges at the counters of the L/C opening bank shall be for the account of the applicant, all banking charges in respect to the L/C advising bank shall be for the account of the beneficiary. Any L/C amendment cost and TT reimbursement cost shall be for the account of the Buyer.

6 DOCUMENTS FOR PAYMENT

6.1. The payment of 95% of the cargo's provisional value shall be made against presentation of the following documents within 21 days after the B/L date at the counters of the advising bank:

6.1.1 Original signed provisional invoice. The applicable metal price(s) in the provisional invoice shall be based on clause 8. In case the relevant quotational period (Q/P) has not started, the price(s) shall be based on the market quotations as per clause 8.2. applicable on the bill of lading date (shipped on board date) or next following market day.

In case of a deferred payment, interest shall be added at agreed rate for the applicable finance period as stipulated in the business confirmation

6.1.2 Seller's certificate of weight and moisture

6.1.3 Seller's assay certificate

6.1.4 Seller's packing list

6.1.5 Seller's certificate of origin

6.1.6 Insurance certificate issued to order for 110% of the cargo's provisional value

6.1.7. 3/3 Original bill of Lading

6.2. The final payment shall be made under the L/C once all details are known against presentation of the following documents:

6.2.1. Seller's final invoice in duplicate, based on the document 6.2.2 and 6.2.3 and based on the price as per the applicable quotational period for each payable element.

6.2.2 Seller's final weight and moisture certificate

6.2.3 Seller's final assay certificate

6.3. In case the final amount is in favor of the Buyer, the final payment shall be made by the Seller to the Buyer's account held with the L/C opening bank.

7. DELAYED PAYMENT

7.1. Without prejudice to any of the Seller's rights, if the Buyer fails to pay in full any sums on the due date, the Seller shall have the right to charge interest on a daily basis at the rate of 3 month LIBOR rate plus 6 per cent per annum on any unpaid amount

8. QUOTATIONAL PERIOD (Q/P) AND APPLICABLE MARKET

8.1. The quotational period shall be declared by the Seller to the Buyer in accordance to the options as stipulated in the contract confirmation.

8.2. Unless otherwise explicit agreed, the Zinc, Lead and payable Copper content shall be priced basis the cash settlement price over the agreed Q/P at the London Metal Exchange (LME), the payable Silver content shall be priced basis the fix price over the agreed Q/P at the London Bullion Market (LBMA), the payable Gold content shall be priced basis the AM/PM fix over the agreed Q/P at the London Bullion Market (LBMA), each a Quotational Price.

8.3. In the event that the Quotational Price ceases to be published at the specified time and/or day of the week and is published at a different time

and/or on a different day of the week, then references to the "Quotational Price" shall be deemed to be references to the new publication time and/or day.

8.4. In the event that the Quotational Price ceases to be published for a period of at least three (3) consecutive months or there is a material change in the methodology behind the Quotational Price then the Parties shall either:

8.5.1 agree on a new Quotational Price that achieves pricing representative of the prevailing market for the Payable Metal;

or

8.5.2. agree on a pricing mechanism that achieves pricing representative of the prevailing market for the Payable Metal;

or

8.5.2 look at relevant prices in other similar markets in order to ascertain new reference points for pricing of the Payable Metal.

Both parties shall do any endeavor to find a mutual agreement within 10 calendar days after declaration by either of the parties.

9 CHANGE IN PREVAILING CONDITIONS

9.1. It is understood by the parties that the contract has been agreed on the basis of the prevailing conditions at the date of the contract including but not limited to economic, legal, regulatory, governmental and supply conditions and labour costs, transportation costs, taxes and duties. If any prevailing conditions should change at any time after the date of the contract, the Seller reserves the right to negotiate suitable amendments to the terms of the contract, including but not limited to the price, to reflect such changes. If the parties fail to agree such amendments to the contract to the satisfaction of the Seller, the Seller may declare the contract to be null and void.

10 LICENSES, DUTIES, TAXES AND LEVIES

10.1. The Buyer shall be responsible for and shall indemnify the Seller in respect of any existing or future duties, taxes, imports, fees and charges whatsoever arising in connection with the goods or their sale, delivery, import/export or use (including but not limited to all governmental charges imposed in the country of destination) upon and after delivery.

8.2. The Buyer shall obtain and maintain any licences or permits necessary for the import of the goods. The failure of the Buyer to obtain and/or to maintain such licences or permits shall not amount to frustration and shall not be sufficient grounds for a claim of force majeure.

11 FORCE MAJEURE

11.1. As used herein, "force majeure" shall mean any cause beyond the reasonable control of either party which delays, hinders or prevents (whether partially or wholly) that party from complying with its obligations under the contract including, but not limited to, any act of God or the elements, war, hostilities, mobilisation, confiscation, terrorism, riots, acts of the public enemy, civil commotion, fires, strikes, labour disputes, accidents, any act in consequence of compliance with any order of any government or governmental or executive authority or any event affecting the supply of energy and raw materials that adversely affects the Seller's ability to make deliveries on time or in full or any event affecting the Seller's anticipated or intended sources of supply

11.2. Upon the occurrence of a force majeure event, the affected party shall immediately give notice to the other stating the nature of the force majeure event, its effect on that party's performance under the contract and the estimated date the cause or event is expected to be removed. Upon request by the Seller, the Buyer shall arrange and present to the Seller, a confirmation of the Force Majeure content in form of an official statement describing and confirming the incident, issued by a local chamber of commerce or a similar local authority

11.3. Provided that notice has been given in accordance with clause

11.2:

11.3.1 the affected party may suspend the performance of its obligations whilst and to the extent that the affected party is or has been delayed or hindered or prevented by the force majeure event from complying with its obligations under the contract; and

11.3.2 if the force majeure event results in a delay extending beyond 90 days from the notice, the Seller may terminate the contract upon written notice to the Buyer.

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11.4 Notwithstanding clause 11.3, if the force majeure event cannot be permanently removed or if the force majeure event results in a delay extending beyond 90 days from the event, the Seller may terminate the contract upon written notice to the Buyer.

11.5 Upon termination in accordance with this clause 11, both parties shall be relieved of their further contractual obligations, save that any accrued rights and obligations shall survive the termination of the contract.

11.6 Neither party shall be responsible for any loss or damage caused by any failure or delay in the fulfilment of its obligations under the contract if such failure or delay arises out of or is caused by force majeure events as described in this clause 11.

11.7 Nothing in this clause shall excuse the Buyer from its obligation to pay under the contract including but not limited to payment of the price and demurrage. In particular, any sums accrued due or payable prior to the termination of this contract shall remain payable in accordance with the contract.

11.8 For the avoidance of doubt, nothing in this clause shall oblige the Seller to fulfil its obligation to deliver by sourcing goods from an alternative source of supply to its anticipated or intended source of supply of goods.

12. TOTAL AND PARTIAL LOSS

12.1 In the event of partial loss to and/ or partial damage of the Material after risk of Material has passed over from Seller to Buyer (as set out in Clause 2. DELIVERY, RISK TITLE AND INSURANCE), final settlement shall be made as soon as all the necessary details are available based on the Bill of Lading wet weight, moisture as per the provisional weight and moisture certificate(s) presented to Buyer (as set out in Clause 6. DOCUMENTS FOR PAYMENT) and the final assays determined in accordance with Clause 3 INSPECTION AND ACCEPTANCE of this Contract on that part of the cargo which has been safely delivered and otherwise in accordance with the terms of this Contract.

12.2 In the event of total loss to and/ or total damage of the Material after risk of Material has passed over from Seller to Buyer (as set out in Clause 2. DELIVERY, RISK, TITLE AND INSURANCE) final settlement will be made as soon as all the necessary details are available based on the Bill of Lading wet weight, moisture as per the provisional weight and moisture certificate(s) presented to Buyer (as set out in Clause 6. DOCUMENTS FOR PAYMENT), assays as per the provisional assay certificate presented to Buyer (as set out in Clause 6. DOCUMENTS FOR PAYMENT) and otherwise in accordance with the terms of this Contract.

13. TERMINATION/SUSPENSION

12.1 The Seller shall, at its complete and exclusive discretion, have the right, upon giving written notice to the Buyer, immediately to terminate the contract and/or any other contract between the Buyer and Seller and/or immediately to suspend deliveries under the contract and/or any other contract until further notice if:

13.1.1 the Buyer should fail to pay any sums to the Seller when due under the contract or any other contract;

13.1.2 the Buyer should fail to take full delivery of the goods or, as the case may be, any delivery of goods whether under the contract or any other contract;

13.1.3 the Buyer should become insolvent or bankrupt, go into liquidation, make any arrangement or composition for the benefit of the Buyer's creditors or cause or suffer any equivalent act or thing under any applicable law;

13.1.4 a receiver, trustee or sequestrator or other such official should be appointed in respect of the assets and/or undertaking (or any part thereof) of the Buyer;

13.1.5 the Buyer should suspend payment of its debts or cease or threaten to cease to carry on business; or

13.1.6 the Seller believes that any of the above events may occur or the Seller doubts the Buyer's willingness or ability to perform its obligations under the contract or any other contract.

13.2 The Buyer shall indemnify the Seller in respect of any losses, damages, costs or expenses suffered or incurred by the Seller as a result of any termination or suspension of the contract or any delivery thereunder in accordance with clause 13.1.

13.3 The termination and/or suspension of the contract shall not prejudice any of the Seller's rights accruing at or before or in connection with

the termination and/or suspension of the contract or any remedies or proceedings with respect to such right.

14. WAIVER; LIMITATION OF LIABILITY

14.1 Notwithstanding anything to the contrary herein, the Buyer hereby waives (for itself, its affiliates and their respective officers, directors, stockholders, employees and agents) any right such party may have to claim special, consequential, indirect, exemplary or punitive damages from the seller in any claim arising out of or in connection with the contract, whether or not such loss or damage is foreseeable.

14.2 All claims of the Buyer shall be deemed and treated as waived and absolutely barred unless the Seller receives written notification of the claim within 21 calendar days after the date of the cargo arrival at the port of discharge or the receiving smelter, or the end of the applicable delivery period, whichever is the latest.

14.3 Under no circumstances whatsoever shall the Seller's liability exceed the difference between the market price and the contract price of the goods.

15. ASSIGNMENT

15.1 The Buyer shall not assign its rights under the contract unless the Seller consents in writing (such consent not to be unreasonably withheld). The Buyer shall not be entitled to delegate its obligations under the contract.

16. WAIVERS

16.1 No waiver by the Seller of any right, power or remedy or of any provision of the contract shall be effective unless it is expressly made and reduced to writing.

17. SEVERABILITY

17.1 The invalidity, illegality or unenforceability of any one or more of the terms of the contract shall in no way affect or impair the validity, interpretation and enforceability of the other terms of the contract.

18. THIRD PARTY RIGHTS

18.1 The Contract (Rights of Third Parties) Act 1999 shall not apply to the contract.

19. GOVERNING LAW AND INCOTERMS

19.1 The contract shall be governed by English law. The relevant provisions of the edition of Incoterms current at the date of the contract are expressly incorporated into the contract, insofar as those provisions are not inconsistent with these general terms and conditions or any other terms of the contract.

19.2 The United Nations Convention on Contracts for the International Sale of Goods 1980 shall not apply to the contract.

20. ARBITRATION

20.1 Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in London (England) in accordance with the Arbitration Act 1996 (or subsequent enactment) and under the Arbitration Rules of the London Court of International Arbitration ("LCIA") current at the date of the contract which are deemed to be incorporated by reference into the parties' arbitration agreement.

20.2 The arbitral tribunal shall comprise three arbitrators who shall be familiar with shipping and commodities trading matters. The parties shall each nominate an arbitrator of their choice, qualified in accordance with this clause, and the two arbitrators so nominated shall be appointed by the LCIA. The two arbitrators so appointed shall, in turn, nominate the third arbitrator, who shall be a solicitor or barrister and who shall be appointed by the LCIA.

21. NOTICES

21.1 All notices and communications under the contract shall be given in writing during London business hours by fax or e-mail to the party's address and numbers specified in the contract. Notices so given will be deemed delivered when dispatched.