

# Distribution agreement

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## Date

## Parties

Name Ozkem Pty Ltd  
ACN 127 070 722  
**Short form name Ozkem**

Name Graphene Manufacturing Group Pty Ltd  
ACN 614 164 877  
**Short form name GMG**

## Details

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Item	Description	Details
1.	<b>Ozkem details</b>	[REDACTED – PERSONAL INFORMATION]
2.	<b>GMG details</b>	[REDACTED – PERSONAL INFORMATION]
3.	<b>Commencement Date</b>	11 November 2020
4.	<b>Initial Term</b>	20 years
5.	<b>Products</b>	Thermal XR Products including but not limited to those known as: <ul style="list-style-type: none"><li>- Thermal XR Kits, which comprise 5 litres of TXR-Prep, 1 litre of XR-Activate and 10 litres of XR-Restore;</li><li>- Thermal XR-Maintain,</li></ul> and any similar graphene based product developed by Ozkem from time to time.
6.	<b>Price (ex GST)</b>	[\$REDACTED] per Thermal XR Kit as amended pursuant to clause 4.4.
7.	<b>Minimum Order Quantity</b>	At least [REDACTED] Thermal XR Kits per Order.
8.	<b>Minimum Annual Order Quantity</b>	Commencing on the second anniversary of the Commencement Date, at least [REDACTED] units of the Product during each consecutive 12 month period.
9.	<b>Territory</b>	Worldwide, but excluding Australia, New Zealand, Papua New Guinea, Malta and each country within South East Asia (being Brunei, Cambodia, East Timor, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam).
10.	<b>Delivery Location</b>	[REDACTED]

## Background

- A Ozkem manufactures the Products.
- B Ozkem and GMG have agreed that GMG will have the right to distribute and market the Products within the Territory for the Term upon the terms and conditions set out in this agreement.

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# Agreed terms

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## 1. Defined terms and interpretation

### 1.1 Defined terms

In this agreement:

<b>Term</b>	<b>Definition</b>
<b>Background IP</b>	means any Intellectual Property Rights of a party (or licensed by a third party) which:  (a) is in existence before the date of this agreement or comes into existence after the date of this agreement other than in connection with this agreement; and  (b) a party makes available, contributes, brings to or uses in connection with this agreement.
<b>Business Day</b>	means a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally in Brisbane and Sydney.
<b>Claim</b>	means any allegation, action, demand, cause of action, suit, proceeding, judgment, debt, damage, loss, cost, expense or liability, howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.
<b>Commencement Date</b>	has the meaning set out in the Details.
<b>Confidential Information</b>	means:  (a) the terms of this agreement and the negotiations of the parties;  (b) any information relating to the business and affairs of a party;  (c) any information relating to the customers, clients, employees, subcontractors or other persons doing business with a party;  (d) information which is, by its nature, confidential;  (e) information which is designated as confidential by a party;  (f) information which the other party knows or reasonably ought to know, is confidential,  (g) any technical or chemical information, composition or formula comprising or comprised within the Products; and  and includes all trade secrets, knowhow, financial information and other commercially valuable information of a party.
<b>Consequential Loss</b>	means any direct, indirect, economic, special or consequential loss or damage, loss of revenue, time, goodwill, data, anticipated savings, opportunity, loss of production and loss of profit.
<b>Corporations Act</b>	means <i>Corporations Act 2001</i> (Cth).

<b>Term</b>	<b>Definition</b>
<b>CPI</b>	means the yearly percentage change in the Consumer Price Index All Groups (Eight Capital Cities) published by the Australian Bureau of Statistics in its most recent quarterly report.
<b>Data Protection Laws</b>	means the <i>Privacy Act 1988</i> (Cth) or any equivalent legislation in force from time to time.
<b>Delivery</b>	means completion of delivery of an Order in accordance with clause 8.
<b>Delivery Location</b>	has the meaning set out in the Details.
<b>Dispute</b>	has the meaning given to that term by clause 19.
<b>Dispute Notice</b>	has the meaning given to that term by clause 19.
<b>Documents</b>	means any documentation prepared with respect to the Products including any product specifications and technical information.
<b>Excluded Territory</b>	means territory and regions outside the Territory.
<b>Expected Delivery Date</b>	means the date for the delivery of Ordered Products set out in a Work Order.
<b>First Work Order</b>	means the Work Order described in clause 5.3 in the form set out in Schedule C.
<b>Force Majeure Event</b>	means an act of God, national emergency, terrorist act, sabotage, flood, storm, pandemic, earthquake, fire, explosion, civil disturbance, insurrection, riot, war, or industrial action.
<b>Government Agency</b>	means: <ul style="list-style-type: none"> <li>(a) a government or government department or other body;</li> <li>(b) a government, semi-governmental or judicial person; or</li> <li>(c) a person (whether autonomous or not) who is charged with the administration of a law.</li> </ul>
<b>Graphene Product</b>	means the product supplied by GMG to Ozkem pursuant to the Supply Agreement.
<b>GST Act</b>	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
<b>Improvement</b>	means any improvement, development, enhancement, modification or derivative of a party's Intellectual Property Rights.
<b>Incoterms</b>	means the Incoterms rules 2010 edition published by the International Chamber of Commerce.

<b>Term</b>	<b>Definition</b>
<b>Insolvency Event</b>	<p>in relation to a party means any of the following events concerning a party, unless the events take place as part of a solvent reconstruction, amalgamation, merger or consolidation:</p> <ul style="list-style-type: none"> <li>(a) if an administrator, liquidator, receiver, receiver and manager or other controller (as defined in the Corporations Act) is appointed to, or over, any of the property or undertaking of the party;</li> <li>(b) if an order is made or an effective resolution is passed for the winding up or dissolution of the party without winding up;</li> <li>(c) if the party is made bankrupt, declared bankrupt or files a petition for relief under bankruptcy laws;</li> <li>(d) if the party is unable to pay its debts as and when they fall due;</li> <li>(e) if the holder of an encumbrance takes possession of the whole or substantial part of the undertaking or property of the party; or</li> <li>(f) if any event happens in Australia or any other country or territory in respect of a party that is similar to any of the events or circumstances referred to in this definition.</li> </ul>
<b>Intellectual Property Rights</b>	<p>includes patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, any rights and all similar or equivalent rights or forms of protection that subsist or will subsist now or in the future in any part of the world.</p>
<b>Interest</b>	<p>means the rate of 9%, per annum, calculated daily.</p>
<b>Loss</b>	<p>includes losses, damages, costs (including without limitation the reasonable fees, disbursements and other charges of counsel), expenses and liabilities, however arising but excludes Consequential Loss.</p>
<b>Minimum Annual Order Quantity</b>	<p>means the minimum volume of Products ordered in a 12 month period commencing on the second anniversary of the Commencement Date as set out in the Details or otherwise as agreed in writing from time to time.</p>
<b>Minimum Order Quantity</b>	<p>means the minimum volume of Products per Order as set out in the Details or otherwise as agreed in writing from time to time.</p>
<b>Order</b>	<p>has the meaning set out in clause 4.1.</p>

<b>Term</b>	<b>Definition</b>
<b>Ordered Products</b>	means Products the subject of a Work Order accepted by Ozkem in accordance with clause 4.2.
<b>Ozkem Distributor</b>	means any entity to whom Ozkem has granted an exclusive distribution right or arrangement or to whom Ozkem has otherwise sold or supplied Products and identified by Ozkem to GMG, in writing, to be an Ozkem Distributor.
<b>Period</b>	means a period of 12 calendar months with the first period commencing on the first day of the month following the Commencement Date.
<b>Products</b>	has the meaning set out in the Details and such other products agreed between the parties from time to time.
<b>QCS</b>	has the meaning set out in clause 8.1.
<b>Related Bodies Corporate</b>	has the same meaning as set out in the Corporations Act.
<b>Specifications</b>	means the specifications for the Products as set out in the Documents or otherwise agreed pursuant to clause 6.6(b).
<b>Supply Agreement</b>	means the supply agreement entered into between Ozkem and GMG on or about the date of this agreement.
<b>Tax</b>	includes any tax, levy, duty (including stamp duty), charge, impost, fee, deduction and withholding however it is described, that is assessed, levied, collected or imposed by law or by a Government Agency, in any jurisdiction together with any related interest penalty, fine or other charge, or other amount imposed in respect of any of the above.
<b>Territory</b>	means the territory set out in the Details.
<b>Term</b>	means the period commencing on the Commencement Date and ending on the earlier of the end of the period set out in the Details and the date this agreement is validly terminated in accordance with its terms.
<b>Work Order</b>	means a work order in the form set out in Schedule B which sets out the agreed terms of an Order.

## **1.2 Interpretation**

In this agreement:

- (a) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this agreement and references to this agreement include any schedules or annexures;
- (b) a reference to a party to this agreement or any other agreement or agreement includes the party's successors, permitted substitutes and permitted assigns;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a document or agreement (including a reference to this agreement) is to that document or agreement as amended, supplemented, varied or replaced;
- (e) a reference to this agreement includes the agreement recorded by this agreement;

- (f) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (g) if any day on or by which a person must do something under this agreement is not a Business Day, then the person must do it on or by the next Business Day;
- (h) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity;
- (i) a reference to '\$' or 'dollar' is to Australian currency; and
- (j) the meaning of any general language is not restricted by any accompanying example, and the words 'includes', 'including', 'such as', or 'for example' (or similar phrases) do not limit what else might be included.

## 2. Appointment

### 2.1 Appointment

Subject to the operation of and compliance with the terms of the Supply Agreement, Ozkem grants to GMG for the duration of the Term the right to distribute, promote and market the Products in the Territory, in accordance with the terms of this agreement.

### 2.2 Exclusivity

- (a) Subject to GMG placing Orders for at least the Minimum Annual Order Quantity for each 12 month period commencing on the second anniversary of the Commencement Date, the distribution right granted to GMG in clause 2.1 is an exclusive distribution right throughout the Territory.
- (b) The parties agree that:
  - (i) any amount of Product ordered in the period prior to the second anniversary of the Commencement Date, will not be off-set or count towards the Minimum Annual Order Quantity for any subsequent 12-month period; and
  - (ii) where Ozkem is unable or unwilling to accept or to supply an Order or Orders:
    - (A) by failing to accept Orders placed under clause 4.1; or
    - (B) by a Force Majeure Event,that Order shall be treated as Ordered Product for the purpose of GMG satisfying the Minimum Order Quantity in the relevant period.
- (c) GMG may retain exclusivity pursuant to clause 2.1 notwithstanding that it has failed placing Orders for at least the Minimum Annual Order Quantity for each 12 month period, where it pays Ozkem an amount equal to the cost of the shortfall or balance of the Minimum Annual Order Quantity not ordered by GMG within the relevant 2 month period by no later than 14 days following expiry of that period.

### 2.3 Exclusivity of supply

- (a) For so long as GMG is granted exclusivity over the Territory pursuant to clause 2.2(a), Ozkem:
  - (i) will not, either directly or indirectly, enter into an agreement or arrangement that permits the supply or distribution of the Products into the Territory;
  - (ii) agrees to use its reasonable endeavours to prevent any other person from distributing the Products in the Territory; and
  - (iii) agrees that it will not supply the Products directly to GMG's customers or other customers in the Territory.

### 2.4 Exclusivity of distribution and restraint

- (a) For so long as Ozkem remains capable of meeting all Work Orders that have been properly made in accordance with the forecasts prepared in accordance with clause 3 (excluding Work Orders that are not capable of being fulfilled due to GMG failing to supply Graphene Product pursuant to the Supply Agreement), GMG agrees not to:

- (i) acquire for the purpose of distribution or sale in a Relevant Territory, other goods or products that are similar to or competitive with the Products;
  - (ii) sell or otherwise supply Graphene Products to a third party that manufactures a product that competes with the Product in a Relevant Territory;
  - (iii) develop or manufacture for the purpose of distribution in a Relevant Territory, a product similar to, or in competition with, the Products; or
  - (iv) distribute in a Relevant Territory a product similar to, or in competition with, the Products.
- (b) For the purposes of clause 2.4(a), a **Relevant Territory** is:
- (i) each jurisdiction within the Territory for so long as GMG is granted exclusivity over the Territory pursuant to clause 2.2(a); and
  - (ii) each jurisdiction within the Excluded Territories for so long as GMG is granted a non-exclusive right from Ozkem or the relevant Ozkem Distributor to acquire the Products in the relevant jurisdiction in that Excluded Territory on terms substantially similar to the terms set out in this agreement (after adjusting price by a reasonable margin for the Ozkem Distributor).
- (c) In the event this agreement is terminated by Ozkem pursuant to clauses 14.3(a), 14.3(b) or 14.3(c), or the Supply Agreement is terminated by Ozkem for cause, the restrictions in clause 2.4 shall continue to apply to GMG for the balance of the Initial Term in the same manner they applied as at the date of termination, notwithstanding the remaining provisions in this clause 2.4.

## **2.5 Distribution of Products within the Excluded Territory**

- (a) Without limiting any other provision in this agreement, GMG is not prohibited from purchasing any Product from any other Ozkem Distributor within the Excluded Territory and distributing and/or selling the Product within the Excluded Territory provided always that:
- (i) any Product sold within an Excluded Territory is Product purchased or obtained exclusively either from Ozkem and/or any Ozkem Distributor approved and permitted to sell Product within that Excluded Territory;
  - (ii) Ozkem will only sell Product acquired from an Ozkem Distributor within the Excluded Territory granted to that Ozkem Distributor; and
  - (iii) GMG agrees, and shall procure that any of its Related Bodies Corporate agree:
    - (A) to provide to Ozkem, on request, all documents and information evidencing or demonstrating the source or purchase of the Products within the Excluded Territory and the sale of the Products within the Excluded Territory; and
    - (B) not to engage in any anti-competitive conduct or cause or permit any breach of any laws or regulations applicable within the Excluded Territory within respect to the purchase, distribution or sale of the Product within the Excluded Territory.
- (b) Ozkem agrees to use its best endeavours to assist GMG with agreeing favourable supply and distribution terms at a price not materially worse than the price payable for Products under this Agreement (after adjusting for a reasonable margin for the Ozkem Distributor) with Ozkem's distributors within the Excluded Territories.
- (c) In the event an Ozkem Distributor's rights to distribute the Products in an Excluded Territory terminate, for so long as GMG is not in breach of this Agreement or the Supply Agreement, Ozkem grants GMG a first right of refusal to be appointed the exclusive distributor within that Excluded Territory, and upon such appointment, the Territory shall be amended to include the relevant Excluded Territory.

## **2.6 Relationship of parties**

Nothing in this agreement shall constitute either party as in any relationship other than one of independent contractors. Neither party shall have the right or power to, and shall not, bind or obligate the other party in any way, manner, or thing whatsoever nor represent to anyone a right to do so.

## **2.7 Availability/Changes in Products**

- (a) Ozkem must:

- (i) provide GMG with not less than 6 months' notice before discontinuing a Product; and
  - (ii) notify GMG at least 3 months before the date that Ozkem introduces any new product similar to a Product or replacement of a Product and make such product available for resale by GMG in accordance with this agreement.
- (b) Where a new product is to be introduced under clause 2.7(a)(ii), the parties will act reasonably in agreeing the Price for such new product, having regard to the pricing of the existing Products.
- (c) If any new product under clause 2.7(a)(ii) negatively affects GMG's ability to sell any similar Product then in GMG's inventory, then GMG can declare its inventory of such similar Product functionally discontinued, and may return the affected inventory to Ozkem for a full credit of the Price paid.

### 3. Forecasts and notification of changes

#### 3.1 Forecasts

- (a) At least 10 Business Days prior to the commencement of each month, GMG must give Ozkem a rolling 12 month forecast of the amount of Product it expects to purchase during the following 12 month period. The parties will agree an initial forecast for the first 12 month period on or about the date of this agreement which will form the initial forecast.
- (b) Forecasts must be given in writing or, if given orally, shall be confirmed in writing within two Business Days.
- (c) GMG shall act in good faith when forecasting its requirements for the amount of Product.
- (d) For the purposes of clause 2.4(a) only, forecasts less than 6 months out cannot be adjusted upwards by more than 20% without the prior written agreement of the parties.
- (e) Forecasts provided under this clause 3 shall not constitute Orders or Work Orders.

### 4. Orders, Work Orders and pricing

#### 4.1 Placing Orders

GMG must place orders for the Products in writing specifying at least:

- (a) the date of the placement of the order;
- (b) the quantity and description of the Products ordered; and
- (c) the Expected Delivery Date of the Products (which must be a Business Day at the Delivery Location),  
**(Order)**.

#### 4.2 Details and form of Order

Each Order must comply with clause 4.1 and be in the form set out as Schedule A, and be for at least the Minimum Order Quantity.

#### 4.3 Ozkem's acceptance

- (a) Within 5 Business Days of receipt of an Order, Ozkem must confirm if it is capable of fulfilling the Order, and if so:
  - (i) notify GMG of the Price with respect to the Order; and
  - (ii) identify any additional terms required,and provide such information together with the details of the Order in writing to GMG in the form of a Work Order.
- (b) Each Work Order will be deemed to be a separate offer by Ozkem to supply Product on the terms of this agreement.
- (c) If the terms of the Work Order are acceptable to GMG, GMG must countersign and return a copy of the Work Order to Ozkem.
- (d) An Order will not be binding on the parties until GMG has signed a Work Order or (if earlier and provided GMG has not withdrawn the Order), Ozkem notifies GMG that the Products the subject of the Work Order has been despatched.

- (e) An Order will become binding on the parties once the Work Order has been accepted by GMG in accordance with clause 4.3(d).
- (f) Ozkem will use its best endeavours to facilitate the acceptance of all Orders, and agrees that it will not treat any other distributor or customer more favourably than GMG, where it is unable to fulfil an order due to shortage of supply of the Product.

#### **4.4 Products and pricing**

- (a) The Price for the Products is calculated in the manner set out in the Details.
- (b) The Price for each Order is as set out in each Work Order.
- (c) The Price is exclusive of GST.
- (d) The Price is subject to review on each anniversary of the Commencement Date throughout the Term, provided that Ozkem may not increase the Price by more than the rate of CPI as at that time, without the written consent of GMG.
- (e) On each five year anniversary from the Commencement Date during the Term, the parties agree to review the Price. In agreeing Prices for the following period, the parties shall have regard to the following factors:
  - (i) changes to Ozkem's costs of manufacturing and distributing the Products; and
  - (ii) any cost reductions achieved by the Ozkem since the last Price review; and

#### **4.5 GMG's right to terminate Order**

GMG may terminate any Order with or without cause by giving written notice to Ozkem prior to:

- (a) a Work Order being approved by GMG; or
  - (b) the commencement of manufacture of the Product the subject of the Work Order,
- or as otherwise agreed in writing between the parties.

#### **4.6 GMG'S right to request amendments to Order.**

- (a) GMG may, by written notice to Ozkem, request changes to a Work Order.
- (b) Ozkem, acting reasonably, will accommodate such request but is not obliged to agree to any request made by GMG less than 14 days from the Expected Delivery Date or where any Products have been prepared and packaged for despatch pursuant to a Work Order.

## **5. Invoicing, payment and GST**

### **5.1 Invoices**

- (a) Ozkem will issue invoices to GMG for the Ordered Products, or any other Products or services agreed to be supplied to GMG, from time to time.
- (b) An invoice issued under clause 5.1(a) must be:
  - (i) for an amount stated in AUD;
  - (ii) a valid tax invoice for the purposes of the GST Act; and
  - (iii) accompanied by such information as is reasonably necessary for GMG to determine the nature of the costs being invoiced.
- (c) GMG must pay invoices correctly rendered in accordance with clauses 5.1(a)-(b) in full, within 30 days of receipt.
- (d) Without limiting any other remedy available to Ozkem either under this agreement or otherwise, if GMG fails to pay any amount due and payable then GMG must pay Interest on that amount. Such Interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after any judgment.

## 5.2 Suspension

In the event any invoice remains unpaid on the due date (except where an invoice is disputed in good faith in accordance with clause 5.4), Ozkem may suspend any further supply of Product until such invoice has been paid.

## 5.3 First Work Order

Notwithstanding any other provision and without limiting any other provision of this agreement, the parties agree as follows:

- (a) at the time of entering into this agreement, the parties have agreed the terms of the First Work Order which is comprised in Schedule C for 500 units of the Product (**First Work Order**);
- (b) notwithstanding the remainder of this agreement, the First Work Order is irrevocable, and binding on the parties;
- (c) the price payable by Ozkem for the Graphene Product under the Supply Agreement is to be offset against the Price payable under the First Work Order;
- (d) the tax invoice in respect of the First Work Order, which is comprised in Schedule D, is payable in full within 7 days of the Commencement Date; and
- (e) if a party fails to comply with its obligations with respect to the First Work Order, without prejudice to any other rights the party may have, the non-defaulting party may terminate this agreement on written notice to the other party, provided that Ozkem shall not be in breach of the First Work Order where its non-compliance is due to a breach by GMG of its obligations under the Supply Agreement.

## 5.4 Disputed invoices

If GMG disputes an invoice (or part of it) or other statement of monies due, GMG must immediately notify Ozkem in writing and provide a statement of the reasons giving rise to the dispute. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. If the parties have not resolved the dispute within 30 days of GMG giving notice to Ozkem, the dispute shall be resolved in accordance with clause 19. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date as set out in clause 5.1(c).

## 5.5 GST

- (a) Unless expressly stated otherwise, any sum payable, or consideration to be provided, under or in accordance with this agreement does not include any amount on account of GST.
- (b) Where any supply to be made by one party (**Supplier**) to another party (**Recipient**) under or in accordance with this agreement is subject to GST (other than a supply the consideration for which is expressly stated to include GST):
  - (i) the consideration payable or to be provided for that supply but for the application of this clause shall be increased by, and the Recipient shall pay to the Supplier, an amount equal to the GST payable by the Supplier in respect of that supply; and
  - (ii) the Recipient must pay that additional amount at the same time and in the same manner as the GST-exclusive consideration payable or to be provided for that supply.

## 5.6 Set off

Each party may, without limiting any other rights or remedies it may have, set off any amount(s) owed to it by the other party against any amounts payable by it to the other party.

## 5.7 Effect of termination

All payments payable to Ozkem or GMG under this agreement shall become due and payable immediately upon termination of this agreement. This clause is without prejudice to any right to claim for interest under the law or pursuant to this agreement.

## 6. Manufacture, Quality and Packing of Product

### 6.1 Capacity

Ozkem agrees that during the Term it will use all reasonable endeavours to maintain sufficient manufacturing capacity and stocks of materials and packaging to enable it to manufacture, pack and supply such number of Products to meet agreed Work Orders for Products from time to time.

### 6.2 Labelling

The Parties agree that:

- (a) the parties will initially use the pre-existing labels until current stocks have been depleted;
- (b) following depletion of existing stocks under (a), the Product will be labelled as "Thermal XR Powered with GMG Graphene" (**Product Label**); and
- (c) the Product Label shall include the GMG logo on the front of the container with a smaller label on the top of the container,

and agree to work together to finalise the design, branding and packaging location of the Product Label and branding set out above as soon as possible following execution of this agreement, but in any event not later than depletion of the existing label stocks.

### 6.3 Quality

- (a) Ozkem agrees that it will manufacture, pack and supply the Products in accordance with a Work Order and all generally accepted industry standards and practices that are applicable.
- (b) Ozkem warrants that the Products supplied to GMG by Ozkem under this agreement will:
  - (i) strictly correspond and confirm with:
    - (A) all samples, descriptions and statements on its packaging or advertising; and
    - (B) the Specifications;
  - (ii) be new, of acceptable quality and fit for the purpose for which they are to be used;
  - (iii) be free from defects in design, material and workmanship, packaging, instructions and warnings and remain so for 12 months after Delivery;
  - (iv) fully comply with any supplier's or manufacturer's warranty provided with the Products; and
  - (v) comply with all applicable statutory and regulatory requirements within Australia including all relevant or mandatory Australian Standards, safety and information standards, consumer laws and all laws and regulations, including all implied terms and warranties,and GMG holds these warranties and the warranty in clause 6.3(a) for the benefit of GMG and its customers.

### 6.4 Packing

- (a) Ozkem must ensure that the Products are properly packed and secured in a manner to enable them to reach their destination in good condition.
- (b) The parties agree that the Products shall be packed in 10 litre pails for Thermal XR Activate, unless otherwise agreed in writing between the parties.

### 6.5 Regulatory Approvals

Each party agrees to use its best endeavours, at its own expense, to obtain any necessary regulatory approvals in each region within the Territory where GMG is licensed to distribute the Products.

### 6.6 Compliance

- (a) Ozkem must obtain and maintain in force for the Term all licences, permissions, authorisations, consents and permits needed to manufacture and distribute the Products within Australia and supply the Products to GMG in accordance with the terms of this agreement.
- (b) The parties will cooperate in good faith to develop any Documentation and Specifications as required to allow distribution of the Products into each relevant jurisdiction with the Territory.

- (c) Once all necessary approvals have been received for a relevant region, GMG must comply with all applicable laws, enactments, orders, regulations and other instruments applicable to the distribution, marking, storage, handling and delivery of the Products in that region.

## **6.7 Changes to Specifications**

Ozkem may not change the Specifications for the Products without the prior the prior agreement of GMG, provided such agreement shall not be unreasonably withheld or delayed.

## **6.8 Recalls**

- (a) If GMG, Ozkem, or any Governmental Agency determines that any Products sold to GMG are defective and a recall campaign is necessary, either party may implement such recall campaign (**Product Recall**).
- (b) GMG must return the defective Products to Ozkem or destroy such Products, as determined by Ozkem, at Ozkem's sole cost and risk. Without prejudice to GMG's other rights under this agreement, if a recall campaign is implemented, at GMG's option and Ozkem's sole cost, Ozkem shall promptly either repair or replace, or credit or refund the Price for, all such returned Products.
- (c) Except where a recall has been caused by a defective Graphene Product, Ozkem shall indemnify GMG for all Losses arising with respect to a Product Recall.
- (d) This clause 6.8 will apply notwithstanding that the Product warranties set out in this agreement or any other Product warranty applicable to the Products have expired.
- (e) GMG shall provide reasonable assistance in such recall, provided that Ozkem shall pay all of GMG's recall-related expenses.

## **7. Product Use**

- (a) During the Term, GMG and its Personnel must only use the Product in accordance with the relevant Material Safety Data Sheet (**MSDS**) for the Product and Ozkem's health and safety recommendations for the Product, provided to GMG from time to time.
- (b) Ozkem agrees to provide all updates to the MSDS and its health and safety recommendations to GMG as soon as possible after any changes come into effect.

## **8. Delivery and acceptance**

### **8.1 EXW Delivery Location**

- (a) The Product is sold on an ex works EXW (Incoterms 2010) basis to be made available for collection at the Delivery Location.
- (b) Notwithstanding clause 8.1(a), the parties may agree pursuant to an Order for Ozkem to arrange shipping on behalf of GMG at GMG's risk and expense.
- (c) Ozkem will deliver to GMG a quality control sheet (**QCS**) in relation to an Order, within 7 days of receipt of a written request from GMG.

### **8.2 Time of delivery**

- (a) Ozkem must use its best endeavours to make available each Order to the Delivery Location on or before the Delivery Date.
- (b) Delivery of an Order will be completed upon it being made available for collection at the Delivery Location.

### **8.3 Returns**

- (a) GMG may reject any Product delivered to it that does not comply with clause 6.3 provided that notice of rejection is given to Ozkem:
  - (i) in the case of a defect that is apparent on normal visual inspection or the QCS is inconsistent with the Specifications, within five Business Days of Delivery; and
  - (ii) in the case of a latent defect, within five Business Days of the latent defect having become apparent.

- (b) If GMG fails to give notice of rejection in accordance with clause 8.3(a), it will be deemed to have accepted such Product.
- (c) If GMG rejects any Product under clause 8.3(a) then Ozkem may at its option:
  - (i) replace the rejected Product; or
  - (ii) repay the price of the rejected Product in full,

and on complying with its obligations under this clause, Ozkem shall have no further liability to GMG in respect of the rejected Product's failure to comply with clause 6.3.

## 9. Title and risk

### 9.1 Passing of title

Title to the Ordered Products passes to GMG free of encumbrances and all other security interests upon payment in full.

### 9.2 Passing of risk

- (a) Risk of loss or damage to any Product will pass to the Customer on an EXW (Incoterms 2010) basis at the Delivery Location.
- (b) GMG agrees to accept all documents tendered by Ozkem on delivery and bear all other costs and charges arising from storage and shipment of the Products from the Delivery Location.

## 10. Resale, Training, Marketing and Promotions

### 10.1 Resale conditions

GMG agrees that:

- (a) at all times during the Term it must offer for sale and sell the Products as products manufactured by Ozkem and according to any specifications supplied by Ozkem from time to time;
- (b) it must not make any representation or give any warranty for or in respect of the Products except as authorised by Ozkem;
- (c) it will use its best endeavours in re-selling the Products to develop the market for the Products within the Territory and preserve and develop Ozkem's goodwill; and
- (d) it must sell the Products in the same condition as they are received by them and not alter, remove or in any way tamper with Ozkem's marks or numbers on the Products except to attach to the Products by suitable means a notice bearing GMG'S name and address and identifying them as the distributor of the Products.

### 10.2 Training

- (a) Ozkem will provide to GMG and its Personnel appropriate training to ensure GMG and its Personnel are fully trained in the proper use and application of the Products.
- (b) Where additional training is required during the Term, whether due to changes in the Specifications or the expansion of sales into new regions, Ozkem agrees to provide reasonable assistance in facilitating such training.

### 10.3 Marketing and Promotions

- (a) GMG acknowledges that it will be primarily responsible for reselling and distributing the Products in the Territory and that it will be the primary point of contact for purchasers of the Products from GMG.
- (b) GMG agrees that it will regularly consult with Ozkem with respect to the status of its relationships with these purchasers and prior to agreeing to any promotion with respect to one or more of the Products.
- (c) GMG agrees that it will, at Ozkem's request, provide copies of any sales and marketing materials, aids or promotional material including but not limited to catalogues, sales brochures and manuals, relating to the Products or any other items to which the Products may be applied.
- (d) Ozkem will render such marketing and distribution assistance as may be reasonably required by GMG to enable it to market and distribute the Product under this agreement.

- (e) Ozkem agrees that GMG may use the phrases "Thermal XR Powered by with GMG Graphene", "Thermal XR", and (where exclusivity applies) "Exclusive Regional Distributor" in marketing the Products throughout the Territory.
- (f) The Parties agree:
  - (i) that the GMG logo and "Powered by GMG Graphene" is to appear prominently on Thermal XR website;
  - (ii) that the Ozkem name, logo and website address is to appear prominently on GMG's website; and
  - (iii) to work together to finalise the branding set out above as soon as possible following execution of this agreement.

#### **10.4 Supply of Product data**

Ozkem will make available to GMG performance testing data reasonably required by GMG to develop marketing material for the sale of the Products.

#### **10.5 Sample Products**

- (a) Ozkem will supply GMG with reasonable quantities of samples of the Products for use solely for the purposes of marketing the Products to potential customers. Samples will be ordered via the order process set out in clause 4.1 with a nil Price but shall not count towards any Minimum Order Quantity.
- (b) For the purposes of clause 10.5(a) above, it is agreed that a volume not exceeding 5 Units of the Product for any given year within the Term is a reasonable quantity of samples of the Products and where GMG requires more, it will be liable to pay the Price for any such samples.

#### **10.6 Complaints**

Where GMG receives or is notified of a complaint with respect to a Product it will:

- (a) immediately notify Ozkem of the complaint, including any relevant details in GMG's possession; and
- (b) do all things reasonably necessary to assist Ozkem to investigate and resolve the complaint.

### **11. Disclaimer**

Ozkem makes no warranty, guarantee or representation to GMG or GMG's customers under this agreement that the application of the Product will result in energy and power savings for GMG's customers.

### **12. Warranties and liability**

#### **12.1 Warranties**

- (a) Ozkem warrants to GMG that the Products which are sold by Ozkem to GMG conform in all material respects with the Specifications applicable to the Products accepted by Ozkem in any Work Order issued for any individual Order.
- (b) The above warranty is exclusive and Ozkem specifically disclaims, to the fullest extent permitted by law, any and all other warranties, expressed, implied, or statutory, written or oral.
- (c) Ozkem agrees to indemnify and defend GMG against all claims suffered by GMG resulting from:
  - (i) defect in the Products;
  - (ii) any acts, errors, omissions, neglect or default or other things done by Ozkem or its officers, agents or employees;
  - (iii) the proven infringement of the Intellectual Property Rights by Ozkem of any third party,provided that such liability has not been incurred by GMG as a result of any default by GMG in carrying out the terms of this agreement or the Supply Agreement.
- (d) In the event that Ozkem fails to promptly indemnify and defend GMG against such claims, GMG will have the right to defend itself and in that case, Ozkem shall reimburse GMG for all its reasonable costs, damages, penalties and interest incurred in defending or settling such claims.
- (e) GMG agrees to indemnify Ozkem against all claims suffered by Ozkem resulting from:

- (i) any acts, errors, omissions, neglect or default or other things done by GMG or its officers, agents or employees;
- (ii) the proven infringement of the Intellectual Property Rights by GMG of any third party;
- (iii) GMG's failure, or the failure of any of its Related Bodies Corporate to comply with the law of any part of the Territory,

provided that such liability has not been incurred by Ozkem as a result of any default by Ozkem in carrying out the terms of this agreement or the Supply Agreement.

- (f) In the event that GMG fails to promptly indemnify and defend Ozkem against such claims, Ozkem shall have the right to defend itself and in that case, GMG shall reimburse Ozkem for all its reasonable costs, damages, penalties and interest incurred in defending or settling such claims.

## 12.2 Limitation of liability

- (a) This clause sets out the entire financial liability of the parties (including any liability for the acts or omissions of its employees, agents and subcontractors) to each other in respect of:
  - (i) any breach of this agreement;
  - (ii) any use made or resale of the Products by GMG; and
  - (iii) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement.
- (b) Subject to clause 12.2(c), nothing in this agreement will limit or exclude the liability of either party for any Claim arising from:
  - (i) for non-payment of invoices for Products purchased, any interest due on such amount and any costs associated with the recovery of such amounts;
  - (ii) death or personal injury or damage to property resulting from negligence;
  - (iii) any claim pursuant to clause 6.8(c), 12.1(c)(iii), 12.1(e)(ii) or 16;
  - (iv) fraud or fraudulent misrepresentation; or
  - (v) the deliberate default or wilful misconduct of that party or its employees, agents or contractors.
- (c) Neither party will be liable to the other or any other person for any Consequential Loss.

## 12.3 Mitigation

Each party to this agreement must mitigate any loss it suffers as a result of the breach by the other party to this agreement or warranty or indemnity provided under the agreement.

## 12.4 Maximum liability

Subject to clause 12.2(b), each party's total liability arising under or in connection with this agreement, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, will in all circumstances be limited in the aggregate to the greater of:

- (a) the total Price for Product ordered for the previous 12-month period; and
- (b) \$1,000,000.

## 13. Insurance

### 13.1 Ozkem Insurance obligations

- (a) Within 30 days of the Commencement Date, GMG will use its best endeavours to deliver to Ozkem an insurance proposal from a reputable insurance broker offering Ozkem public and product liability insurance with a limit of at least \$20,000,000 for claims arising from a single event or series of related events in a single calendar year (**Insurance Proposal**).
- (b) Ozkem agrees to provide all reasonable assistance to GMG in obtaining the Insurance Proposal.

- (c) Within 14 days of receipt of the Insurance Proposal, and so long as the Insurance Proposal is on market standard terms with a premium broadly commensurate with the market price for product and liability insurance in the chemical manufacturing and distribution sector, Ozkem will:
- (i) enter into insurance on the terms set out in the Insurance Proposal with the relevant insurer; or
  - (ii) enter into insurance with a reputable insurer of its choice meeting the minimum terms of the Insurance Proposal as set out in clause 13.1(a),
- and maintain such insurance for the Term.

### **13.2 GMG insurance obligations**

During the Term, and for so long as Ozkem maintains an equivalent policy, GMG must maintain in force with a reputable insurance company, public and product liability insurance with a limit of at least \$20,000,000 for claims arising from a single event or series of related events in a single calendar year.

### **13.3 Interest noted**

Each party must ensure that the other party's interest is noted on each insurance policies set out in clauses 13.1 and 13.2 or that a generic interest clause is included.

### **13.4 Evidence**

Each party must:

- (a) upon request provide the other party with certificates of currency of the insurance policy required pursuant to clause 13.1 or 13.2 (as applicable); and
- (b) keep the insurance policy current.

### **13.5 Effect of insurance**

No party's liabilities under this agreement will be deemed to be released or limited by the party taking out the insurance policies referred to in clause 13.1 or 13.2.

## **14. Term and termination**

### **14.1 Term**

- (a) This agreement commences on the Commencement Date and continues for the Initial Term unless terminated earlier in accordance with this clause 14.
- (b) Where the terms of any accepted Work Order extend beyond the Term, the provisions of this agreement shall continue with respect to that Work Order until each party's obligations under that Work Order are fulfilled.

### **14.2 Termination of Supply Agreement**

This agreement shall automatically terminate with immediate effect upon termination of the Supply Agreement for any reason.

### **14.3 Termination for cause**

A party may terminate this agreement immediately if the other party:

- (a) breaches any provision of this agreement that materially prejudices the interests of the terminating party and fails to remedy the breach within 28 days of receiving written notice from the terminating party in respect of the breach, including particulars of the breach;
- (b) fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 21 days after being notified in writing to make that payment;
- (c) repeatedly breaches any of the terms of this agreement in such a manner to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (d) suffers an Insolvency Event;
- (e) ceases, or threatens to cease, to carry on business; or

- (f) is prevented from performing its obligations under this agreement pursuant to a Force Majeure Event for any continuous period of three months.

#### **14.4 Consequences of termination**

On termination of this agreement, however caused, each party must promptly:

- (a) return to the other party all equipment, materials and property belonging to the other party that the other party had supplied to it in connection with this agreement and/or the Products;
- (b) return to the other party all documents and materials (and any copies) containing the other party's Confidential Information;
- (c) erase and destroy all the other party's Confidential Information, including from its computer systems; and
- (d) on request, certify in writing to the other party that it has complied with the requirements of this clause 14.4.

#### **14.5 Survival**

Termination of this agreement will not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination.

### **15. Intellectual property and non-competition**

#### **15.1 Ownership of IP**

- (a) All Intellectual Property Rights in Background IP, including any improvements to Background IP remain the exclusive property of the owner or relevant third party, and nothing in this agreement shall be construed as transferring or assigning any rights in Background IP.
- (b) Nothing in this agreement transfers any Intellectual Property Rights in connection with manufacturing the Products, including in relation to the Product Label, technical data and related technical or chemical data (**Product IP**) to GMG.

#### **15.2 Licence to use Intellectual Property Rights**

- (a) Ozkem grants to GMG a revocable, non-exclusive, royalty free, non-transferable right to use any Intellectual Property Rights in the Product IP and its Background IP for the express purpose of GMG performing its obligations under this agreement and promoting the Product to its customers throughout the Term of the agreement.
- (b) GMG grants to Ozkem a revocable non-exclusive, royalty free, non-transferable right to use its Background IP including any Intellectual Property Rights in the Graphene Product to the extent incorporated into the Product, for use in its manufacturing of the Product and public promotion of the Product.

#### **15.3 Supply Agreement**

For the avoidance of doubt, nothing in this clause 15 overrides or alters the intellectual property right protections contained in the Supply Agreement for the supply of graphene nanoplatelet particles, including any Intellectual Property Rights in the Graphene Product.

### **16. Confidentiality**

#### **16.1 Obligations of confidence**

Each party agrees to keep confidential, and not to use or disclose, other than as permitted by this agreement, any Confidential Information disclosed by the other party, provided or obtained prior to or after entry into this agreement.

#### **16.2 Exclusions**

The obligations of confidentiality under this agreement do not extend to information (whether before or after this agreement is signed):

- (a) (**already known**) disclosed to a party, but which at the time of disclosure is rightfully known to or in the possession or control of the party, and which is not subject to an obligation of confidentiality on the party;

- (b) **(public knowledge)** that is public knowledge (except because of a breach of this agreement or any other obligation of confidence);
- (c) **(mandatory disclosure)** required to be disclosed:
  - (i) by any applicable law;
  - (ii) by any order of any court, tribunal, authority or regulatory body;
  - (iii) by the rules of a Stock Exchange; or
  - (iv) in the enforcement of this agreement;
- (d) **(prospective purchaser)** disclosed to a prospective purchaser of an interest in the company, but only if the disclosure is made on a confidential basis;
- (e) **(IPO)** disclosed as part of an initial public offering, reverse takeover, or similar transaction effecting a listing of the shares of GMG on a Stock Exchange to the extent disclosure of such information is necessary to complete a disclosure document or prospectus for such listing and otherwise comply with the rules of a Stock Exchange; and
- (f) **(shareholders and investors)** disclosed to an investor of the receiving party, but only if the disclosure is made on a confidential basis.

### 16.3 Permitted use and disclosure

- (a) Each party may use and disclose Confidential Information disclosed by the other party only:
  - (i) to that party's directors, employees or contractors to the extent necessary to permit the exercise of rights or the performance of obligations under this agreement; or
  - (ii) with the prior written consent of the other party,and must take all reasonable steps to ensure that the party to whom the Confidential Information is disclosed observes the obligations imposed by this clause 15 as if they were obligations of that party.
- (b) The parties agree and acknowledge that data concerning the qualities of and performance of the Products from any trials or testing of the Product is not Confidential Information, and may be used and disclosed by either party to any third party without the other party's prior written consent.

### 16.4 Injunctive relief

Each party acknowledges that:

- (a) the other party may suffer financial and other loss and damage if any unauthorised act occurs in relation to Confidential Information of the other party, and that monetary damages would be an insufficient remedy; and
- (b) in addition to any other remedy available at law or in equity, the other party is entitled to injunctive relief to prevent a breach of, and to compel specific performance of this clause 16.

### 16.5 Continuing obligation

Despite anything to the contrary in this agreement, each party acknowledges and agrees that the provisions of this clause 16 survive termination of this agreement.

### 16.6 Return of Confidential Information

Following termination of this agreement, for whatever reason, each party must:

- (a) immediately deliver to the other party (or if in an electronic form, erase or destroy and deliver evidence of erasure or destruction) all documents and other materials containing, recording or referring to Confidential Information of that party; and
- (b) ensure any person who receives Confidential Information returns that information to the other party in any form in which it is held.

## 17. Privacy

- (a) The parties agree to be bound by applicable Data Protection Laws with respect to any act done or practice engaged in by either of them for the purposes of this agreement including all software data and internal processes to manage personal data collected under or in connection with this agreement.
- (b) Each Party must (and must procure that its Personnel) comply with any applicable Data Protection Laws.
- (c) The rights and obligations under this clause 17 continue after the termination or expiry of this agreement.

## 18. Force Majeure

- (a) A party will not be liable for any failure to perform or delay in performing any of its obligations under this agreement (other than an obligation to pay money) where such failure or delay is caused by a Force Majeure Event.
- (b) If a party is wholly or partially unable to perform its obligations because of a Force Majeure Event then:
  - (i) as soon as reasonably practicable after the Force Majeure Event arises, that party must notify the other party of the extent to which the notifying party is unable to perform its obligations;
  - (ii) the party must do all things reasonably within its power to bring the circumstances giving rise to the failure or delay to an end; and
  - (iii) that party's obligation to perform those obligations will be suspended for the duration of the delay arising directly out of the Force Majeure Event.

## 19. Disputes

- (a) Neither party may commence court proceedings concerning any dispute between the parties arising out of or in relation to this agreement (**Dispute**), unless the party starting the proceedings has complied with this clause 19.
- (b) A party claiming that a Dispute has arisen must notify the other party in writing, specifying the nature of the Dispute (**Dispute Notice**).
- (c) Following the Dispute Notice being given, the CEO of both parties must endeavour in good faith to resolve the Dispute within 14 days.
- (d) If the Dispute is not resolved within 14 days of the Dispute Notice being given, the parties must endeavour in good faith to resolve the Dispute by mediation as follows:
  - (i) if the parties fail to agree on the appointment of a mediator within 21 days of the Dispute Notice being given, either party may apply to the President of the Law Society of Queensland or the nominee of the President to nominate a mediator (which nomination the parties must accept);
  - (ii) if the mediator accepts the appointment, the parties must comply with the mediator's instructions;
  - (iii) if the Dispute is not resolved within 21 days of the appointment of a mediator, the mediation ceases;
  - (iv) the parties will be jointly responsible for the fees of the mediation, and each party is to bear its own costs in relation to the mediation;
  - (v) the mediation will be held in Brisbane, Queensland;
  - (vi) the parties may be legally represented at the mediation; and
  - (vii) the mediation will not be bound by the rules of natural justice and may discuss the Dispute with a party in the absence of any other party and their advisers.
- (e) If the parties are unable to agree a resolution to the Dispute under clause 19(d) either party may commence court proceedings in relation to the Dispute.
- (f) Nothing in this clause 19 prevents a party from seeking urgent interlocutory relief in a court.

## 20. General

### 20.1 Amendments

This agreement may only be amended by written agreement between all parties.

### 20.2 Assignment

The parties may only assign this agreement or a right under this agreement with the written consent of the other party provided that consent may not be unreasonably withheld where the transfer is to a Related Body Corporate of the transferor.

### 20.3 Counterparts

This agreement may be signed in any number of counterparts. All counterparts together make one instrument.

### 20.4 No merger

The rights and obligations of the parties under this agreement do not merge on completion of any transaction contemplated by this agreement.

### 20.5 Entire agreement

- (a) This agreement supersedes all previous agreements about its subject matter. This agreement embodies the entire agreement between the parties concerning the supply of the Products by Ozkem to GMG.
- (b) To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion, is withdrawn and has no effect except to the extent expressly set out or incorporated by reference in this agreement.
- (c) Each party acknowledges and agrees that it does not rely on any prior conduct or representation by the other party in entering into this agreement.

### 20.6 Further assurances

Each party must do all things reasonably necessary to give effect to this agreement and the transactions contemplated by it.

### 20.7 No waiver

- (a) The failure of a party to require full or partial performance of a provision of this agreement does not affect the right of that party to require performance subsequently.
- (b) A single or partial exercise of or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
- (c) A right under this agreement may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.

### 20.8 Governing law and jurisdiction

- (a) Queensland law governs this agreement.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the Queensland courts and courts competent to hear appeals from those courts.

### 20.9 Severability

- (a) A clause or part of a clause of this agreement that is illegal or unenforceable may be severed from this agreement and the remaining clauses or parts of the clause of this agreement continue in force.
- (b) If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction, it is to be treated as being severed from this agreement in the relevant jurisdiction, but the rest of this agreement will not be affected.

### 20.10 Costs

Each party bears its own costs in relation to the preparation and signing of this agreement.

## 21. Notice

### 21.1 Method of giving notice

A notice, consent or communication under this agreement is only effective if it is:

- (a) in writing in English, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) given as follows:
  - (i) delivered by hand to that person's address;
  - (ii) sent to that person's address by prepaid mail or by prepaid airmail, if the address is overseas;
  - (iii) sent by fax to that person's fax number where the sender receives a transmission confirmation report from the despatching machine indicating the transmission has been made without error and showing the relevant number of pages and the correct destination fax number or name of recipient; or
  - (iv) sent by email to that person's email address.

### 21.2 When is notice given

A notice, consent or communication given under clause 21.1 is given and received on the corresponding day set out in the table below. The time expressed in the table is the local time in the place of receipt.

<b>If a notice is</b>	<b>It is given and received on</b>
Delivered by hand or sent by fax	(a) that day, if delivered by 5.00pm on a Business Day; or (b) the next Business Day, in any other case.
Sent by email	At the time of departure from the sender's mail server unless the sender receives an automated message generated by the recipient's mail server ( <b>Failure Message</b> ) that the email has not been delivered within two hours.  For the avoidance of doubt any response generated by or at the instigation of the recipient (including an 'out of office' message) will not be a Failure Message.
Sent by post	(a) three Business Days after posting, if sent within Australia; or (b) seven Business Days after posting, if sent to or from a place outside Australia.

### 21.3 Address for notices

A person's address, fax number and email address are those set out in this agreement, or as the person otherwise notifies the sender.

# Signing page

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**EXECUTED** as an agreement.

**EXECUTED** in accordance with s127 of the  
*Corporations Act 2001* by **OZKEM PTY LTD ACN 127  
070 722:**

*"Terry Kobler"*

\_\_\_\_\_  
Signature of director

Terry Kobler

\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Signature of director/Ozkem secretary  
(Please delete as applicable)

N/A – single director company

\_\_\_\_\_  
Name of director/Ozkem secretary (print)

**EXECUTED** in accordance with s127 of the  
*Corporations Act 2001* by **GRAPHENE  
MANUFACTURING GROUP PTY LTD ACN 614 164  
877:**

*"Craig Anthony Nicol"*

\_\_\_\_\_  
Signature of director

Craig Anthony Nicol

\_\_\_\_\_  
Name of director (print)

*"Christopher Ohlrich"*

\_\_\_\_\_  
Signature of director/GMG secretary  
(Please delete as applicable)

Christopher Ohlrich

\_\_\_\_\_  
Name of director/GMG secretary (print)

**Schedule A – Order**

**Date**

**Parties**

**To** OzKem Pty Ltd ACN 127 070 722

**GMG** Graphene Manufacturing Group Pty Ltd ACN 614 164 877

	<b>Item</b>	<b>Details</b>
1	<b>Total Purchase Amount of Products</b>	
2	<b>Delivery Schedule</b>	
3	<b>Proposed Special Conditions</b>	

\_\_\_\_\_  
For and on behalf of GMG

\_\_\_\_\_  
Date

**Schedule B – Work Order**

**Date**

**Parties**

**Ozkem** OzKem Pty Ltd ACN 127 070 722

**GMG** Graphene Manufacturing Group Pty Ltd ACN 614 164 877

	<b>Item</b>	<b>Details</b>
1	<b>Products</b>	
2	<b>Price</b>	
3	<b>Delivery Schedule</b>	
4	<b>Special Conditions</b>	

\_\_\_\_\_  
For and on behalf of Ozkem

\_\_\_\_\_  
Date

\_\_\_\_\_  
For and on behalf of GMG

\_\_\_\_\_  
Date

The parties acknowledge that this Work Order shall be governed by the terms set out in the Distribution Agreement entered into between the parties dated 11/11/2020 as amended from time to time.

**Schedule C – First Work Order**

**Date**                               **11 November 2020**

**Parties**

**Ozkem**                               OzKem Pty Ltd ACN 127 070 722

**GMG**                                 Graphene Manufacturing Group Pty Ltd ACN 614 164 877

	<b>Item</b>	<b>Details</b>
1	<b>Products</b>	[REDACTED – ORDER QUANTITY] Thermal XR Kits
2	<b>Price</b>	[REDACTED – PRICE] AUD per Thermal XR Kit
3	<b>Delivery Schedule</b>	<b>Delivery to: Unit 5, 18 Spine Street, Sumner Park, QLD</b> 18/12/2020 – [REDACTED – ORDER QUANTITY] kits TXR Prep; [REDACTED – ORDER QUANTITY] kits TXR Activate; [REDACTED – ORDER QUANTITY] kits TXR Restore 28/02/2020 – [REDACTED – ORDER QUANTITY] kits TXR Restore 31/03/2020 – [REDACTED – ORDER QUANTITY] kits TXR Restore
4	<b>Special Conditions</b>	The price payable by Ozkem for the Graphene Product under the Supply Agreement is to be offset against the Price payable by GMG under this Work Order.

\_\_\_\_\_  
For and on behalf of Ozkem


\_\_\_\_\_  
Date

\_\_\_\_\_  
For and on behalf of GMG

\_\_\_\_\_  
Date

The parties acknowledge that this Work Order shall be governed by the terms set out in the Distribution Agreement entered into between the parties dated on or about the date of this First Work Order as amended from time to time.

**Schedule D – Tax Invoice for First Work Order**

 <p><b>TAX Invoice</b></p>		TAX INVOICE No. 02001087		
		OzKem Pty Ltd ABN 50 127 070 722		
Graphene Manufacturing Group Pty Ltd ABN 83 614 164 877		INVOICE DATE	09/11/2020	
		DUE DATE:	Within 7 days	
DESCRIPTION	VALUE	QTY	VALUE EX GST	\$ TOTAL
Thermal XR Kits	[\$[REDACTED]]	[REDACTED]	[\$[REDACTED]]	[\$[REDACTED]]
Less price of Graphene Product				[\$[REDACTED]]
Net price				[\$[REDACTED]]
TOTAL GST				[\$[REDACTED]]
Total Price Including GST				[\$[REDACTED]]