

BORAX EUROPE LIMITED
Purchase Order for the Supply of Services
Terms and Conditions
Effective as of 1 October 2016

Formation and Interpretation

1. Acceptance; No Additional Terms.

- (a) For the purposes of these terms and conditions ("**Conditions**") and all related activities, the following terms have the meaning set out in this Clause unless a contrary intention appears:

"**Applicable Laws**" means any local, state, provincial, territorial, national or federal laws, legislation, statutes, regulations, rules, treaties and orders of a government agency which are applicable in the jurisdiction(s) where the Services are to be performed and used and which relate to a Party's rights or obligations under the PO.

"**Buyer**" means the Rio Tinto entity named in the PO;

"**Purchase Order**" / "**PO**" means a purchase order issued by the Buyer to the Service Provider in respect of the supply of Goods and/or Services;

"**Rio Tinto**" / "**Rio Tinto Group**" means (a) any affiliate of Rio Tinto plc or Rio Tinto Limited; (b) any entity or joint venture in which Rio Tinto plc or Rio Tinto Limited or any affiliate of Rio Tinto plc or Rio Tinto Limited has a participating interest of not less than 50%; (c) any entity or joint venture managed by Rio Tinto plc, Rio Tinto Limited or any affiliate of Rio Tinto plc or Rio Tinto Limited; and (d) such other entities as the Buyer and the Service Provider agree in writing;

"**Rio Tinto Limited**" means Rio Tinto Limited (ABN 96 004 458 404) having its registered office at 360 Collins Street, Melbourne, Victoria, 3000;

"**Rio Tinto plc**" means Rio Tinto plc (Company No. 719885) of 6 St James's Square, London, SW1Y 4AD, United Kingdom; and

"**Service Provider**" shall mean the service provider or supplier identified on the face of the relevant PO.;

- (b) No terms or conditions submitted by either party that are in addition to, different from or inconsistent with these Conditions, including, without limitation, the Service Provider's standard printed terms and conditions, any terms and conditions contained in any Service Provider's quotation, invoice, PO acknowledgement, confirmation, acceptance, bill of lading or any other instrument, or any variation of these Conditions, shall be binding upon either party or shall be effective unless and until so agreed to in writing by duly authorised representatives of both parties.
- (c) The PO will be deemed accepted by the Service Provider upon the first of the following to occur: (i) the Service Provider making, signing or delivering to the Buyer any letter, form or other writing or instrument acknowledging acceptance; (ii) any performance by the Service Provider under the PO; or (iii) passage of 5 days after the Service Provider's receipt of the PO without notice to the Buyer that the Service Provider does not accept. The Buyer reserves the right to revoke or withdraw the PO, in whole or in part, prior to the Service Provider's acceptance of the PO.
- (d) By accepting the PO, the Service Provider agrees to comply with these Conditions and any other attachment noted in the PO and to provide services ("**Services**") and sell associated goods or products ("**Associated Goods**") (if applicable) as described in herein for the prices indicated in the PO.
- (e) Acceptance of the PO is expressly limited to these Conditions (including attachments to the PO) and these Conditions shall override and take the place of any other terms or conditions in any document or other communication used by the Service Provider in concluding the contract with the Buyer and/or performing under the PO and all related activities, including, without limitation, the Service Provider's standard printed terms and conditions, any terms and conditions contained in any Service Provider's quotation, invoice, PO acknowledgement, confirmation, acceptance, bill of lading or any other instrument. If the relevant contract

includes any INCOTERMS or similar terms, these Conditions shall prevail should there be any inconsistency.

2. Miscellaneous

- (a) Any provision herein which is invalid or unenforceable shall in no way affect the validity or enforceability of the remaining provisions of these Conditions. Any such invalid or unenforceable provision shall be deemed to be severed to the extent necessary for that purpose subject to such consequential modification as may be necessary.
- (b) The headings used herein are for convenience only and shall not affect construction.
- (c) References to “**Liabilities**” in relation to a matter means, subject to the context, all liabilities, losses (including economic and consequential losses), damages, injuries, costs, expenses (including without limitation VAT and legal fees and expenses on a full indemnity basis), actions, claims, proceedings and demands whatsoever incurred by a person arising directly or indirectly out of or in connection with that matter.
- (d) References in these Conditions to statutes are to those statutes as from time to time amended, reenacted and replaced and to any subordinate legislation from time to time in force thereunder.
- (e) The terms and conditions of the written contract executed between the parties under which the Buyer may have issued the PO (“**relevant contract**”) are incorporated in these Conditions by reference.
- (f) The PO, including these Conditions and any attachment noted in the PO, constitutes the entire agreement relating to the subject matter hereof and supersedes all prior and contemporaneous understandings or statements unless expressly contained herein.
- (g) If there is any conflict between these Conditions and a provision elsewhere in the PO (including attachments to the PO), these Conditions will prevail.
- (h) If the date for payment of any monies under the PO falls on either a weekend or public holiday, the payment will be due on the following business day.

3. Price; Invoicing

- (a) The Service Provider shall perform the Services and supply the Associated Goods (if any) for the prices specified in the PO.
- (b) Unless otherwise expressly agreed in writing by the Buyer, contracts are entered into on the basis that the price stipulated in the PO is a fixed price and is not subject to alteration for any reason whatsoever.
- (c) Unless specified otherwise on the PO or in the relevant contract, the Service Provider will invoice the Buyer for the Services provided and the Associated Goods supplied (if any) within 5 days after the provision of Services and delivery of the Associated Goods (if any).

4. Taxes

The prices specified in the PO are exclusive of any value added tax (“**VAT**”), goods and services tax (“**GST**”), sales, use or consumption tax or similar government tax payable on the performance of the Services and/or supply of the Associated Goods (if any) (collectively, “**Indirect Transaction Taxes**”). If the Service Provider is required by Applicable Laws to collect and pay Indirect Transaction Taxes to relevant government agency, the Buyer shall remit payment to the Service Provider of applicable Indirect Transaction Taxes at the percentage rate required by Applicable Laws in the jurisdiction where the provision of Services takes place, provided the Service Provider has first provided to the Buyer an invoice for Indirect Transaction Taxes that complies with Applicable Laws. The Buyer reserves the right to withhold payment of Indirect Transaction Taxes if it has provided a valid tax exemption certificate to the Service

Provider. If the Service Provider is a foreign corporation or company (i.e. having its principal place of business outside of the United Kingdom) or a non-resident alien individual, then, unless the Service Provider provides the Buyer with valid documentation (received prior to payment for the Services and/or the Associated Goods) showing that an exemption applies where the provision of Services takes place: (i) the Buyer reserves the right to withhold payment of amounts required to satisfy tax withholding obligations under Applicable Laws on account of the Services and/or the Associated Goods; and (ii) the Buyer will use reasonable endeavours to furnish the Service Provider receipts, proof of payment or other relevant documentation for any withholding taxes so paid. Unless specified otherwise on the face of the PO or in any attachments thereto, the prices are inclusive of, and the Service Provider shall be solely responsible for and pay, all costs of delivering the Associated Goods to the Delivery Point, including, without limitation, all shipping and freight costs and all duties, fees, tariffs or similar analogous taxes on imports or exports of the Associated Goods ("**Customs Duties**"). The Service Provider will take all reasonable steps to minimise Customs Duties costs.

5. Payment

- (a) All invoices will be accumulated by the Buyer for a period commencing on the first day of a calendar month and ending on the last day of that calendar month ("**Accumulation Period**").
- (b) Buyer will make payment of all undisputed amounts due to Service Provider on the date for payment specified in the PO. For the purposes of these PO General Conditions, '**EOAP**' means end of the Accumulation Period in which the invoice is received by the Buyer.
- (c) Payment of an invoice is not evidence or an admission that the Services and/or the Associated Goods meet the requirements of the PO.

6. Delivery

- (a) The Service Provider shall deliver all Associated Goods, carriage paid (where applicable), at the delivery point stipulated by the Buyer in the PO or in the contract ("**Delivery Point**") by the delivery date specified therein, or if no date is specified, then in reasonable time after the Service Provider receives the PO.
- (b) Time is of the essence of the Service Provider's performance of each PO. Should the Service Provider fail to provide the Services and/or deliver the Associated Goods by the stipulated time or within reasonable time, as the case may be, the Buyer (without prejudice to its other remedies) may:
 - i. cancel that part of the PO which is undelivered at such time; and
 - ii. require the Service Provider to indemnify it against any Liabilities in relation to such failure.
- (c) The Buyer may return to the Service Provider at the Service Provider's risk and expense any the Associated Goods delivered in excess of the quantity stipulated by the Buyer.
- (d) The Service Provider must pack and protect all the Associated Goods ready for despatch so that they are in accordance with all Applicable Laws, comply with the Buyer's policies provided in writing to the Service Provider and comply with first class international standards having regards to methods of transport to the Delivery Point and handling and to the weather conditions whilst in transit to the Delivery Point.

7. Inspection

- (a) All Associated Goods shall be received subject to the Buyer's inspection and approval.
- (b) The Buyer may at any time inspect the Associated Goods but no such inspection shall relieve the Service Provider of its obligations.

8. Property and Risk

- (a) The title to the Associated Goods (with full title guarantee) shall pass to the Buyer on payment of the invoiced

price for the Associated Goods or on delivery of the Associated Goods to the Delivery Point and accepted by the Buyer, whichever first occurs. The Associated Goods shall remain at the Service Provider's risk until the Associated Goods are delivered to and accepted by the Buyer.

- (b) The Buyer may (without prejudice to its other rights) reject or refuse to accept the Associated Goods that are not in good condition, prove defective, damaged by delivery or do not conform to the PO or the contract within six months after delivery and may return such Associated Goods to the Service Provider at the Service Provider's risk and expense.
- (c) The Service Provider shall, at the Buyer's option and without prejudice to its other remedies, repair or replace the Associated Goods, reimburse the Buyer in full for the cost of repair carried out by it or any third party at its direction, or refund the full purchase price.
- (d) If the Buyer rejects any Associated Goods, the property therein shall remain with or thereupon revert to the Service Provider.
- (e) The Buyer may require additional services to be provided to correct the deficiency in the Services or the Services to be re-performed to the Buyer's satisfaction and at the Service Provider's cost.

9. Warranties

- (a) The Service Provider warrants that:
 - i. the Services will be provided and the Associated Goods (if applicable) will be supplied in an efficient manner;
 - ii. it has good and marketable title to the Associated Goods and the right to transfer title to the Associated Goods free and clear of any lien, hypothec, claim or other encumbrance of any kind and the Associated Goods will be sold to the Buyer with full title guarantee;
 - iii. all Associated Goods supplied shall:
 - (1) correspond strictly with the standard, description and/or specification provided by the Service Provider and approved by the Buyer;
 - (2) be in every respect fit for any purpose for which the Buyer has expressly or by implication made known that it requires the same; and
 - (3) be safe, free from defect in design, materials and workmanship and in compliance with all applicable requirements of any statutes or regulations applicable in the UK to such goods at the date of delivery or supply including, without limitation, all statutory and other rules and regulations relating to health, safety and security;
 - iv. the Service Provider's obligations shall be in no way affected by whether or not the Associated Goods are specified under a patent or trade name, or the Buyer has examined the Associated Goods or the defect would have been apparent had it done so;
 - v. the Service Provider shall on demand identify to the Buyer the name and address of any person other than the Service Provider who actually or apparently produced the Associated Goods or imported them into the EU or the United Kingdom or previously supplied them;
 - vi. the Services performed will conform to any specifications and/or standards provided by the Service Provider and approved by the Buyer, comply with all applicable law and requirements of any statutes or regulations applicable in the UK to such services at the date of their performance and be performed expeditiously with reasonable care and skill; and
 - vii. the Services and the Associated Goods (if any) and their use, manufacture, sale, lease, distribution, or other

commercialisation do not and will not infringe, misappropriate or violate the trademark, service marks, copyrights, patents, patent rights, trade secret, and other intellectual property rights of a third party.

- (b) If the Service Provider is in breach of the warranties set out in these Conditions, the Service Provider will, at the election of the Buyer and without prejudice to its other remedies, at the Service Provider's sole cost and expense (including any relevant transportation and labour costs), either:
- i. provide additional services to correct the deficiency in the Services and/or re-perform the Services to the Buyer's satisfaction; and/or.
 - ii. repair or replace (including, if applicable, reinstall) the Associated Goods (if applicable),
 - iii. reimburse the Buyer in full for the cost of re-performance or repair carried out by it or any third party at its direction, or refund the full purchase price.
- (c) The Buyer's rights under these Conditions are in addition to the statutory conditions, warranties and terms implied by the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982 and any other Applicable Laws or regulations.

10. Compliance with Applicable Laws and policies

In the course of provision of the Services and/or supplying the Associated Goods, the Service Provider will and will ensure that its employees, agents, contractors and subcontractors ("**Personnel**"): (a) comply with all Applicable Laws and regulations; (b) the Rio Tinto Group's code of business conduct entitled "The way we work" (The Way We Work), the Supplier Code of Conduct and the Business Integrity Standard, available at: <http://www.riotinto.com/aboutus/policies-standards-and-guidance-5243.aspx> or www.riotinto.com (together the "Rio Tinto Business Practices and Standards"), report all actual, alleged or suspected noncompliance with the Rio Tinto Business Practices and Standards to the Buyer through Rio Tinto's Speak-OUT program and cooperate promptly and fully with Rio Tinto and the Buyer in any investigation of an alleged or suspected breach of the Rio Tinto Business Practices and Standards; and (c) to the extent that the Service Provider's Personnel are required to enter onto the Buyer's site or property, ensure that such Personnel (i) comply with the Buyer's written health, safety and environmental policies and standards provided to the Service Provider; and (ii) are aware that they enter onto the Buyer's site or property at their own risk. The Buyer reserves the right to monitor and/or audit the Service Provider's adherence to the Rio Tinto Business Practices and Standards.

11. Assignment; Subcontracting

The Service Provider shall not assign, delegate, novate, mortgage, charge, sub-let, subcontract or otherwise dispose of the PO or any interest, rights or obligations hereunder, in whole or in part, including any performance or any amount that may be due hereunder, without the Buyer's prior written authorization.

12. Third Parties Excluded

No person who is not a party to the relevant contract or the PO shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the PO.

13. Intellectual Property

- (a) If, in performing the PO, the Service Provider provides to the Buyer any intellectual property, trade secrets, work product, work of authorship, technical materials, drawings, specifications, documentation, reports, recommendations or other writings, information or material embodied in a tangible medium ("**Deliverables**"), such Deliverables shall be deemed to be owned by the Buyer, unless the Buyer expressly agrees in writing otherwise. The Buyer shall be deemed the "inventor," "author," and "owner" of all Deliverables under applicable law, and the Service Provider agrees to assign, and hereby assigns to the Buyer, without charge, any and all intellectual

property rights in and to such Deliverables.

- (b) All intellectual property rights in and title to all drawings and designs of the Services and/or the Associated Goods or any part thereof and in all specifications and data relating thereto provided to the Service Provider by the Buyer or prepared or made by the Service Provider and/or its Personnel for performing the PO and/or the relevant contract shall vest in and belong to the Buyer absolutely and, where applicable, shall be assigned and delivered to the Buyer, without charge, forthwith upon request.
- (c) The Service Provider hereby agrees that in circumstances where drawings and designs referred to in these Conditions are prepared by it or by persons employed, commissioned or otherwise engaged by the Service Provider for the purposes of fulfilling the PO then it will, without charge and forthwith upon request, execute an assignment of all intellectual property rights in the same and a waiver of all moral rights or procure that such an assignment and waiver is obtained from the author of the drawing or design as the case may be in favour of the Buyer.

14. Waiver and release of liens

Upon receipt from the Buyer of amounts invoiced pursuant to these Conditions, the Service Provider waives and releases all rights to, and at its sole cost shall obtain the prompt removal of, any mechanics', materialmen's, mining or any similar lien, legal hypothec or claim fixed against the Buyer or its assets, which then exist or which may thereafter arise for the Services performed or the Associated Goods furnished on or before the date of the relevant invoice. All payments owed to the Service Provider hereunder shall be contingent upon the Service Provider providing proof of its compliance with this provision to the Buyer upon request.

15. Confidentiality

In the course of performing the PO, the Service Provider and/or the Buyer may obtain certain information, oral or written (in whatever form), of a confidential nature (or which reasonably ought to be known as confidential) of the other party in relation to the business, operations, affairs or activities of the disclosing party and/or its affiliates ("**Confidential Information**"). The parties agree, unless required by a lawful court order, subpoena, or similar legal request, not to make each other's Confidential Information available in any form to any third party or to use each other's Confidential Information for any purpose other than implementing the PO. In that regard, the Service Provider expressly acknowledges that, by providing any Confidential Information to the Buyer, or by including any Confidential Information in any Services performed and/or the Associated Goods supplied to the Buyer, the Service Provider is expressly authorizing the Buyer to use such Confidential Information for all purposes incident to the transaction covered by the PO, including but not limited to future use, repair, or replacement of any Associated Goods or re-performance of any of the Services provided under the PO. Each party agrees to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its personnel in violation of the terms of the PO or the contract. If the receiving party is required to disclose the disclosing party's Confidential Information by a lawful court order, subpoena, or similar legal request, the receiving party shall (where legally permissible to do so) promptly notify the disclosing party in writing of such requirement so that the disclosing party may seek an appropriate protective order. Each party acknowledges that failure to comply with this paragraph may irreparably harm the business of the other party, and that a breach of one party's obligations under this paragraph shall entitle the other party to seek immediate injunctive relief, in addition to any other remedies that it may have.

16. Privacy and Data Protection

- (a) Data Privacy laws
- (b) Under this PO, Buyer is the data controller and Service Provider is the data processor. Buyer and Service Provider each warrant that it will comply with its obligations under Applicable Laws regulating the Processing

of Personal Data (“Applicable Data Privacy Laws”) that is collected by or disclosed to it under this PO. Definitions

The terms “**Personal Data**” and “**Process**” and “**Processing**” have the meaning under Applicable Data Privacy Laws, and “**Buyer Personal Data**” means Personal Data disclosed to Service Provider by Company, or collected by Service Provider for the purposes of this PO.

(c) Data Processing Obligations

Service Provider accepts that in relation to all Buyer Personal Data, it must (i) only Process it for the purposes of supplying Goods or Services under the PO, and as directed by Company, except where Service Provider reasonably believes that by following such directions, it would be in breach of Applicable Data Privacy Laws. In such circumstances, Service Provider must inform Buyer of its concerns prior to undertaking Processing of Buyer Personal Data; (ii) not disclose Buyer Personal Data to any other person without Rio Tinto’s prior written consent, unless the disclosure is required by applicable law (and Service Provider immediately notifies Rio Tinto, unless such notification is prohibited by that law); (iii) take appropriate action to ensure any Service Provider personnel who Process Buyer Personal Data understand and comply with the Service Provider’s privacy and confidentiality obligations under this PO; (iv) upon request, provide all reasonable assistance to Buyer to facilitate the exercise of rights of data subjects; (v) provide information required by Buyer to meet its obligations under Applicable Data Privacy Laws and to demonstrate compliance with this clause; and (vi) promptly notify Buyer as soon as it has received a complaint from any individual regarding the way his or her Personal Data has been processed and cooperate when Buyer is investigating any claim related to individual complaints.

(d) Personal Data Transfers

Service Provider must not transfer Buyer Personal Data from the European Economic Area (EEA) to a country deemed by the European Commission not to provide adequate protection (within the meaning of Directive 95/46/EC or its replacement), unless Buyer consents in writing or unless contractual clauses approved by the European Commission for the transfer of personal data to processors in third countries are in place with the recipient.

(d) Personal Data Security and Personal Data Breach Notification

(i) Service Provider must put into place and maintain appropriate technical and organisational measures to secure Buyer Personal Data, having regard to the risk of accidental or unauthorised access, loss, destruction, misuse, modification, disclosure or damage to Personal Data. (ii) If Service Provider has knowledge of any (A) accidental loss or destruction of, or unauthorised disclosure of or access to Buyer Personal Data; or (B) data security breach on any of the systems used in the provision of the Services, Service Provider must (C) expeditiously report such incident to Company; (D) mitigate, to the extent practicable, any harmful effect of such disclosure or access that is known to Service Provider or its subcontractors; (E) cooperate with Buyer in providing any notices to individuals regarding the incident, as directed by Company; and (F) cooperate with any investigation into the incident that is subsequently undertaken by any data privacy authority, in consultation with Company.

(e) Service Provider must remain responsible and liable for all Processing of Personal Data by any assignees, delegates or subcontractors.

(f) Indemnity

Service Provider shall indemnify, defend and hold harmless Company, its respective directors, officers, and employees from and against any and all losses, claims, demands, suits, actions and other liabilities of every kind and character, arising from Service Provider’s breach of this clause 16.

17. Indemnification

- (a) The Service Provider agrees to indemnify and indemnifies and hold harmless the Buyer, the Rio Tinto Group and its/their officers, directors, employees and agents, against any and all Liabilities which arise out of or in connection with, directly or indirectly,:

- i. the performance of the PO by the Service Provider and/or its Personnel, including, without limitation, any Liabilities arising out of any misrepresentation, negligence, fraud, wilful misconduct, breach of statutory duty or breach of the PO by the Service Provider or its Personnel; and
 - ii. any alleged or actual infringement of any patent, registered design, copyright, trade mark or other intellectual property right, anywhere in the world, resulting from the use of the Services and/or use or resale of the Associated Goods.
- (b) The Service Provider shall have no obligation to indemnify pursuant to this paragraph 17 if and to the extent that the relevant claim or liability is caused by an indemnified party; provided, however, this provision shall not relieve the Service Provider of any pro rata, proportional, contributory or other allocation of liability or fault imposed by Applicable Laws.

18. Damage and Insurance

- (a) If any claim relating to the Services and/or the Associated Goods is made against the Buyer by any person in respect of death, injury, sickness, loss or damage or if the Buyer suffers loss or damage, the Service Provider will provide all assistance required by the Buyer for the purpose of dealing with the same and the Service provider shall indemnify the Buyer against the same and all Liabilities of the Buyer in relation thereto.
- (b) Nothing in these Conditions shall exclude or in any way limit either party's liability to each other for: (i) fraud; (ii) death or personal injury caused by its negligence (including negligence as defined in section 1 Unfair Contract Terms Act 1977); (iii) breach of the terms regarding title implied by section 12 Sale of Goods Act 1979 and/or section 2 Supply of Goods and Services Act 1982; or (iv) any liability to the extent the same may not be excluded or limited as a matter of law.
- (c) Without limiting the Service Provider's obligations or liabilities hereunder, the Service Provider shall, at its sole expense, purchase and maintain the following insurance:
- i. commercial general liability insurance covering all liabilities for personal injury and property damage arising from the Services and/or the Associated Goods, with limits of liability of £5,000,000 for each and every claim;
 - ii. workers' compensation and employers' liability insurance;
 - iii. if the Service Provider will use or provide for use motor vehicles in provision of the Services and/or the Associated Goods, motor vehicle (automobile) insurance covering all liabilities for personal injury and property damage arising from the use of such vehicles, with limits of liability of £1,000,000 for each and every claim; and
 - iv. if the Service Provider will provide professional advice or services, professional liability insurance, with limits of liability of £1,000,000 for each and every claim.
- (d) The Service Provider shall provide coverage endorsement for insurances required under these Conditions, including, except in the case of workers' compensation and employers' liability insurance and professional liability insurance: (i) an endorsement including the Buyer and its directors, officers, employees, agents and representatives as additional insureds; (ii) an endorsement including a cross liability clause noting that each of the parties comprising the insured shall be considered as a separate entity and the insurance applies as if a separate policy has been issued to each party, and no "insured-versus-insured" exclusion exists in the policy; and (iii) an endorsement waiving all express or implied rights of subrogation against the Buyer.. The Service Provider shall on request provide to the Buyer certificates of insurance and endorsements as evidence of the insurance required under these Conditions.

19. Events of Default, Termination and Repossession

- (a) Without prejudice to any rights or remedies which the Buyer may have, the Buyer may terminate the PO or any part thereof without liability to the Service Provider on giving notice if:
- i. the Service Provider or any other Service Provider's group member breaches any PO with the Buyer or any Buyer's group member;
 - ii. the Service Provider or any other Service Provider's group member ceases or threatens to cease to trade (either in whole, or as to any part or division involved in the performance of the PO), or becomes or is deemed insolvent, is unable to pay its debts as they fall due, has a receiver, administrative receiver, administrator or manager appointed of the whole or any part of its assets or business, makes any composition or arrangement with its creditors or an order or resolution is made for its dissolution or liquidation (other than for the purposes of solvent amalgamation or reconstruction), or takes or suffers any similar or analogous procedure, action or event in consequence of debt in any jurisdiction;
 - iii. the Buyer certifies to the Service Provider, or the Buyer has reasonable grounds for believing that the Service Provider or any other Service Provider's group member is insolvent or that the Buyer's right to receive payment, or its interest in the Associated Goods, is in jeopardy;
 - iv. the Service Provider comes under the control directly or indirectly of any person who does not control the Service Provider at the date the contract subject to these Conditions is entered into;
 - v. where the Service Provider is an individual or partnership, he/she or any partner dies or any steps are taken to make a bankruptcy order against him/her or any partner; or
 - vi. outside England and Wales, anything corresponding to any of the above occurs.
- (b) The Buyer may also by written notice to the Service Provider terminate the PO for convenience in whole or in part as to all or any portion of the Services not performed and/or the Associated Goods not delivered, subject to an equitable adjustment as agreed by the parties in good faith.
- (c) Any termination hereunder shall be without prejudice to any claims for damages or other rights of the Buyer.

20. Force Majeure

The Buyer shall have the right, without liability, to cancel or delay or to reduce the quantities to be provided under any PO for the Services and/or the Associated Goods which have not then been provided or delivered in whole or in part if the activities of the Buyer for which the Services and/or the Associated Goods were ordered are stopped or interfered with through any circumstances beyond the Buyer's reasonable control (an event of "**Force Majeure**") including (but not limited to) any act of God, war, riot, civil commotion, revolution, blockade, embargo, strike, lock-out, sit-in, industrial or trade dispute, fire, explosion, flood, adverse weather, disease, accident to or breakdown of plant or machinery, or shortage of any material, labour, transport, electricity or other supply or any form of government intervention.

21. Forbearance

The Buyer's rights shall not be prejudiced or restricted by any concession, indulgence or forbearance extended to the Service Provider and no waiver by the Buyer of any breach, or the Buyer's failure to enforce any of the terms and conditions thereof, at any time, shall operate as a waiver in respect of any other or subsequent breach or in any way affect or limit the Buyer's right thereafter to enforce and compel strict compliance with every term and condition hereof.

22. Notices

Any notice to be given under or pursuant to these Conditions shall be in writing and may be sent by hand or by post or by registered post or by the recorded delivery service or transmitted by telex or facsimile or other means of telecommunication resulting in the receipt of a written communication in a permanent form and such notice shall be addressed to the other party at its registered office or principal place of business or such other address as may at the

relevant time have been notified pursuant to this provision to the party giving the notice. Notices shall be deemed effectively given on the day when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours.

23. Law

- (a) The PO and these Conditions shall be governed by and construed in accordance with the laws of England and Wales, excluding conflict of law rules, and the Service Provider irrevocably and unconditionally submits to the exclusive jurisdiction of the English courts for all purposes in connection herewith. The Buyer shall have the right, as claimant, to initiate proceedings against the Service Provider in any court of competent jurisdiction.
- (b) Neither the Uniform Laws on International Sales nor the Convention on Contracts for the International Sale of Goods shall apply.