

STANDARD PURCHASE ORDER TERMS AND CONDITIONS

Supply of goods and/or services

AA-SC-UK-02

These conditions govern the supply of goods and/or services to the '**Purchaser**' (as defined in the Purchase Order) by its suppliers under a Purchase Order.

For any variation to these conditions to be effective, the variation must be in writing and signed by the Purchaser.

1. **Interpretation:** Unless the context otherwise requires, the following terms have the meanings given when used in this Contract:

Affiliate means in respect of a party:

- (a) any direct or indirect subsidiary or holding company of such party or any fellow subsidiary of any direct or indirect holding company of such party; and
- (b) any person which controls, is controlled by or is under common control with any such party.

Confidential Information means all information of any nature whatsoever which Supplier obtains from or relating to the Purchaser and its Affiliates, howsoever such information is disclosed, without limiting the foregoing, whether orally, visually or in electronic media or by reason of inspection of documentation regardless of whether such disclosure or acquisition occurs prior to the entry into this Contract, other than information which:

- (a) becomes public knowledge or is in the public domain by reason of becoming public property other than through an act or omission of the Supplier; or
- (b) came into Supplier's possession on a non-confidential basis from a source other than the Purchaser or its Affiliates, which source to the Supplier's knowledge is not bound by a confidentiality agreement or other obligation of secrecy to the Purchaser or another person and is not otherwise under an obligation of secrecy to the Purchaser or another person.

Contract means the Purchase Order, these standard terms and conditions together with all documents attached to these standard terms and conditions or incorporated into these terms and conditions by reference.

Anti- Corruption Laws means any laws or international conventions relating to anti-corruption including:

- (a) the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1997;
- (b) the United Nations Convention against Corruption 2003;
- (c) the Foreign Corrupt Practices Act of 1977 of the United States of America (as amended by the Foreign Corrupt Practices Act Amendments of 1988 and 1998) (**FCPA**);
- (d) the UK Bribery Act 2010; and
- (e) any other applicable law (including (i) statute, ordinance, rule or regulations; (ii) order of any court, tribunal or any other judicial body; and (iii) rule regulation, guideline or order of any public body, or any other administrative requirement) which:
 - i. prohibits the offering of any gift, payment or other benefit on any person or any officer, employee, agent or adviser of such person; and/or
 - ii. is broadly equivalent to the FCPA and/or the UK Bribery Act 2010, or was intended to enact the provisions of the OECD Convention, or which has as its objective the prevention of corruption and which are applicable in the jurisdiction in which the Supplier is registered, conducts business and/or in which any of the Services are to be performed.

Goods means the goods (if any) described in the Purchase Order.

Indirect Transaction Tax means value added tax, goods and services tax or any similar transaction, consumption or analogous tax or impost.

Losses means losses, damages, costs, charges, expenses, penalties, interest and fines including those arising as a result of claims, demands, actions, proceedings or suits by any person.

Price means the price for the Goods and/or Services stated in the Purchase Order.

Purchase Order means the request or order from the Purchaser to the Supplier to supply Goods and/or Services, and which references these terms and conditions.

Purchaser's Business Principles means the policies, ethics and principles contained in 'Good

Citizenship: Our Business Principles' published by Anglo American plc, as amended from time to time.

Services means the services (if any) described in the Purchase Order.

SHE Requirements means all relevant laws and government requirements relating to health, safety and the environment, the most current version of the Purchaser's policies with respect to health, safety, the environment and stakeholder relationships, and any reasonable directions of the Purchaser with regard to health, safety and the environment.

Supplier means the person, firm or company to whom or to which the Purchase Order is addressed.

2. Precedence / application of terms:

- (a) Subject to clause 2(b), these standard terms and conditions are applicable to the Purchase Order to the exclusion of all other terms and conditions, including any terms or conditions which the Supplier purports to apply under any acknowledgement or confirmation of order, quotation, specification, delivery note, invoice or similar document, whether or not such document is referred to in the Contract
- (b) Notwithstanding clause 2(a), these standard terms and conditions will not apply where there is an existing executed agreement between the Purchaser and the Supplier pertaining to the goods and/or services described in the Purchase Order.

3. Terms of supply:

- (a) The Supplier must supply the Goods and/or perform the Services in accordance with the Contract. If any delay in delivering the Goods or performing the Services occurs or is foreseen, the Supplier must immediately notify the Purchaser of the cause and anticipated length of the delay.
- (b) For the avoidance of doubt, clauses in these standard terms and conditions relating solely to:
 - i. services, will only apply to the extent that Services are described in the Purchase Order; and
 - ii. goods, will only apply to the extent that Goods are described in the Purchase Order.

4. Quality: The Supplier:

- (a) must perform the Services with due care and skill and to the best of the Supplier's knowledge and expertise;
- (b) must provide competent personnel (holding any required licence or qualification) necessary for and incidental to the provision of the Services;
- (c) warrants, represents and undertakes that the Goods will be of satisfactory quality within the

meaning of the Sale of Goods Act 1979 and will be fit for their intended purpose;

- (d) warrants, represents and undertakes that the Goods will be free from all defects and imperfections affecting performance;
- (e) warrants, represents and undertakes that Goods and/or Services will comply with all the requirements of this Contract (including the specifications (if any)), relevant laws, regulations, awards, and standards and the lawful directions of any public, municipal, or other authorities in any way applicable to the Goods and/or Services;
- (f) must ensure that every item of plant, machinery or vehicle used by the Supplier in performing the Contract is licensed, registered, equipped, maintained, and used so that it does not endanger the health and safety of any person, cause damage to any property, or cause environmental harm, damage or nuisance to the public; and
- (g) must pay any fees, charges, levies and taxes imposed by a government entity in relation to the Goods and/or Services and indemnify the Purchaser against all liability in respect of those fees, charges, taxes (including withholding taxes) and levies.

5. **Defects liability period:** Without prejudice to clause 16, the Supplier must, at its expense, rectify any defect discovered within 12 months from the date of delivery of the Goods. If the Supplier fails to rectify a defect within a reasonable time after receiving notice of the defect, the Purchaser may, without prejudice to its other rights, rectify the defect and the costs incurred in doing so will be a debt due from the Supplier to the Purchaser.

6. Protection of Goods: The Supplier:

- (a) must protect the Goods from loss or damage arising from any cause, and ensure that the Goods are appropriately packed for export, handled and transported to the delivery point to prevent damage while in transit or storage;
- (b) must ensure that delivery documents accompany the Goods to the delivery point and bear the relevant Purchase Order number; and
- (c) is liable for Losses (including increased freight charges) incurred by the Purchaser as a result of Goods being packed or described inappropriately or the Supplier's failure to follow any transport instruction issued by the Purchaser or specified in this Contract.

7. Time for supply:

- (a) The Supplier must supply the Goods and/or perform the Services at the place and by the dates specified in the Purchase Order, unless an alternative delivery and/or supply point or

extension of time is approved by the Purchaser in writing.

- (b) Prior to supply of the Goods and/or during performance of the Services, the Purchaser may delay the date for delivery and/or completion referred to in the Purchase Order to a later date, but must not accelerate the date for delivery and/or completion without the approval of the Supplier.
- (c) If any delay in delivering the Goods and/or performing the Services occurs or is foreseen, the Supplier must immediately notify the Purchaser of the cause and anticipated length of the delay.

8. Passing of property and risk: Title to the Goods passes to the Purchaser upon the earlier of payment for the Goods and delivery of the Goods to the delivery point, provided that the Supplier bears the risk of loss or damage to the Goods until they are delivered to the delivery point. The Supplier warrants, represents and undertakes that title in the Goods, when it passes to the Purchaser, will be free and clear of any and all liens, restrictions, reservations, security interests and encumbrances.

9. Site and safety: The Supplier must give the Purchaser reasonable notice prior to seeking access to any Purchaser site. Before being permitted to enter any Purchaser site the Supplier must attend all briefings and inductions required by the Purchaser. The Supplier must comply with the Purchaser's Business Principles and when on site must comply (and ensure its employees, contractors and agents comply) with all SHE Requirements. The Supplier must keep those parts of the site where the Services are performed clean and tidy.

10. Price: Subject to clauses 11 and 21, and the Goods delivered or Services performed complying with the Contract, the Purchaser must pay the Price stated in the Purchase Order for all Goods and/or Services supplied under this Contract within 60 days from the date on which an invoice is received from the Supplier (or such longer timeframe as specified in the Purchase Order), provided that the Purchaser may withhold payment of an invoice to the extent it reasonably disputes such invoice.

11. Set off: To the extent permissible under relevant law and subject to any regulatory requirements or approvals, the Purchaser is entitled to set off against the Price any amounts owing by the Supplier to the Purchaser, any debts and amounts due from the Supplier, whether under or in connection with the Contract or otherwise, and any Losses incurred by the Purchaser as a consequence of the Supplier's failure to comply with any term or condition of the Contract.

12. Intellectual property:

- (a) The Supplier warrants that neither the supply of the Goods, the use of the Goods by the

Purchaser, nor any design, materials, documents and methods of working provided by the Supplier in the performance of the Services will infringe any patent, registered design, trade mark or name, copyright or other protected right, whether or not registered.

- (b) Title to, and copyright and other intellectual property rights in, any documents or other property created by the Supplier for or in connection with the Contract (**Material**), vests in the Purchaser upon creation and remains the property of the Purchaser.
- (c) The Supplier indemnifies the Purchaser against Losses arising by reason of the use of the Material and supply of the Goods and/or Services, including all Losses arising from claims for actual or alleged infringement of any intellectual property rights.

13. Indemnity: The Supplier indemnifies the Purchaser against all Losses arising in connection with:

- (a) any damage to the site, the Goods or any property whether located on the site or otherwise;
- (b) death or injury to any person whether located on the site or otherwise;
- (c) a breach by the Supplier, or its employees, agents or contractors, of any law in the course of, or caused by, the performance of its obligations under the Contract; or
- (d) breach of this Contract by the Supplier,

to the extent that the Losses are in connection with the act, error or omission of the Supplier, or its employees, agents or contractors.

14. Exclusion of Consequential Loss: Notwithstanding any other provision of this Contract, a party (**First Party**) will not be liable to the other party (**Second Party**) in contract, tort (including in negligence or for breach of statutory duty) or otherwise, for any:

- (a) special, indirect or consequential loss or damage of any nature; or
- (b) loss of profit, revenue, business, contracts or anticipated savings,

(**Consequential Loss**) related to or connected with this Contract, except Consequential Loss:

- (c) incurred as a result of the fraud or wilful, reckless or deliberate breach of the Contract by the First Party, its employees, agents or contractors;
- (d) arising in connection with the Supplier's indemnity under clauses 12(c) or 13(b); or
- (e) which cannot be excluded by law.

15. Insurance: The Supplier must:

- (a) effect and maintain all insurances that a prudent person in the Supplier's position would consider appropriate in the circumstances having regard to the Supplier's obligations under the Contract and in any event, must effect and maintain public liability insurance in respect of loss or damage that may occur to any physical property, or death or bodily injury to any person that arises out of or in connection with the supply of the Goods and workers compensation insurance in relation to employees; and
- (b) insure the Goods for the period when they are in transit to the delivery point against all loss or damage arising from any insurable cause, for a limit of not less than the full replacement cost of the Goods.

16. Acceptance:

- (a) Within 14 days of delivery of the Goods to the delivery point, the Purchaser may notify the Supplier whether the Goods are accepted or rejected, and if the Purchaser fails to do so, the Goods will be deemed accepted.
- (b) If the Goods are rejected, the Purchaser's notice of rejection must state the reasons for the rejection and may either:
 - i. direct the Supplier to remove the Goods and refund any amount paid in relation to them;
 - ii. direct the Supplier to replace or rectify the Goods; or
 - iii. notify the Supplier that the Purchaser elects to accept those Goods and claim damages for the Supplier's failure to comply with the Contract.

If the Supplier is directed to replace or rectify the Goods, the Supplier must notify the Purchaser when the replacement or rectification is completed and clause 16(a) will apply.

- (c) Neither payment for, nor any inspection of, Goods and/or Services shall constitute acceptance of Goods and/or Services that do not comply with the Contract, and with respect to Goods, shall not prevent the Purchaser from rejecting the Goods pursuant to clause 16(a).

17. Confidential Information: The Supplier undertakes:

- (a) to treat as strictly confidential all Confidential Information;
- (b) to use all reasonable steps to keep any Confidential Information which is in physical form (including electronic media) secure;
- (c) not to directly or indirectly exploit for the benefit of the Supplier or any other person Confidential Information for any reason whatsoever, other than as contemplated by the Contract; and

- (d) not to at any time without the prior written consent of the Purchaser, publish, disclose or reveal any Confidential Information to any other person or party whatsoever, other than as may be required by law.

The Purchaser reserves its rights in its Confidential Information and no rights or obligations other than those expressly stated herein, are granted or to be implied from this Contract. In particular, no licence is hereby granted, directly or indirectly, by the Purchaser to the Supplier to use its Confidential Information, save where provided expressly in this Contract.

18. Termination for default: If:

- (a) the Supplier breaches any of its obligations under the Contract;
- (b) a winding up order is made against the Supplier or the Supplier passes a resolution while winding up (other than for the purposes of reconstruction or amalgamation whilst solvent);
- (c) the Supplier ceases to be able to pay its debts as they become due;
- (d) any step is taken to enter into any composition or arrangement between the Supplier and its creditors; or
- (e) the Supplier has any execution or distress levied against it or its property,

then the Purchaser may, without prejudice to any other rights it may have under the Contract, terminate the Contract by notice in writing.

19. Termination for convenience: In addition to any other rights the Purchaser may have under the Contract, the Purchaser may at any time, in its absolute discretion and without cause, terminate the Contract by written notice to the Supplier.

20. Indirect transaction taxes: If any supply made under this Contract is subject to any Indirect Transaction Tax, the Purchaser must pay to the Supplier, in respect of that supply, an amount sufficient to ensure that the Supplier retains after payment of the Indirect Transaction Tax the amount that the Supplier would have received had the Indirect Transaction Tax not been payable. Despite any other provision of the Contract, the Purchaser need not make a payment under this clause until the Supplier has provided an Indirect Transaction Tax invoice for that payment stating the amount of Indirect Transaction Tax paid or payable by the Purchaser in respect of the supply to which the Indirect Transaction Tax invoice relates.

21. Withholding tax: If the Purchaser considers it necessary to satisfy its obligations under tax laws or regulations, the Purchaser may withhold an amount from a payment made to the Supplier and pay the withheld amount directly to the relevant tax authorities and that amount is deemed to have been paid to the Supplier on the date on which the remainder of the

payment to which it relates was paid to the Supplier. If the Purchaser does not withhold an amount under this clause which it is required to withhold under the relevant income tax laws or regulations, the Supplier agrees to pay that amount (together with, if the Supplier did not provide information or assistance requested by the Purchaser or provided incorrect information, any penalty or interest paid by the Purchaser for failing to withhold) upon request by the Purchaser.

Anti-Corruption Laws: The Supplier must not undertake any activity that may constitute a breach of any provision of the Anti-Corruption Laws.

22. Notices:

- (a) Notices must be in writing, in English and addressed to the receiving party at the address specified in the Purchase Order, and will be deemed to have been received:
 - i. if posted, on the 3rd day after posting;
 - ii. if delivered personally to the address specified in the Purchase Order, upon delivery.
- (b) Notices sent to the Purchaser shall be accompanied by a copy sent by electronic mail to cosec.admin@angloamerican.com.

23. Assignment: The Supplier may not, without the prior written approval of the Purchaser, assign or otherwise deal with any right, title interest or obligation under the Contract.

24. Subcontract: The Supplier shall not subcontract the supply of the Goods and/or Services other than to subcontractors approved by the Purchaser, which approval may be withheld in the absolute discretion of the Purchaser. The Supplier shall be responsible for the acts or defaults of any subcontractor, its agents or employees, as if they were the acts or defaults of the Supplier.

25. General:

- (a) The Purchaser's rights and remedies set out in the Contract are in addition to and not exclusive of any rights and remedies provided by law.
- (b) If any term of the Contract is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term will be deemed to be severed from the Contract and this will not affect the remainder of the Contract which will continue in full force and effect.
- (c) A delay in exercising or failure to exercise a right or remedy under or in connection with the Contract will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor will the single or partial exercise of a right or remedy prevent or restrict

the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by the party giving it and only in the circumstances and for the purpose for which it was given and will not constitute a waiver of any other right, remedy, breach or default.

- (d) The parties do not intend that any term of the Contract will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person other than the parties.

26. Entire agreement: Subject to clause 2(a), this Contract constitutes the entire agreement between the parties as to its subject matter and supersedes all prior representations, quotations and agreements in connection with that subject matter. Neither party has entered into the Contract in reliance upon, nor will it have any remedy in respect of, any representation or statement (whether made by the other party or any other person) which is not expressly set out in the Contract. Nothing in this clause 26 will be interpreted or construed as limiting or excluding the liability of any person for fraud or fraudulent misrepresentation

27. Applicable law: The laws of England apply to this Contract and any non-contractual obligations arising out of or in connection with it.

28. Jurisdiction: Each party hereto irrevocably submits to the non-exclusive jurisdiction of the Courts of England with respect to any matter arising hereunder or related hereto.

29. Survival: In the event of the termination of the Contract for any reason, including by expiry upon its terms, clauses 1, 12, 13, 14, 17, 27, 28 and 29 of these conditions shall survive, together with any other provisions which from their terms are intended to continue to have effect.