

## GENERAL TERMS AND CONDITIONS

### 1. The Contract

---

These General Terms and Conditions form part of the Contract to the extent not inconsistent or incompatible with the Key Commercial Terms to which they attach, and/or any schedule thereto, including any Special Terms, which shall prevail over these General Terms and Conditions.

### 2. Scheduling

---

Unless provided otherwise in the Key Commercial Terms or the other Schedules thereto, the Seller shall use reasonable endeavours to arrange deliveries of each Product at evenly spaced intervals in the Term in reasonable proportions over the Term, subject to the Seller's then current operational requirements, prevailing weather seasons, shipping and Load Port constraints.

### 3. Delivery

---

Where the Seller reasonably believes that the Buyer will not take delivery of any quantity of the Product, or the Buyer fails to take delivery of any quantity of the Product (the "**Untaken Quantity**"), either by way of notice from the Buyer or as a result of the Buyer conduct, the Seller may elect not to schedule the delivery of the Product or to cancel the shipment of the Product, and the Buyer shall remain liable to the Seller for any claim for damages the Seller may have in respect of any Untaken Quantity, including but not limited to any price differential. Without limitation to any other recourses under the Contract, equity or at law, in the event there is any Untaken Quantity, the Seller may, in its sole discretion, reduce the Contract Quantity by up to the same Untaken Quantity.

### 4. Payment

---

4.1 The Buyer must pay the Price in accordance with this Clause 4 unless any conflicting terms in relation to payment and invoicing are provided in the Key Commercial Terms and/or the Schedules thereto, in which case such terms in the Key Commercial Terms and/or the Schedules thereto shall govern to the extent of any inconsistency.

4.2 Notwithstanding the designation of a payment currency in the Contract, the Seller may, in its option, elect to receive and make payments under the Contract in any other major currency of its choice (the "**Currency Option**"). For the avoidance of doubt, the Seller may exercise the Currency Option irrespective of whether Delivery of the relevant Product has already been scheduled or performed or whether the relevant payment is already due. The Seller may only exercise the Currency Option by notice to the Buyer. Should the Seller exercise the Currency Option, the paying party shall make the relevant payment in the currency so designated by the Seller using the conversion rate as shown by Reuters at noon on the last banking day (in the country where the Buyer is incorporated) before the day where such payment is made.

#### 4.3 Payment Method

Unless provided otherwise in the Key Commercial Terms and/or the Schedules thereto, all payments hereunder shall be made by electronic funds transfer in immediately available (cleared) funds. Unless the Parties agree otherwise, all payments made by the Buyer shall be made without any offset, deduction, withholding or counterclaim. The Buyer will not be treated as having paid the Seller an amount unless and until the entire amount has been received by the Seller as cleared funds in the Seller's nominated bank account.

#### 4.4 Interest

If the Seller does not receive full payment of an amount under this Contract by the due date for payment, then the Seller may charge interest on all outstanding amounts at the LIBOR applying on the due date for payment plus twelve percent (12%) annually, until all amounts owing have been paid in full by the Buyer. If the LIBOR ceases to be published, unless the Parties agree otherwise, the SOFR shall be used as replacement of LIBOR.

#### 4.5 Security and Changes to Payment Terms

From time to time, the Seller may, acting reasonably, require that the Buyer demonstrates continuing creditworthiness to the Seller's satisfaction, including by requiring the Buyer to disclose its latest financial statements and/or recent management accounts. The Seller may deem that the Buyer's financial position or ability to pay has deteriorated after the Commencement Date if the Buyer is unable or unwilling to disclose such information to the Seller.

The Seller reserves the right to reduce credit terms, modify payment terms, or to require a Buyer to provide security in the form of a letter of credit, guaranty or other security (which shall be in a form and substance and in an amount acceptable to the Seller), at any time, on written notice to the Buyer if: (i) the Seller determines in its sole discretion that the Buyer's or the Buyer's group's financial condition has deteriorated since the Commencement Date; (ii) if the Seller at any time does not receive prompt payment; (iii) if Seller's credit insurance is reduced or cancelled; or (iv) if a bank or other financial institution does not, or ceases to, accept the assignment by Seller of any of Buyer's accounts receivable pursuant to factoring or other similar accounts receivable financial arrangements (each a "**Credit Event**"). If the Seller, in its sole

discretion, determines that the Credit Event has been remedied, the Seller may notify the Buyer to release all or a part of that security.

## **5. Title and Risk**

---

- 5.1 Title to and ownership of the Product and any products manufactured from the Product (the “**Goods**”) shall not pass until the Seller has received payment in full for the Product in accordance with this Contract (the “**Relevant Date**”), and until the Relevant Date:
- (a) the Buyer shall hold the Product as bailee for the Seller and, if required by the Seller, store the Product in such a manner that they are clearly identifiable as the property of the Seller; and
  - (b) if the Buyer sells the Product, or any Goods, the Buyer’s right to receive payment from its customer will be held in trust for the Seller and any proceeds of sale will be the property of the Seller, and the Buyer will hold the proceeds of any such sale on account for the Seller, separately from its own money.
- 5.2 The Buyer acknowledges that the Seller may be entitled under relevant law to register its interest in the Product or the Goods as a security interest, and may be required, for that purpose, to file financing statements and other relevant information, as appropriate, in order to evidence its ownership of the Product or the Goods. The Buyer agrees to cooperate with the Seller to ensure that such financing statements are properly filed and/or recorded and to cooperate with the Seller, as necessary, to perfect or continue the perfection of its security interest in the Product.
- 5.3 If a Suspension Event occurs, the Seller may repossess such quantity of the Product which has been delivered but not paid for in full in accordance with this Contract, and in the event the Seller exercises such right, the Buyer will provide all necessary instructions to facilitate the release of the relevant quantity of the Product to the Seller.
- 5.4 Risk in and to the Product shall pass from the Seller to the Buyer when delivery occurs in accordance with the Incoterm governing the delivery of the Products under this Contract.

## **6. Force Majeure**

---

- 6.1 A Party will be excused from performance of its obligations under this Contract (except for the obligation to make payment when due of invoices issued hereunder) to the extent prevented or delayed by a Force Majeure Event, and such obligations shall be suspended, without liability for damages, costs or expenses incurred or sustained by the other Party to the extent made necessary by the event of Force Majeure.
- 6.2 A Party impacted by a Force Majeure Event must promptly notify the other Party as soon as reasonably practicable from the existence of the same, together with details on which of its obligations are impacted, to what extent it will impact performance under the Contract, and when it reasonably expects to be able to resume performance.
- 6.3 If a Force Majeure Event affects the Seller’s ability to supply the Product to the Buyer and other customers (including internal uses or to a Related Entity), the Seller may allocate reduced quantities or quality of the Product sold to the Buyer in such manner as it reasonably determines.
- 6.4 The Seller may (but shall not be required to) offer supply of product of a similar quality from other sources in substitution for Product in order to satisfy the quantity that would otherwise have been sold and purchased under the Contract had it not been for the Force Majeure Event.
- 6.5 The Party invoking a Force Majeure Event shall use commercially reasonable efforts to attempt to mitigate the impact of the Force Majeure Event and to resume performance of the impacted obligations as soon as reasonably practicable, however nothing in this Contract shall require any Party to settle any strikes or labour disputes nor to submit to what it considers to be unreasonable conditions or restrictions in respect to regulatory actions or permit terms.
- 6.6 Failure to deliver or accept delivery of Product that is excused by or results from the operation of a Force Majeure Event shall not extend the Term of the Contract and the quantity of Product to be delivered and accepted under the Contract shall be reduced by the quantity affected by such failure. If a Force Majeure Event prevents a Party from supplying or taking delivery of any Product for a continuous period of six (6) months, then either Party may terminate this Contract by giving one (1) month’s written notice to the other Party.

## **7. Suspension of Deliveries**

---

- 7.1 A “**Suspension Event**” occurs if:
- (a) the Buyer or its Related Entity breaches this Contract;
  - (b) there is any Untaken Quantity by the Buyer or its Related Entity; or
  - (c) the Buyer or any of any of its controlling affiliates suffers an Insolvency Event or the Buyer suffers a Credit Event and the Buyer fails to meet any modified payment terms or provide satisfactory security as required by the Seller in accordance with Clause 4.5.

- 7.2 If a Suspension Event occurs, the Seller, in its absolute discretion, may:
- (a) suspend any delivery of Product to the Buyer until such time as the breach is remedied or the event is settled to the reasonable satisfaction of the Seller; and/or
  - (b) sell to any other person or otherwise utilise such quantity of Product as would have been delivered to the Buyer had the delivery not been suspended.

## **8. Events of Termination**

---

### **8.1 Mutual Termination**

A Party shall have the right to terminate the Contract by written notice to the other Party, if:

- (a) the other Party commits a material breach of the Contract, and such breach is not capable of being remedied, or if capable of remedy, is not remedied within twenty (20) Business Days of written notice to do so;
- (b) the other Party fails to pay an uncontested amount due under this Contract within five (5) Business Days of receipt of a notice demanding payment; or
- (c) the other Party or any of its controlling affiliates suffers an Insolvency Event.

### **8.2 Seller Termination**

The Seller may terminate this Contract immediately by written notice to the Buyer, if:

- (a) there is any Untaken Quantity by the Buyer;
- (b) there is Change of Control of the Buyer without prior written consent of the Seller;
- (c) the Buyer breaches Clause 11, 12 or 13; or
- (d) the Seller reasonably believes that the Buyer has or will substantially reduce or cease its operations and/or production.

## **9. Indemnity and audit rights**

---

- 9.1 The Buyer hereby agrees to release, hold harmless, indemnify and defend the Seller, its Related Entities, and any of their respective past or present directors, officers, employees, agents and representatives ("**Indemnified Persons**") against any and all actions, Claims, demands, liabilities, investigations, losses, damages, costs, penalties, charges and expenses whatsoever, including reasonable attorneys' fees (the "**Liabilities**") suffered or incurred by Indemnified Persons arising out of or in consequence of, or alleged to have arisen out of or in consequence of, in whole or in part, in connection with any of the following:

- (a) violations of statutes, regulations, ordinances, or rules by Buyer, including without limitation, the Buyer's failure to provide or display safety information on or relating to the Product, comply with laws relating to the use, sale, marketing, labelling or marking of the Product or detect and bring to the Seller's attention matters for which the Seller may become liable, whether for negligence, under legislation or otherwise;
- (b) the Seller's compliance with the Buyer's instructions regarding the Product;
- (c) any statement the Buyer makes about the Product without the Seller's written approval, including representations or warranties that Buyer makes to a third party;
- (d) the transportation, loading, transloading, unloading, storage, handling, disposal, processing, resale or use Product by the Buyer or a third party;
- (e) the Buyer's negligence, willful misconduct or breach of the Contract; or
- (f) any breach by the Buyer of a warranty or undertaking set out at Clause 11, 12 or 13 below.

- 9.2 Throughout the Term and for a period of 5 years after termination of this Contract, the Seller shall have the ability to undertake an audit of the Buyer as is reasonably necessary to assess the Buyer's compliance with Clauses 11, 12 and 13 of this Contract, and the Buyer shall provide all reasonable assistance and access for such audits.

## **10. Survival**

---

- 10.1 Any rights accrued under the Contract before its termination shall subsist notwithstanding its termination.
- 10.2 Each warranty provided by the Buyer is a continuing obligation, separate and independent from the Parties' other obligations and survives the expiry or earlier termination of the Contract.
- 10.3 Clauses 5 to 20 inclusive and Clauses 21.1 to 21.11 shall survive termination or expiry of the Contract.

## **11. Confidentiality**

---

- 11.1 Each Party may receive from the other Party Confidential Information for the purposes of entering into and performing the Contract, as well as other related purposes in relation to the transportation, processing, use or sale of the Product.
- 11.2 Each Party agrees that it will keep confidential at all times the Confidential Information received from the other Party and it will not use or disclose such Confidential Information other than as permitted under this Clause 11.
- 11.3 Should the Seller manufacture the Product from confidential drawings and specifications supplied and identified as such by the Buyer, the Seller will maintain the confidentiality of these drawings and specifications and shall not, without the Buyer's prior written consent, disclose the same to third parties.
- 11.4 The confidentiality obligations under this Clause 11 shall remain in force for as long as the Seller supplies Product to the Buyer and for a period of three (3) years thereafter.
- 11.5 A Party may disclose confidential information:
- (a) to its or its Related Entity's Personnel on a need-to-know basis, provided that such persons are subject to the same confidentiality obligations;
  - (b) to a third party, if, and to the extent, required by any applicable law;
  - (c) to a third party with the prior written consent of the other Party; and
  - (d) for legal proceedings arising out of or in connection with this Contract.
- 11.6 The Seller may disclose information relating to this Contract to any price index relating to the Product provided that it does not expressly disclose the identity of the Buyer.

## **12. Privacy, Data Protection and Intellectual Property**

---

- 12.1 Each Party must comply with its obligations under applicable laws relating to privacy and protection of Data, and must put in place and maintain appropriate technical and organisation measures to secure Data it processes in connection with this Contract. Any data security incidents involving the Data disclosed to it by or on behalf of the other Party or its Related Entities are notified to that Party without undue delay.
- 12.2 The Buyer warrants that by instructing the Seller to supply the Product under the Contract, the Product, or supply of the Product, will not infringe a third party's IPR.
- 12.3 To the extent relevant, the Buyer grants to the Seller and its Related Entities a worldwide, non-exclusive, non-transferable, royalty-free licence to Exploit any IPR of the Buyer for the Term and solely to the extent needed for the Seller to manufacture and supply the Product to the Buyer under this Agreement.
- 12.4 No licence is granted by the use of trademarks or brands under which the Product is delivered and these may not be used by the Buyer for the Goods manufactured from the same nor for any other purpose, especially advertising purposes, without the Seller's prior written approval.
- 12.5 The Seller reserves all rights, title, interest and copyright to specimens, illustrations, drawings and other documents and well as tools, which include embossing dies, press rollers or permanent moulds developed by the Seller.
- 12.6 In the event that the Product was manufactured and sold by the Seller according to drawings or other specifications of the Buyer, the Buyer shall indemnify the Seller against all damages, penalties, costs and expenses with respect to any suit or Claim relating to a breach of third party's IPR or that use of the Product breaches a third party's IPR.
- 12.7 The Buyer agrees to make the Rio Tinto Customer Privacy Statement available to those of its Personnel who are likely to interact with the Rio Tinto Group.

## **13. Compliance**

---

### **13.1 Rio Tinto Business Standards**

The Buyer must comply at all times with the Rio Tinto Business Standards, which the Buyer warrants it has read and understood.

### **13.2 Sanctions**

The Buyer represents and warrants that neither it nor any of its Related Entities nor any of their directors, employees, agents, or representatives:

- (a) is a Restricted Party;
- (b) will resell or deliver the Product to a Restricted Party, directly or indirectly;
- (c) will deliver, tranship or transit the Product to or through a country/territory that is the target of comprehensive sanctions (currently Cuba, Iran, North Korea, Syria, and the Crimea region and subject to change of the Sanctions);

- (d) will make payment to or receive payment from, directly or indirectly, any Restricted Party in connection with the Product or transportation thereof which may cause the Seller to breach or be exposed to adverse action under any Sanctions (whether under secondary sanctions or otherwise); or
- (e) otherwise will transact with any Restricted Party, directly or indirectly, or in violation of the Sanctions in connection with the purchase or sale of the Product in violation of the Sanctions or any manner which may cause Seller to be exposed to adverse action under any Sanctions (whether under secondary sanctions or otherwise).

The Buyer further represents and warrants that the Product will not be transported on a vessel or by other carrier owned, operated, flagged or chartered by any Restricted Party.

The Seller shall have the right to reject any transaction in which the Buyer proposes to or in fact sells, resells, or delivers the Product to or for a Restricted Party, directly or indirectly; or in which any Restricted Party will otherwise provide services in support of, or benefit from, this contract, directly or indirectly. The Seller shall have the right to terminate this Contract immediately for any action by Buyer that is inconsistent with its obligations in this Clause 13.2, or any circumstances where continued performance would expose Seller to adverse action under any Sanctions (whether under secondary sanctions or otherwise). Buyer shall be liable to the Seller for any costs, expenses, damages, or delays as a result of Seller exercising its right to reject a transaction or terminate the Contract under this provision.

### 13.3 No Corrupt Practices

- (a) The Buyer represents and warrants to the Rio Tinto Group, in relation to this Contract, that neither it nor any of its Personnel or Related Entities has directly or indirectly offered or given, or will offer or give, anything of value to any Person (whether government official or otherwise):
  - (i) to reward or induce the improper performance of any function or activity relating to the Seller and/or this Contract, including where it is known or believed that the acceptance of the offer or thing of value would itself be improper;
  - (ii) to influence any official or public conduct or function to obtain or retain business or a business advantage relating to the Seller and/or this Contract; and / or
  - (iii) where it is known or ought reasonably to have been known that the thing of value (or part thereof) would in turn be offered, promised or given to any other Person in any of the circumstances described above.
- (b) The Buyer must ensure that neither it nor any of its Personnel or Related Entities directly or indirectly accept any payment or gift or other advantage that contravenes any applicable anti-corruption laws in relation to this Contract, and represents and warrants that the funds used to purchase the Product do not originate from the proceeds of criminal activities.
- (c) The Buyer will advise the Seller in the event it or any of its Personnel or Related Entities are subject to a formal investigation, proceeding, conviction or written notice relating to the circumstances described in clauses 13.3(a) or 13.3(b) above, to the extent legally permissible.

### 13.4 Compliance with laws – Product stewardship

- (a) Each Party will comply with all laws applicable to its performance of this Contract, including, for the Buyer, health, safety and environmental laws relevant to the handling, transport, use and/or processing of the Product. Where the Buyer on-sells the Product, the Buyer must procure that any such subsequent buyer or user of the Product complies with all applicable health, safety and environmental laws relevant to the handling, transport, use and/or processing of the Product.

## 14. Electronic Presentation Shipments

- 14.1 If acceptable to the carrier and the Parties' respective banks, the Parties may agree to have all or some of the sale or shipping documents to be presented or provided using a system for electronic collaboration of documents, such as that offered by Bolero International Limited or essDOCS or any other provider agreed between the Parties ("**Electronic Presentation Shipment**"). Once such agreement has been reached, the Parties shall:
  - (a) do all that is reasonably necessary to facilitate Electronic Presentation Shipment, including entering into any necessary agreement or joining any necessary electronic platform for the transmission of the same; and
  - (b) accept the documents transmitted by way of Electronic Presentation Shipment as valid documents, equivalent to printed and physically signed documents, including but not limited to before a court of law or an arbitral tribunal.

## 15. Agents

- 15.1 Either Party may appoint an agent or agents, at its own cost, to carry out any or all of the functions required or authorised to be performed under this Contract, provided that, where the Buyer is the appointing party,

it advises the Seller of the name of such agent and of the functions delegated to it. The Seller may reject the appointment where:

- (a) the relevant agent cannot demonstrate the requisite financial or operational capacity to perform the functions or duties delegated to that agent; or
- (b) it reasonably believes that the agent does not, or will not, comply with the Buyer's obligations under Clauses 11, 12 or 13 of this Contract.

15.2 The appointment of an agent under this Clause 15 shall not relieve a Party of any of its obligations or responsibilities under this Contract. The Party appointing an agent shall be liable for any breaches by that agent of any of the obligations delegated to that agent or for any breaches of this Contract by the appointing Party resulting from the actions or omissions of any of its agents.

## **16. Taxes**

---

- 16.1 All Taxes imposed and/or levied by or payable to any federal, state or local Governmental Authority on this Contract, or upon any or all of the Product, the Price or upon any transaction or delivery hereunder (but excluding any taxes based on the net income of the Seller), shall be for the account of and are assumed by the Buyer, whether such shall be paid or be payable by the Seller, or otherwise. Where the Seller has incurred any such Taxes, the Buyer shall make the Seller whole.
- 16.2 All amounts payable under this Contract are exclusive of any Indirect Transaction Taxes. The Buyer shall bear the ultimate economic burden of any applicable Indirect Transaction Taxes, wherever levied.

## **17. Notices**

---

- 17.1 Unless otherwise specified, any notice or other communication given under the Contract shall be in writing and may be by hard copy letter or email, but not other forms of electronic communication.
- 17.2 Notices or other communication may be delivered by (i) prepaid post, if to a local address; (ii) registered mail or courier, if to a foreign address; or (iii) hand or email to the address or email address provided in the Key Commercial Terms, or as last notified by the other Party. For legal notices to Seller, a copy to [CompanySecretaryNotices@riotinto.com](mailto:CompanySecretaryNotices@riotinto.com) must also be sent and the subject line must start with the words: "RIO TINTO [ENTITY NAME]".
- 17.3 Letters shall be deemed delivered if delivered by hand, within two (2) Business Days if posted to a local address or seven (7) Business Days if posted to a foreign address.
- 17.4 Emails shall be deemed delivered on the day sent unless sent after 4pm at the receiver's destination. Emails shall not be delivered if the sender receives any notification of non-delivery or an error message within one (1) hour of the email being transmitted, if sent by email.

## **18. Seller's Warranties and Limitations of Liability**

---

- 18.1 **THE SELLER WARRANTS THAT IT SHALL CONVEY GOOD TITLE TO THE PRODUCT TO THE BUYER**
- 18.2 **THE SELLER'S OBLIGATIONS AS TO THE QUALITY OF THE PRODUCT SUPPLIED UNDER THIS CONTRACT ARE SOLELY AS EXPRESSED IN THIS CONTRACT AND ALL WARRANTIES, REPRESENTATIONS OR CONDITIONS WHICH COULD BE IMPLIED AT COMMON LAW, BY CONTRACT, BY STATUTE OR OTHERWISE, RELATING TO DESCRIPTION, VARIETY, CHARACTERISTICS, SATISFACTORY QUALITY, MERCHANTABILITY OR FITNESS FOR ANY PURPOSE (WHETHER OR NOT MADE KNOWN TO THE SELLER OR OTHERWISE COMMUNICATED TO THE BUYER) OR ARISING FROM A COURSE OF DEALING, OR USAGE OF TRADE, ARE SPECIFICALLY DISCLAIMED AND EXCLUDED TO THE MAXIMUM EXTENT PERMITTED BY ANY APPLICABLE LAW. THE CONTRACT IS NOT A SALE BY SAMPLE.**
- 18.3 **UNLESS AGREED OTHERWISE, THE SELLER SHALL NOT BE LIABLE FOR ANY OF THE FOLLOWING, WHETHER IN CONTRACT, TORT, BREACH OF STATUTORY DUTY OR OTHERWISE: ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY LOSS OR DAMAGE; ANY LOSS OF PROFIT, REVENUE, BUSINESS, PRODUCTION, OPPORTUNITY, USE, CONTRACT GOODWILL, REPUTATION, ANTICIPATED SAVINGS; AND/OR ANY CLAIM AGAINST THE OTHER PARTY BY ITS CUSTOMERS, ARISING DIRECTLY OR INDIRECTLY FROM ANY FAILURE OR DELAY IN PERFORMING ANY OBLIGATION PURSUANT TO THIS CONTRACT OR OTHERWISE.**
- 18.4 **IN NO EVENT SHALL THE SELLER'S AGGREGATE LIABILITY FOR EACH SHIPMENT EXCEED THE PRICE OF SUCH SHIPMENT.**

## **19. Governing Law**

---

- 19.1 If the Seller is incorporated in the United States of America, this Contract shall be governed by and construed in the domestic laws of the State of Illinois, without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any other jurisdiction. Each Party acknowledges and agrees that it is a "Merchant" for the purposes of Article 2 of the UCC, and that it shall



govern their relationship, except as expressly set out within this Contract (including the nominated Incoterm).

- 19.2 If the Seller is incorporated in Canada, this Contract shall be governed by and construed in laws in force in the Province of Quebec, Canada without reference to its conflict of laws provisions, and the laws of Canada applicable therein.
- 19.3 This Contract expressly and unconditionally excludes the application, at any time or in any form, of the provisions of the United Nations Convention on Contracts for the International Sale of Goods, and any relevant legislation adopting or ratifying it.
- 19.4 The Buyer acknowledges that the Product is not of a kind ordinarily acquired for personal, domestic or household use or consumption. This Contract expressly and unconditionally excludes the application, at any time or in any form, of any consumer protection laws in any jurisdiction whatsoever.

## **20. Dispute Resolution**

---

- 20.1 Before resorting to court proceedings, any dispute arising under or relating to this Contract, including issues at law or in equity, (a “**Dispute**”) must be referred initially for resolution by representatives of Seller and Buyer, who will use reasonable commercial efforts to resolve the Dispute within 10 Business Days of a notice of a Dispute being given by a Party. If the Dispute is not resolved within the specified time, either Party may, in its sole discretion, initiate court proceedings under Section 20.2 or 20.5.
- 20.2 If the Seller is incorporated in the United States of America, the courts of Chicago, Illinois, USA, shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Contract.
- 20.3 If the Seller is incorporated in Canada, the courts of the Province of Quebec, district of Montreal, Canada, shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Contract.
- 20.4 Each Party acknowledges the negotiation, execution, and performance of this Contract constitutes sufficient contacts with the State or Province determined under Clause 20.2 or 20.3 that such courts shall have in persona jurisdiction over each Party. Each Party acknowledges its choice of courts in accordance with Clause 20.2 or 20.3, as the forum for any Dispute, taking into consideration the provisions of Sections 19 and 20. Each Party waives (i) any objection which it may have to such courts, and (ii) the right to assert a plea of forum non conveniens in any such action. To the maximum extent permitted by law, each party waives the right to trial by jury.
- 20.5 Nothing contained in this Clause 20 shall prevent the Parties from seeking to obtain security or any form of interim relief in respect of their claim or counterclaim via legal proceedings in any jurisdiction, provided such legal proceedings shall be limited to applying for or obtaining such security or interim relief. The substantive merits of any dispute or claim shall be determined solely in accordance with the provisions of this Clause 20.

## **21. Miscellaneous**

---

### **21.1 Entire Agreement**

The Contract contains the entire agreement between the Parties about its subject matter and supersedes all prior agreements, communications and negotiations, whether written or oral, in relation to the sale and purchase of the Product. Each party acknowledges and represents that it has not relied on or been induced to enter into this Contract by any representation, warranty or undertaking other than those expressly set out in this Contract.

- 21.2 This Contract shall be binding upon and inure to the benefit of and be enforceable by each of the Parties and their respective successors and permitted assigns.

### **21.3 Counterparts**

The Contract may consist of a number of copies, each signed by one or more of the Parties. If so, the signed copies are to be taken to constitute one document.

### **21.4 Severability and No Waiver**

In case any provision in this Contract shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability. No failure or delay by a Party in exercising a right, remedy, power or privilege under this Contract shall operate as a waiver; nor shall any single or partial exercise of same preclude the Party from any other or further exercise a right, remedy, power, or privilege; and no waiver by a Party shall be valid, unless in writing and signed by that Party, and then only to the extent specified.

### **21.5 Rights**

Where one Party has certain rights under any particular Clause, unless otherwise expressly stated, those rights shall be without limitation to its rights elsewhere in this Contract, in equity or at law.

## 21.6 **Third Party Rights**

No person, company or any other entity apart from the Parties shall have any right to enforce this Contract.

## 21.7 **Survival of Buyer's Warranties and Indemnities**

Each warranty and indemnity provided by the Buyer is a continuing obligation, separate and independent from the Parties' other obligations and survives the expiry or earlier termination of the Contract.

## 21.8 **No Defence of Sovereign Immunity**

As this Contract constitutes the private and commercial activities of the Parties, each Party, to the fullest extent permitted by applicable law irrevocably and unconditionally waives and shall not seek to claim any Immunity Right.

## 21.9 **No Change of Control**

The Buyer must ensure that no Change of Control of the Buyer occurs without the prior written consent of the Seller.

## 21.10 **Assignment**

Neither Party shall assign, novate or transfer its rights or obligations under this Contract without the prior written consent of the other Party; however, the Seller may assign, novate or transfer all or any of its rights or obligations under this Contract to its Related Entity, a participant in a Related Entity or a person in connection with a securitisation or receivable financing transaction at any time by giving notice to the Buyer.

## 21.11 **Amendment**

Unless otherwise specified in this Contract, this Contract shall not be modified, amended, or supplemented except by an instrument in writing duly executed by the Parties.

## 21.12 **Authority**

Each Party warrants and represents to the other Party that it has and shall maintain throughout the duration of the Contract all relevant licences or authorizations (internal and external) required to execute and perform this Contract.

# 22. **Definitions**

---

22.1 All terms defined in the Key Commercial Terms have the same meaning in these General Terms and Conditions.

22.2 In addition to the other terms that are defined herein, the following terms used in these General Terms and Conditions have the following meanings:

**"Business Days"** means days other than Saturdays or Sundays on which banks are open for normal banking business in Chicago and Salt Lake City. If the Seller is incorporated in Canada, **"Business Days"** means a day other than a Saturday, Sunday or statutory holiday in Montreal, Canada.

**"Change Of Control"** means in respect of a Party, a change occurs in the persons or entities which directly or indirectly control or are in a position to control the operational, strategic, financial or managerial decisions or actions of that Party.

**"Claim"** means any allegation, action, claim, proceeding, suit or demand of any nature howsoever arising, whether present or future, fixed or unascertained, actual or contingent and whether at law, in equity, under statute or otherwise asserted by a person.

**"Confidential Information"** means this Contract and any information (in whatever form) or documentation of a confidential nature, including the terms or existence of this Contract, commercial secrets or business secrets (as defined or classified under PRC Laws, where applicable), which relate to technical or operational matters, the business affairs or activities of the Party disclosing it or of any of its Related Entities and which:

- (a) is disclosed to the other Party or its Personnel (by or on behalf of the Party disclosing); or
- (b) otherwise comes to the knowledge of the other Party or its Personnel,

either before, at or after the date of this Contract, but excluding information:

- (c) that is or becomes publicly available otherwise than as a result of a breach of this Contract or in breach of an obligation of confidence;
- (d) the Parties agree in writing is not confidential;
- (e) the recipient receives from a third party, provided it was not disclosed by or acquired from that third party unlawfully or in breach of an obligation of confidence; or
- (f) that was previously known to the recipient (or independently created or developed by it), without access to the Confidential Information as recipient can prove, by documented and probative evidence.



**"Data"** means data in any form and includes Personal Data.

**"Delivery Terms"** means the terms on which the Product is delivered to the Buyer, which has the meaning given to that term in the Incoterms 2020 edition, as modified by this Contract.

**"Exploit"** includes without limitation the right to use, manufacture, make, sell, supply, import, distribute, research and develop the relevant IPR and Products.

**"Force Majeure Event"** means any event or occurrence which is beyond the reasonable control of a Party, including (a) act of God and extreme weather events (including but not limited to cyclones, typhoons, hurricanes, storms, floods, lightning); (b) fires or explosions; (c) act or threat of terrorism; (d) wars and hostilities or the anticipated imminence thereof; strikes, lock-outs or other industrial disturbance, shortage or reduction of necessary equipment, necessary materials or products required for producing or transporting the products, labour or restrictions on the use thereof; (f) blockades, embargoes; (g) cyber-attacks; (h) power blackouts, interruption, reduction or suspension of power supply; (i) imposition of Sanctions, acts of any Governmental Authority or any restrictions upon, delays in receiving or failures to receive any permits, licences, or approvals from any Governmental Authority; (j) earthquakes; (k) pandemic, epidemic; (l) closing, unavailability or failure of port or port loading facilities or other facilities required for loading, shipment and discharge of the necessary materials, equipment or other supplies required for producing the Product; and (m) in the case of the Seller, includes unforeseeable events or circumstances impacting the purchase or production of the Product, provided that, for the avoidance of doubt, a Force Majeure Event does not include (i) economic or commercial factors that may lead to a decision by a Party to cease or curtail production or purchase of Products unless such factors have been caused in the first instance by a Force Majeure Event, and/or (ii) any event caused by a lack of funds or an inability to make payment on the date and in the manner set forth in this Contract, and provided further that the full cost of the freight shall be borne by the Party declaring Force Majeure in the event that vessel space has been booked and the vessel must be cancelled.

**"Governmental Authority"** shall mean any and all foreign, federal, state or local governments, governmental institutions, public authorities and governmental entities of any nature whatsoever, and any subdivisions or instrumentalities thereof.

**"Immunity Right"** means any immunities (including sovereign immunity) and any other rights which, if not waived or if the benefit of which is claimed, would render that Party immune to or from suit, execution, attachment or proceedings of any type, in a manner or at a place referred to, or contemplated by, this Contract.

**"Indirect Transaction Taxes"** means value added tax, goods and services tax, sales and use tax or any similar transaction, consumption or analogous tax or impost.

**"Insolvency Event"** means in relation to a Party, the Party is unable to pay its debts as and when they become due and payable, or the Party has an administrator, liquidator or provisional liquidator appointed to it, or that the Party has a receiver, manager, controller or similar officer or person appointed to all or majority of its property, or an order or application has been made by any person or authority for the appointment of such a person, or that the Party is dissolved, deregistered or has an order made for its winding up.

**"IPR"** means patents, inventions (whether patentable or not), copyrights, moral rights, design rights, designs, drawings, specifications, studies, calculations, work product, technical documents, documentation, recommendations, reports, records, deliverables, sketches, shop drawing, trade-marks, trade names, business names, service marks, brands, logos, service names, trade secrets, know-how, domain names, database rights and any other intellectual property or proprietary rights (whether registered or unregistered, and whether in electronic form or otherwise) including rights in computer software, and all registrations and applications to register any of the aforesaid items, rights in the nature of the aforesaid items in any country or jurisdiction, any rights in the nature of unfair competition rights, and rights to sue for passing off.

**"London Interbank Offered Rate (LIBOR)"** means, for a day (relevant day), the floating rate per annum (rounded upwards to two (2) decimal places) of the offered rates for US Dollars fixed on a daily basis by the ICE Benchmark Administration Limited (or any other Person which takes over the administration of that rate) appearing on the appropriate page of the Reuters screen at or about 11.00am (London time) on that relevant day for a period of three (3) months. Where, for a relevant day, no such rate is displayed, then the LIBOR for that relevant day shall be the last rate published on the day prior.

**"Loss"** means any liability, costs, loss, expense, damage, or injury (including legal costs on a full solicitor-client indemnity basis) which one Party suffers as a result of the other Party's acts or omissions in respect of this Contract.

**"Party"** means a party to the Contract, being the Seller and the Buyer (together the **"Parties"**).

**"Person"** means any natural person, corporate or unincorporated body (whether or not having separate legal personality), individual, corporation, partnership, limited liability company or similar entity.

**"Personal Data"** means information relating to an identifiable individual.

**"Personnel"** means, in relation to a Person, such Person's officers, employees, contractors, representatives, advisors and agents.

**"Process or Processes"** means any action taken in relation to Data including collecting, using, disclosing, storing, transferring, amending, deleting, accessing, hosting or otherwise handling.

**"Related Entity"** means an entity which controls, is controlled by or under common control with, whether directly or indirectly, a Party; "control" for the purposes of this clause includes holding 50% or more voting rights, having the right to appoint or remove a majority of members of the board of directors (or an equivalent decision-making body) or otherwise control the composition of or voting at the meeting of the board of directors (or an equivalent decision-making body) or other rights that give a person or entity the right to direct the day-to-day operations of the party in question; "entity" for the purposes of this clause includes any corporation, incorporated or unincorporated joint venture, association or trust.

**"Restricted Party"** means any person or entity that is the target of Sanctions, including but not limited to (a) any person, entity or vessel identified in any list of designated persons maintained by the U.S. Treasury Department's Office of Foreign Assets Control or other U.S. or non-U.S. government entity under its Sanctions; (b) any Person or entity resident or organised in any country or territory that is the target of comprehensive Sanctions (currently Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine ); or the Government of Venezuela (in each case subject to change in the Sanctions); or (c) any person 50% or more owned (individually or in the aggregate) or controlled by a Restricted Party or someone acting on behalf of a Restricted Party.

**"Rio Tinto Business Standards"** means the policies that govern the expected corporate conduct of the Rio Tinto Group and which includes the documents entitled The Way We Work and the Business Integrity Standard which are the Policies & Standards page on the [www.riotinto.com](https://www.riotinto.com/sustainability/policies) website at <https://www.riotinto.com/sustainability/policies>.

**"Rio Tinto Customer Privacy Statement"** means the policy that governs personal data and privacy which is available at <https://www.riotinto.com/sustainability/policies>.

**"Rio Tinto Group"** means Rio Tinto Limited (ABN 96 004 458 404), Rio Tinto plc (UK company no. 719885) and their respective Related Entities.

**"Sanctions"** means the applicable (a) trade embargos, or economic or financial sanctions (including secondary sanctions) laws or regulations imposed, administered or enforced by relevant governments, including the European Union or its Member States, the United Nations, Australia, Canada, the United Kingdom or the United States; or (b) export/import/trade control and antiboycott laws and regulations imposed, administered or enforced by relevant governments including the foregoing listed governments.

**"Schedules"** means the Schedules to the Key Commercial Terms

**"Secured Overnight Financing Rate (SOFR)"** means, for a day (relevant day), the floating rate per annum (rounded upwards to two (2) decimal places) of the offered rates for US Dollars fixed on a daily basis as published by the Federal Reserve Bank of New York and available at <https://apps.newyorkfed.org/markets/autorates/SOFR>. Where, for a relevant day, no such rate is displayed, then the SOFR for that relevant day shall be the last rate published on the day prior.

**"Taxes"** means all taxes including income taxes, excise duties, stamp duties, customs duties, payroll taxes, withholding taxes, government duties, fiscal duties, revenue imposts, charges and fees of whatever nature whether present or future levied other than Indirect Transaction Taxes.

**"Term"** means the period from the Commencement Date to the date where both Parties have fulfilled all of their obligations under the Contract, unless terminated earlier in accordance with the Contract.

**"Tonne" or "MT"** means a unit of metric weight of 1,000 kilograms, unless otherwise specified.