

TERMS OF USE

CONTRACTOR ENGAGEMENT SOLUTION (CE SOLUTION)

FOR SUPPLY OF SERVICES AND EQUIPMENT HIRE IN AUSTRALIA

1. THE CE SOLUTION

1.1 General

- (a) These Terms of Use govern the engagement of the Supplier when working at any Rio Tinto Site where the Supplier is utilising the Contractor Engagement Solution (**CE Solution**). The CE Solution has been established to ensure the efficient completion of administrative tasks including electronic timesheets, purchase order allocation, cost distribution, and invoicing.
- (b) The CE Solution comprises systems that support the on-boarding and invoicing process for contractors working at any Rio Tinto Sites, and includes:
 - (i) the Site Approval and On-Boarding System; and
 - (ii) the Invoicing System.
- (c) Throughout any period of engagement with the Supplier where the CE Solution is applicable, Rio Tinto may:
 - (i) by written notice to the Supplier, update these Terms of Use;
 - (ii) conduct a review of the Supplier's approval and on-boarding status; and
 - (iii) conduct performance reviews to evaluate the Supplier's performance against set performance indicators, including the Supplier and its Personnel's compliance with these Terms of Use.

2. SUPPLIER RESPONSIBILITIES

2.1 General Responsibilities

- (a) In connection with any Services performed at a Rio Tinto Site, the Supplier and its Personnel will be required to use the CE Solution for:
 - (i) validation of on-boarding requirements prior to attending any Rio Tinto Site;
 - (ii) validation of trade qualifications applicable to such Personnel; and
 - (iii) allocation and submission of labour, equipment and reimbursable activities at any relevant Rio Tinto Site.
- (b) The Supplier will be paid by Rio Tinto based on the information processed by the CE Solution.
- (c) Each Supplier Personnel must enter and exit a Rio Tinto Site using the Proof of Presence to ensure time on Site is accurately captured.
- (d) The Supplier will be unable to submit charges for Supplier Personnel's hours which have not been validated by the CE Solution. Where the Supplier Personnel fails to utilise the Proof of Presence, the Supplier will need to submit an Approval and Override request (with relevant documentation) to the Rio Tinto Representative for Approval.
- (e) Rio Tinto will not be taken to have requested, and the Supplier is not obligated to perform, any Services unless and until a PO has been issued by Rio Tinto.

2.2 Applicable Software Provider Licence Agreement

- (a) Prior to the commencement of the Services, the Supplier must have:
 - (i) entered into an agreement with the nominated Relevant On-Boarding Entity in relation to the Supplier's access to, and use of, the CE Solution (**Software Provider Licence Agreement**); and
 - (ii) completed all applicable CE Solution and process training required by Rio Tinto prior to the commencement of the Services.
- (b) If the Supplier ceases to be entitled to use the CE Solution, the Supplier must:
 - (i) immediately notify Rio Tinto in writing; and
 - (ii) pro-actively liaise with the Relevant On-Boarding Entity to reinstate its entitlements to use CE Solution.

2.3 Costs of CE Solution

- (a) Rio Tinto will bear the cost of:
 - (i) the Supplier's licence to access and use the Invoicing System;
 - (ii) the provision of the CE Solution training material and resources to the Supplier, as required and determined by Rio Tinto.
- (b) The Supplier must bear all other costs in connection with the CE Solution including but not limited to:
 - (i) where applicable, any licence to access and use the Site Approval and On-Boarding System;
 - (ii) data entry;
 - (iii) management of functions within the CE Solution; and
 - (iv) training.

3. SITE APPROVAL AND ON-BOARDING SYSTEM

3.1 Site Approval and On-Boarding System

- (a) The Supplier must:
 - (i) comply with all procedural requirements established by any applicable Site Approval and On-Boarding System; and
 - (ii) maintain a standard of work and commercial practices that is in compliance with any applicable Supplier Approval Procedure.
- (b) Rio Tinto may review the Supplier's approval and on-boarding status during the Term.
- (c) The Supplier acknowledges that the maintenance of its approval and on-Boarding status is not a guarantee of the award for any other contract of work to be performed for Rio Tinto.

4. INVOICING SYSTEM

4.1 Approved Work Schedules

- (a) Rio Tinto may prescribe a relevant work schedule which consists of:
 - (i) a shift start time and a shift end time; and
 - (ii) the relevant number of work days,
 for Supplier Personnel to be registered in the CE Solution (**Approved Work Schedule**).
- (b) The Supplier must then assign the relevant Approved Work Schedule to its Personnel.

- (c) At any time and upon notice to the Supplier, Rio Tinto may update and/or change the Approved Work Schedule. The Supplier will not be entitled to charge Rio Tinto costs it has incurred to comply with the revised Approved Work Schedule for its Personnel unless Rio Tinto failed to provide at least 24 hours' notice for such change.
- (d) Rio Tinto may, at its discretion, apply a grace period to the start time and/or end time of any Approved Work Schedule to allow for recognition of commencement/termination of any work periods via a delay in the utilisation of the Proof of Presence (for example network access issues etc). Any such grace period will not exceed the total shift hours applicable for that relevant Approved Work Schedule.

4.2 Work Schedules (Rosters)

Supplier Personnel are expected to be on-time and present at the beginning of the shift and work until the end of the shift, unless released early by the Rio Tinto Representative.

4.3 Start of Work Schedule (Roster)

Supplier Personnel are required to enter a Rio Tinto work area and log in their start time using the Proof of Presence.

4.4 End of Work Schedule (Roster)

Supplier Personnel are required to exit a Rio Tinto work area and log in their end time using the Proof of Presence.

4.5 Rounding Net Time

Subject to Section 4.6 below and unless the Contract otherwise specifies, the Supplier will be paid for actual time on a Rio Tinto Site, rounded to the nearest 1/10 hour increment. The total net billable hours for the schedule will be rounded up or down to the nearest 6 minute (1/10th hour) increment. Any time spent outside of a Rio Tinto Site will not be chargeable unless otherwise Approved by the Rio Tinto Representative.

4.6 Fixed Fee, Lump Sum or Performance based pricing mechanism

- (a) Where the Parties have agreed in the Contract for a Supplier to perform and complete Services using a pricing mechanism based on one, or a combination of, the following pricing arrangements:
 - (i) periodic fixed fee;
 - (ii) lump sum; and/or
 - (iii) performance / output based model,
 the Supplier must:
 - (iv) ensure its Personnel log in their start and end times using the Proof of Presence based on a \$0/hour basis; and
 - (v) only invoice the relevant agreed period fixed fee, lump sum or performance output based fee in accordance with the Contract through the "material module" of the Invoicing System.
- (b) Where the Contract involves multiple pricing arrangements that includes a schedule of rates (times and materials), fixed fee, lump sum or performance based models, the portion of Services that relates to the schedule of rates must still comply with Section 4.5 and not on a \$0/hour basis.

4.7 Allocation of activities

- (a) The Supplier will use the Invoicing System to review the gate activity, allocate the net labour hours, any equipment usage and/or reimbursable costs to the relevant PO. The Supplier must submit the hours and costs through the Invoicing System for Authorisation

by the Rio Tinto Representative. All hours for the prior working day should be allocated and accepted by the Supplier administrator in the Invoicing System by 12pm on the next working day. Hours for the weekend and/or holidays will be captured on the next working day.

- (b) It is the Supplier's responsibility to communicate to the Supplier Personnel the requirements of the CE Solution and the impact of failing to use the Proof of Presence or Approved Work Schedules.

4.8 Approval and Pre-Approval Request Process

- (a) An Approval or Pre-Approval is a two-step process as follows:
 - (i) **Step One** – the Supplier administrator submits an Approval or Pre-Approval request to the Rio Tinto Representative through the Invoicing System with an estimation of the additional work required, its cost impact, and the relevant effective dates.
 - (ii) **Step Two** – the Rio Tinto Representative will review the Approval or Pre-Approval request, and at their discretion, may approve it in the Invoicing System. Upon the request being Authorised, the Supplier will be issued a Pre-Approval Number or Approval Number through the Invoicing System.
- (b) For any Services where there isn't an existing rate in the Contract, the Supplier must submit additional documentation to help the Rio Tinto Representative review such activities as part of Step One above.

4.9 Overrides Request Process

- (a) All Overrides requests must be Authorised by the Rio Tinto Representative.
- (b) An Override request is a two-step process as follows:
 - (i) **Step One** – the Supplier administrator submits an Override request through the Invoicing System with the actual additional hours worked. For activities that require a Pre-Approval Number or Approval Number, the Supplier must reference the Pre-Approval Number in Override request.
 - (ii) **Step Two** – If the Override request is Approved, the net billable time will be updated to reflect the new total hours worked by the Supplier. The Supplier will then allocate these hours to the relevant PO.
 - (iii) If the Override request is not approved, the request will be returned to the Supplier with reasoning as to why it was not approved.
- (c) All Approvals, Pre-Approvals and Overrides must be processed by the end of the next business day. Requests for additional time must be received prior to allocation of net hours to PO line items. Allocations to a PO may occur the next business day after the work was performed.
- (d) If the Rio Tinto Representative does not Authorise an Approval, Pre-Approval or an Override, the Supplier will only be paid according to the hours calculated in the Invoicing System
- (e) If the Contract, PO or other written agreement between the parties provides an alternative methodology for Approvals, Pre-Approvals or Overrides, then the methodology in the Contract, PO or written agreement will be used.

4.10 Processing and Time Chargeable Rules

- (a) Unless otherwise specified in the Contract, the Supplier must only charge for actual time spent in direct performance of the Services, including:
 - (i) attendance at a Rio Tinto Site for:

- (A) induction or training session(s) specific to the Site;
 - (B) on-Site HSE meetings, including pre-starts and *critical risk management (CRM)* interactions; and
 - (C) any travel time between Sites during a shift that has been Approved by Rio Tinto and Authorised through the CE Solution;
- (ii) work performed off-Site that has been Pre-Approved by Rio Tinto and confirmed through the CE Solution;
- (iii) travel time between the relevant accommodation and the Site but only where the Supplier Personnel are not based at the normal Site camp where they would be usually accommodated for the Services, and where such travel time has been Pre-Approved by Rio Tinto and Authorised through the CE Solution;
- (iv) attendance at off-Site induction or training session(s) specific to Rio Tinto's HSE policies and/or standards that has been Pre-Approved by Rio Tinto and Authorised through the CE Solution; and
- (v) overtime that falls outside the Approved Work Schedule, and has been Approved by the Rio Tinto Representative through the CE Solution.
- (b) Unless otherwise Approved by the Rio Tinto Representative in the CE Solution, the Supplier must not charge Rio Tinto for any time spent in connection with:
 - (i) crib time and / or breaks while on Site;
 - (ii) travel time between each Supplier Personnel's home base and Site, whether such travel is via motor vehicle(s) or planes;
 - (iii) travel time between the accommodation and the Site where the Supplier Personnel was based at the normal Site camp;
 - (iv) travel time between airports and the Site;
 - (v) time spent undertaking medical checks;
 - (vi) time spent in any training that was conducted off-Site; and
 - (vii) time spent in contract management and administration in connection with CE Solution, including involvement by any member of the Supplier's senior management team.

4.11 Stand By vs Stand Down

- (a) Subject to **Section 4.11(b)**, time spent on-Site by the Supplier Personnel during either:
 - (i) a **Stand Down** event; or
 - (ii) a **Stand By with Reasonable Notice** event;
 is not payable by Rio Tinto to the Supplier, unless otherwise Authorised by Rio Tinto in the CE Solution.
- (b) The Supplier may only charge Rio Tinto for actual time spent on Site by the relevant Supplier Personnel during:
 - (i) a **Stand By** event where Rio Tinto was unable to provide reasonable notice prior to the Stand By event occurring, up to a maximum of the relevant shift period per Stand By event; or
 - (ii) a **Stand Down** event where the Supplier Personnel is required to attend Site to participate in an incident investigation held by Rio Tinto, and such remuneration has been agreed to be payable by the Supplier to the relevant Supplier Personnel.

- (c) Where the Supplier has actually incurred cost over and above the 6-hours duration for a Stand By with Reasonable Notice that they were unable to mitigate, they may submit an Override request together with sufficient evidence to substantiate those costs through the CE Solution, and request Authorisation. Rio Tinto may, at its sole discretion, Authorise any or part of the additional costs through the CE Solution.

4.12 Runners

A runner will be a Supplier Personnel who has billable time spent outside of Site (e.g. retrieving offsite parts or equipment). Subject to Rio Tinto's Authorisation of the Supplier categorising Personnel as runners, billable time for such runners is calculated from the first IN to the last OUT of the time schedule. Only a minimum number of Supplier Personnel may be designated as runners. Foremen and supervisors should not be the designated runner.

4.13 Trade Skills/Roles

A list of all roles and rates setup for each Supplier in the Invoicing System will be made available for verification prior to commencement of the Services. Supplier Personnel will be assigned to a default role, though certain nominated roles may be adjusted during allocation on a case by case basis.

4.14 Rates

Labour and equipment rates from applicable POs and Contracts, will be uploaded into the Invoicing System.

4.15 Pay Rules

The pay formula used in the Invoicing System is generated from the "pay formula worksheet" which is derived from the agreed Contract or PO the Supplier has with Rio Tinto.

5. RECIPIENT CREATED TAX INVOICES (RCTI)

5.1 Recipient Created Tax Invoices (RCTI)

- (a) Where the CE Solution has been utilised, the Parties acknowledge and agree that:
 - (i) Rio Tinto may issue an RCTI for all relevant Services, after each relevant activity has been processed and Authorised by Rio Tinto; and
 - (ii) the Supplier must not issue or duplicate Tax Invoices in respect of the same supply for those relevant Services.
- (b) The Parties acknowledge and agree that:
 - (i) as and when the CE Solution is deployed and implemented for each relevant Site(s), and subject to Rio Tinto's request to proceed with the RCTI process, the Supplier will sign and execute an RCTI acknowledgement form as provided by Rio Tinto; and
 - (ii) any reference in a PO or Contract to a "*Tax Invoice being received*" by Rio Tinto, will now be deemed to include "*an RCTI being issued*" by Rio Tinto.

5.2 Incorrect / Disputed RCTIs

If a Party disputes any amount shown on an RCTI, it must notify the other Party within 21 days of the relevant RCTI. Upon receipt of a Party's notice of dispute, both Parties will jointly review the nature of the disputed amount, and the relevant Party may, if appropriate, provide adequate substantiation for the disputed amount shown on the RCTI and/or take prompt corrective action, and promptly adjust the relevant RCTI or correct any under-payments.

6. DATA PRIVACY

Each Party agrees and warrants to the other Party that it will comply with the Privacy Legislation in respect of any Personal Data it collects, uses, discloses or otherwise processes in relation to the CE Solution. The Rio Tinto Group's Data Privacy Standard (available from the 'privacy' link on the Rio Tinto Group website) and the Rio Tinto Group's Contractor Privacy Statement (at http://www.riotinto.com/documents/RT_contractor_privacy_statement.pdf) contain more about the Rio Tinto Group's data privacy, including each Supplier Personnel's data privacy rights.

7. DEFINITIONS AND INTERPRETATION

In these Terms of Use the following terms have the meanings set out below:

- (a) **Approval** means any approval granted by the Rio Tinto Representative for allocations, fees and expenditure under the Contract as requested by the Supplier, processed through the Invoicing System that requires express written approval, and "**Approved**" has the corresponding meaning. Once the request is approved by the Rio Tinto Representative, an "**Approval Number**" will be issued by the Invoicing System to the Supplier.
- (b) **Authorised** means approval by the Rio Tinto Representative of allocations and fee requests, *Pre-Approval*, *Approvals*, *Override*, as requested by the Supplier and processed through the Invoicing System, and "**Authorisation**" has the corresponding meaning.
- (c) **Contract** means the relevant contract between Rio Tinto and the Supplier for the performance of Services.
- (d) **End User** means an entity identified in the Contract or PO (or notified to the Supplier by Rio Tinto) to whom Rio Tinto provides goods and/or services comprising, or derived from, in whole or in part, the Services.
- (e) **Inclement Weather** means the existence of or effects of heavy or persistent rain or abnormal climatic conditions (whether they be those of hail, snow, cold, high wind, severe dust storm, extreme high temperature, or any such combination), by virtue of which it is either not reasonable or not safe for Personnel such exposed to continue working, as deemed or instructed by Rio Tinto, or which prevents performance of all or part of the Services whilst the same prevail.
- (f) **Invoicing System** means the Internet-enabled web-based software application that supports the virtual access control, invoicing process, and the time and/or activities verification of the Supplier Personnel, plant and equipment hire, and materials, when working at or for any Rio Tinto Site, and is operated by the Relevant Invoicing Entity.
- (g) **Overrides** means a request by the Supplier through the Invoicing System for additional labour hours performed under the PO or relevant Contract, or outside Approved Work Schedules, that require approval by the Rio Tinto Representative within the Invoicing System, and includes Approvals and Pre-Approvals.
- (h) **Party** means Rio Tinto and the Supplier as applicable (together the **Parties**).
- (i) **Personnel** means:
 - (i) in relation to the Supplier, any of its employees, sub-contractors (including sub-contractors' Personnel), agents and representatives involved either directly or indirectly in the performance of the Services;
 - (ii) in relation to Rio Tinto, an End User or a member of the Rio Tinto Group, any of its past or present officers, employees, agents or representatives; and

- (iii) in relation to a sub-contractor, any of its employees, agents or representatives involved either directly or indirectly in the performance of the Services.
- (j) **Personal Data** means information relating to identifiable individuals and includes (but is not limited to) all information relating to individuals that is protected by Privacy Legislation.
- (k) **Pre-Approval** means any prior approval granted by the Rio Tinto Representative for allocations, fees and expenditure under the PO or relevant Contract as requested by the Supplier, processed through the Invoicing System that requires express prior written approval, and "**Pre-Approved**" has the corresponding meaning. Once the request is approved by the Rio Tinto Representative, a "**Pre-Approval Number**" will be issued by the Invoicing System to the Supplier.
- (l) **Privacy Legislation** means all applicable legislation relating to privacy and data protection and includes the *Privacy Act 1988* (Cth) (including the Australian Privacy Principles).
- (m) **Proof of Presence** means the applicable and relevant technological device(s) that interfaces with CE Solution as nominated by Rio Tinto from time to time.
- (n) **PO** means an individual purchase order issued by Rio Tinto to the Supplier in respect of the performance or supply of Services, which will be subject to the terms of the relevant Contract and these Terms of Use.
- (o) **Recipient Created Tax Invoices (RCTI)** means, in the context of **Section 5**, the tax invoices electronically issued by Rio Tinto to the Supplier for Services actually performed under the PO or relevant Contract.
- (p) **Relevant Invoicing Entity** means the invoicing system entity nominated and advised by Rio Tinto for a relevant Rio Tinto Site from time to time.
- (q) **Relevant On-Boarding Entity** means the on-boarding entity nominated and advised by Rio Tinto for a relevant Rio Tinto Site from time to time.
- (r) **Rio Tinto** means the relevant Rio Tinto Group entity that issued the PO in connection with the Contract.
- (s) **Rio Tinto Group** means the dual listed company structure incorporating Rio Tinto plc and Rio Tinto Limited and including:
 - (i) any Related Body Corporate of Rio Tinto plc or Rio Tinto Limited;
 - (ii) any unincorporated joint venture in which Rio Tinto plc or Rio Tinto Limited or any Related Body Corporate of Rio Tinto plc or Rio Tinto Limited has a participating interest of not less than 50%;
 - (iii) any body corporate or unincorporated joint venture managed by Rio Tinto plc or Rio Tinto Limited or any Related Body Corporate of Rio Tinto plc or Rio Tinto Limited; and
 - (iv) such other entities as the Parties agree in writing.
- (t) **Rio Tinto Limited** means Rio Tinto Limited (ABN 96 004 458 404) having its registered office at 360 Collins Street, Melbourne, Victoria, 3000.
- (u) **Rio Tinto plc** means Rio Tinto plc (Company No. 719885) of 6 St James's Square, London, SW1Y 4AD, United Kingdom.
- (v) **Rio Tinto Representative** means the Rio Tinto Representative identified in the PO or Contract, and includes:
 - (i) such other person as Rio Tinto may, in writing, substitute for that representative; or

- (ii) any person authorised by that representative to perform any of that representative's powers, duties, discretions or authorities.
- (w) **Services** means the work, including plant and equipment hire, and materials, where applicable, identified in the PO or the Contract to be performed or supplied by the Supplier.
- (x) **Site** means the Rio Tinto's premises identified in the PO.
- (y) **Site Approval and On-Boarding System** means the Internet-enabled web-based software application that supports the compliance, qualifications, and skill sets of the Supplier Personnel, plant and equipment hire, and materials, when working at or for any Rio Tinto Site, and is operated by the Relevant On-Boarding Entity.
- (z) **Software Provider Licence Agreement** has the meaning set out in clause 2.2(a)(i) of these Terms of Use.
- (aa) **Stand By** means time spent at a Rio Tinto Site by the Supplier Personnel due to any:
 - (i) delays as a result of Inclement Weather; or
 - (ii) delays caused solely by Rio Tinto or its contractors, and prevented the Supplier Personnel from continuing to perform the Services on-Site; or
 - (iii) delays that have occurred for the sole convenience of Rio Tinto and prevented the Supplier Personnel from continuing to perform the Services on-Site; or
 - (iv) delays as a result of an HSE incident not caused or contributed to by the Supplier.
- (bb) **Stand By with Reasonable Notice** means where there is a Stand By event at a Site however, Rio Tinto was able to provide at least six (6) hours' notice (e-mail or mobile SMS message is sufficient) to the relevant Supplier Personnel on-Site to enable a cost-mitigation plan to be engaged and enacted upon by the Parties.
- (cc) **Stand Down** includes time or event, where in the opinion of Rio Tinto, it is necessary to stand down any Supplier Personnel and/or hired equipment for the purpose(s) of:
 - (i) any non-compliance with the Contract or PO; or
 - (ii) personal safety; or
 - (iii) unsafe work practices, including any breach of a Rio Tinto HSE policy or Site Specific Terms; or
 - (iv) defective machinery or equipment; or
 - (v) unsafe conditions; or
 - (vi) for actual environmental damage caused by the Supplier.
- (dd) **Supplier** means the Party (as identified in the Contract or PO) responsible for performing the Services.
- (ee) **Supplier Approval Procedure** means any procedure established by Rio Tinto which govern the engagement and approval of contractors.

7.2 Interpretation

- (a) A provision of these Terms of Use must not be construed to the disadvantage of a Party merely because that Party was responsible for the preparation of this document.
- (b) A reference to a "roster" or "shift" in the Contract between the Parties that has been approved by Rio Tinto, is deemed to include "*Approved Work Schedule*".