

## PDS Licence Support and Sale Terms

About this agreement

THIS AGREEMENT is made between:  
Productivity Development Solutions Pty Limited  
(PDS)

AND

the person(s) or company named in or otherwise determined by PDS to be the customer in accordance with the attached proposal (you, your)

THE PARTIES AGREE as follows:

### 1. Preamble

- 1.1. These Terms, the attached proposal (if any) and any other document referred to in that proposal (together, the "Agreement") form a binding agreement between you and PDS.
- 1.2. This Agreement may be accepted by doing any one or more of the following:
  - a) Signing these Terms or the proposal;
  - b) Issuing a purchase order or similar request for the Software or other goods or services in response to the proposal; or
  - c) Downloading, accessing or otherwise using the Software or accepting goods or services.

### 2. Definitions

Unless the context requires otherwise, the following words have the following meanings in this Agreement:

- 2.1. References to "goods" or "services" in this Agreement is a reference to any goods or services (including software support services) supplied or performed by PDS to you or on your behalf.
- 2.2. "Fees" means whichever is applicable out of the fees set out in the proposal for the licence of and access to the Software and related software support services, and the price of any goods and services purchased by you, as published or quoted by PDS from time to time.
- 2.3. "GST" means the goods and services tax payable under the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and any related, replacement or amended legislation passed by the Federal Government.

- 2.4. "Proposal" means the written proposal submitted by PDS (if any) attached to or referencing these terms and conditions.
- 2.5. "Site" or "Business" means the geographical location and title of the mining operation, preparation plant, industrial, port or other facility from which the Software Modules are to be accessed.
- 2.6. "Software" or "CcMS" or "iPDS" or "PDS software" means the cloud based software or modules developed and hosted by PDS as amended or upgraded by PDS from time to time and where the context requires, refers only to those Software Modules licensed by you.
- 2.7. "Software Module" is a specific licensed component of the complete suite of modules in the Software.
- 2.8. "Software Support Services" means the services outlined in clause 6 of this Agreement.
- 2.9. "Subscription Software" means the Software (or parts of the Software), where access is provided to you by PDS under a fixed-term subscription model, rather than perpetual licence, as set out in the proposal.
- 2.10. "Support Times" means the hours between 8.30am to 5.00pm New South Wales time, Monday to Friday (excluding days gazetted as public holidays in New South Wales).

### 3. Placement of Orders and Variations

- 3.1. Where you order goods and services from PDS (other than software support services provided as part of the Fees and set out in the proposal), you must do so in writing, email or other electronic communication acceptable to PDS (which may include acceptance by you of a quotation, proposal or variation prepared by PDS).
- 3.2. PDS will not be bound by any terms or conditions expressed in orders or acceptances generated by you except to the extent that such terms have been expressly agreed upon between the parties in writing and signed by PDS.
- 3.3. PDS may decline to accept any order without providing a reason in its absolute discretion.
- 3.4. If you request or PDS deems there to be a variation in the scope of any goods or

services to be provided by PDS, then PDS may (but is not obliged to) notify you in writing of the variation, the price variation, associated delays and any other information PDS deems relevant.

- 3.5. PDS is not obliged to commence any works associated with any variation identified in accordance with clause 3.4 unless and until you acknowledge and accept in writing the variations contained in that notice.

#### **4. Delivery of Goods and Services**

- 4.1. You acknowledge that goods delivered to a courier are outside PDS's control and PDS will not be liable for any loss, damage, delay or non-delivery of goods to the extent permitted by law.
- 4.2. All supplies of goods are made at the price current at the time of delivery or in \$AUD and is quoted EXW (Incoterms 2010) from PDS's premises. Costs and charges for freight and handling at the point of delivery to you are payable by you unless otherwise stated on the quote/order form.
- 4.3. You must inspect all goods and services within 48 hours of delivery or completion. If you consider any goods or services delivered are defective, you must notify PDS in writing and by telephone within 72 hours of delivery or completion.
- 4.4. You must allow PDS or its nominee to inspect the alleged defects, make a determination on the validity of any claim made by you and if deemed valid, supply additional goods or perform additional services PDS or its nominee thinks fit in its absolute discretion.
- 4.5. PDS will, subject to complying with its obligations under this Agreement, exercise its independent discretion as to the most appropriate and effective manner of providing services it is contracted to provide.

#### **5. Licence of Software**

Where access to the Software forms part of the proposal:

- a) If the Software is not Subscription Software, PDS grants to you a single, personal, licence to use the Software;
- b) If the Software is Subscription Software, PDS grants you access to

and use of the Subscription Software for the term of this Agreement only. For the avoidance of doubt, the access rights contained in this clause is strictly for a limited duration (as set out in the proposal, and if nothing stated in the proposal, then the duration is 12 months). If the agreement is not extended or renewed (either for all modules or some modules), the licence for access in respect of the Subscription Software or those relevant modules will be terminated, access to the Subscription Software (or the relevant modules) will be switched off and all support will cease.

- c) Use and licensing of all Supported Software expressly restricted to use at the Sites only, for the internal business purposes of the Client.

- 5.1. PDS grants you a revocable, personal and non-exclusive right to gain access to and use the Software for the Site for the duration of this Agreement in accordance with the terms of this Agreement.
- 5.2. You may use the Software strictly in accordance with the terms of this Agreement only. For the avoidance of doubt, any licence granted extends only to the Software Modules indicated in the proposal and does not give you any rights with respect to other Software Modules which are or can be incorporated into the Software.
- 5.3. This Agreement only extends to the use of the Software in respect of operations being carried out on the Site. For the avoidance of doubt, you must not use the Software in respect of operations controlled remotely from the Site or otherwise being undertaken at locations other than the Site. If you require the Software to be used for multiple operations spanning more than one geographical location, then you must enter into separate licence agreements for each geographical location.
- 5.4. PDS reserves the right to refuse to license the Software to any person without giving reasons.
- 5.5. If the Software is a trial version or is provided to you for trial purposes then the licence granted in this Agreement is limited

solely to internal evaluation purposes in accordance with the terms of the valuation offering under which you receive the Software and expires thirty (30) days from first access (or such other period as indicated by the Software), after which time your access may cease without notice.

- 5.6. PDS may, in addition to the grant of the above limited trial licence of the Software, also provide to you the hardware listed in the proposal to assist in your evaluation of the Software. You acknowledge that any such hardware provided will at all times remain the property of PDS, however the risk and responsibility of the hardware will become yours on and from the time of delivery to you until the time it is returned to the offices of PDS.
- 5.7. Where the proposal expressly states that you are not the end user of the Software and instead names a third party end user, then:
  - a) Your sole right with respect to the Software will be to introduce the Software to that end user;
  - b) You may not otherwise use or licence the Software; and
  - c) PDS agrees to grant the rights set out in this Agreement to the end user in return for the end user agreeing to be bound by the obligations contained in this Agreement (other than obligations to pay Fees already paid for by you).

## 6. Software Support Services

Where a licence of the Software forms part of the proposal:

- 6.1. For the duration of this Agreement PDS will render the software support services set out in this clause to you subject to: (i) your payment of Fees, and (ii) your compliance with your obligations in this Agreement.
- 6.2. Where you have access to the Software (or any part of it) as "Subscription Software", you acknowledge and agree that you must purchase and pay for support services in order to gain access to the Subscription Software. PDS will not provide you with a licence to access the Subscription Software without providing a level of support to you for that software.

6.3. The software support services to be provided by PDS pursuant to this Agreement are as follows:

- a) **Error Correction Services:** Error means a reproducible failure of the Software to perform in substantial conformity with the Software specifications.  
  
PDS will make reasonable commercial efforts to correct and resolve Errors that you report to PDS and which PDS is able to reproduce.
- b) **Minor Software Enhancements:** Minor Software Enhancement means any minor release, update, modification or "bug fix" which does not necessarily provide materially new functionality, as determined by PDS in its sole discretion, and made generally available to PDS's supported customers.  
  
PDS will provide Minor Software Enhancements as it thinks fit. This may result in scheduled down time where the Software cannot be accessed. PDS will use reasonable endeavours to give you advanced notice of any scheduled down time at the login screen for the Software.
- c) **Hosting Services:** PDS provides secure hosting services to store data connected to the Software (up to 2GB per Site) and to allow access to you to the Software. The Software is deployed in a shared infrastructure but provisioned in a private cloud environment. All data is routinely backed up with onsite and offsite backups maintained and all data is isolated from any other customers of PDS.
- d) **User Account Creation:** Upon request by your Support Contact, PDS will create new user accounts and email new users with a verification link to allow access to set and maintain their own user passwords for access to the System.
- e) **Product Support Website:** PDS maintains a secure Product Support Website with answers to Frequently Asked Questions and Knowledge

Base Articles. Access to this service is for customers under a current support agreement with PDS-issued login credentials.

- f) Telephone Support: PDS will provide an allowance of four (4) hours' telephone support per year, per Software Module, per Site. Monthly reports of hours expended and issues raised and resolved shall be provided to you upon request.

6.4. Services not provided for under this agreement:

- a) Major Enhancements: PDS is not required to release or develop any major functional revision to the Software.

The development of such revisions at your request, if agreed by PDS, will be invoiced separately.

6.5. Procedures for Error Correction Services

- a) Notification: To obtain Error correction services, you must notify PDS in writing as soon as you become aware of any suspected Error and must provide PDS with reasonable detail of the nature of and circumstances surrounding the Error. "Reasonable detail" includes complete software, hardware and network configuration information as requested by PDS.
- b) Error correction: PDS will make reasonable commercial efforts to correct and resolve Errors that you report to PDS and which PDS is able to reproduce. You will promptly provide PDS with all information requested by PDS to reproduce such Errors. For each such Error, PDS will use reasonable commercial efforts to provide you with a workaround, a software patch or, if PDS is unable to provide you with either of the foregoing, a specific action plan for addressing the Error, including a good faith estimate of the time required to correct and resolve such Error.
- c) Remote diagnostics / correction: PDS may be required to perform remote

diagnostics to determine the existence and nature of an Error.

6.6. Response Times

PDS will use reasonable commercial efforts to communicate with you, by telephone or e-mail within eight business hours of receipt of written notice provided in accordance with clause 6.4, regarding Errors that you report to PDS during the Support Times; for purposes of this Agreement, a "response" means PDS's acknowledgment of an Error, and does not necessarily mean that a resolution will be achieved.

PDS will prioritise, at its sole discretion, the analysis and resolution of Errors reported by you and other customers based upon the severity of the impact to you. The following table details the severity levels for reporting and categorising Errors. You agree and acknowledge that Errors reported by other customers which have a higher priority level than an Error reported by you may be responded to prior to your own reported Error being responded to.

**Error Priorities**

Priority	Failure description
1	<b>Fatal</b> Software not operational.
2	<b>Severe Impact (functionality disabled)</b> Errors that result in a lack of Software functionality or that cause intermittent system failure.
3	<b>Degraded Operations</b> Errors that cause non-critical Software features consistently to malfunction.
4	<b>Minimal Impact</b> Errors that cause attributes and/or options of utility programs not to operate in accordance with specifications.

6.7. Limitations on PDS's Support Obligations

Notwithstanding anything to the contrary elsewhere in this Agreement, PDS will have no obligation to provide any support services to you if:

- a) Such support relates to or involves any products, data, features, devices,

- software or equipment not provided by PDS;
- b) you or a third party have altered or modified any portion of the Software in any manner without the prior written consent of PDS;
- c) you have not used the Software in accordance with instructions provided by PDS;
- d) A party other than PDS or an authorised representative of PDS has serviced the Software and the Software no longer conforms to its specifications;
- e) you are not in full compliance with the other terms of this Agreement or any other agreement between you and PDS;
- f) you fail to notify PDS of a suspected Error within the specified time; or
- g) you fail to comply with any written advice or direction issued by PDS from time to time.

#### 6.8. Additional goods and services

PDS's software support obligations under this Agreement shall not include supply of goods, networking, electrical, telephone, interconnection, or the installation or repair of accessories, alterations, parts or devices or the provision of any other services not listed in this clause 6. Where PDS is capable of providing these items, they will be attract additional Fees.

### 7. Your obligations

7.1. During the term of this Agreement, you will provide PDS with reasonable access (via remote telecommunications or on-site access at your premises) to your network infrastructure to any extent deemed necessary by PDS, to enable PDS to meet its support obligations as set forth in this Agreement. Failure to provide such access is a breach of this Agreement.

7.2. Given the web-based nature of the Software, you must at your sole expense:

- a) provide secure, virus free internet access to enable you to gain access to the Software;

- b) allow unfettered PDS use of your internet connection in discharging its responsibilities under this Agreement. PDS shall have no liability to you if PDS's ability to render goods, services or provide the Software is impaired by your inability to provide adequate internet connectivity or telecommunications functionality; and
- c) Acquire and maintain at all times the most current version of your chosen web browsing software on each machine that you wish to use to gain access to the Software.

7.3. You must designate one employee and one alternate as your "Support Contacts" to be generally available during the Support Times to confer with PDS regarding Errors and other support-related issues. Your Support Contacts are to be notified to PDS within 7 days from acceptance of this Agreement by you and immediately upon of any changes in the persons designated as Support Contacts. PDS will provide technical support only to your Support Contacts. If you require PDS to provide technical support to your employees, representatives or consultants other than your Support Contacts, PDS may charge additional Fees for such support at its sole discretion.

### 8. Fees

8.1. You must pay to PDS the Fees in the amount and by such date or milestone as set out in the proposal or otherwise as may be notified in any invoice issued by PDS from time to time.

8.2. All amounts payable by you under this Agreement are exclusive of GST. If GST is payable on any supply made by a party under or in connection with this Agreement, the consideration provided (or to be provided) for that supply will be increased by an amount equal to the GST liability properly incurred by the party making the supply and paid at the same time and in the same manner as the consideration.

8.3. If you fail to pay any amounts payable under this Agreement by their due date for payment, PDS may suspend the provision of any goods or services and may discontinue your licence and access to the Software. Additionally, PDS may charge

you an account service fee of 10 per cent per annum or any part thereof in relation to any amounts (including Fees) which are not paid by their due date for payment. These rights are without prejudice to any other rights available to PDS.

## 9. Title, Risk and PPSA

- 9.1. All title in goods remains with PDS until goods have been paid for in full.
- 9.2. Risk in all goods supplied to you will pass to you on delivery, regardless of whether payment has been made or not.
- 9.3. For the purposes of this clause, "PPSA" means the Personal Property Securities Act 2009 (Cth) as amended from time to time. Where a particular section or term from the PPSA is used in this Agreement, it is deemed to be that section or term as defined or used in the PPSA as amended, renumbered or replaced from time to time.
- 9.4. You acknowledge and agree that this Agreement constitutes a security agreement in relation to PDS's security interest in all present and after-acquired goods in accordance with the PPSA. You agree to grant a "Purchase Money Security Interest" to PDS.
- 9.5. For the avoidance of doubt, you acknowledge and agree that you grant to PDS a security interest in all goods supplied by PDS to you (whether now or in the future) and in any proceeds from the sale of those goods.

## 10. Warranties and Liability

- 10.1. You are responsible for determining that the goods, services and Software are suitable for your own use or purpose.
- 10.2. To the extent permitted by law and unless otherwise expressly agreed, PDS does not provide and expressly excludes all warranties in respect of any goods or services. This clause does not operate to exclude any warranties or other obligations that PDS might have under the Australian Consumer Law which cannot be excluded.
- 10.3. Without limiting the preceding clause, PDS does not warrant:
  - a) that operation of the Software will be uninterrupted or that the Software is error-free;

- b) the results of any use of the whole or any part of the goods, services or Software;
- c) the accuracy, reliability or content of any data, information, service or goods obtained through any use of the whole or any part of the Software; or
- d) the accuracy, reliability or content of any Internet sites addressed by the URLs in the database forming part of the Software.

- 10.4. You acknowledge and agree that to the extent permitted by law, PDS will not be liable for, and you release PDS in respect of, any claim, loss, cost, damage or expense (Claim) arising out of operation or use of any goods, services or Software, or any act or omission of PDS or its employees, officers or agents unless that Claim is a direct result of the negligence or breach of this Agreement by PDS.
- 10.5. Subject to the preceding, the parties agree that any liability for a Claim against PDS will be limited to the lesser of:
  - a) the re-supply of the goods, services or Software in question (if applicable);
  - b) the cost of the re-supply of the goods, services or Software in question (if applicable); or
  - c) the contract price of the original supply of the goods, services or Software.
- 10.6. To the extent permitted by law PDS will not be liable to you in respect of any consequential, indirect, exemplary or punitive damage (including, but not limited to, loss of actual or anticipated profits or revenues, loss by reason of shutdown or non-operation, increased cost of borrowing, capital or financing, or loss of use or productivity, etc.) whether caused by or in relation to breach of contract, warranty, tort, product liability, contribution or strict liability and whether arising under this Agreement, at law or in equity.
- 10.7. Notwithstanding any other provision in this Agreement, in no event shall PDS's aggregate liability for any claim arising in connection with this Agreement exceed the amount of Fees and charges paid to PDS

under or in connection with this Agreement by you over a six (6) month period, averaged over the term of this Agreement.

- 10.8. You acknowledge that PDS may, as part of its supply of goods and services, on supply goods, systems or processes manufactured by a third party. In such circumstances, PDS is not liable for any defect, breakdown, loss, damage or cost arising out of that supply. The extent of PDS's liability with respect to third party goods, systems or processes, is for PDS to use its reasonable endeavours to pass on to you any warranty granted to PDS by the third party manufacturer.

## 11. Term and Amendment

- 11.1. This Agreement will commence on the day it is made and will continue for the duration of the term set out in the proposal.
- 11.2. Notwithstanding clause 11.1, PDS may terminate the Agreement without notice if you default under this Agreement or commit an act of insolvency and an external administrator or controller, liquidator or trustee in bankruptcy is appointed to you.
- 11.3. PDS may assign or otherwise transfer any of its rights under this Agreement.
- 11.4. You may not without the prior written consent of PDS assign or otherwise transfer any of your rights or obligations under this Agreement.
- 11.5. Where this Agreement comes to an end or is otherwise terminated either in respect of the Software as a whole or only certain modules, access to any Subscription Software, if applicable (or those certain modules) under this Agreement will immediately terminate, and all support services whether Subscription Software or not, (or certain modules, as applicable) will cease. Should you wish to enter into a new Agreement (and PDS agrees to enter into a new Agreement) for the Software or those modules previously switched off:

- a) If the new agreement is entered into within 6 months of expiry or termination of this Agreement, then the new fees will be calculated as though you are an existing customer; and

- b) If the new agreement is entered into after the period that is 6 months from expiry or termination of this Agreement, then the fees in the new agreement will be calculated as if you are a new customer, with no recognition of previous amounts paid for access to Software, whether subscription or otherwise.

- 11.6. PDS may amend the terms of this Agreement at any time by giving 30 days' notice in writing to you by mail, facsimile or email. You will be deemed to have accepted the terms as amended if you do not object prior to the expiry of the notice period or you place any further order during or after that notice period.

## 12. Defaults and Rights

- 12.1. In the event of a default by you under this Agreement, the whole of any outstanding balance will become immediately due and payable by you to PDS together with all legal costs and expenses associated with recovery of the outstanding balance on an indemnity basis.
- 12.2. The certificate of a Director or the Credit Manager of PDS will, in the absence of evidence to the contrary, be conclusive as to the amount of the outstanding balance.
- 12.3. No failure or delay of PDS to exercise any right or obligation hereunder and no custom or practice of the parties which is at variance with the terms hereof and no waiver by PDS of any particular default by you shall affect or prejudice PDS's rights in respect of any subsequent default and no indulgence or forbearance by PDS of its rights under this Agreement shall adversely affect or prejudice its rights in relation to such default or any subsequent default.

## 13. Employees

- 13.1. You agree and acknowledge that it is an essential condition of this Agreement that for the duration of the Agreement and for a period of 12 months after termination of this Agreement, you must not engage or attempt to engage, entice away, solicit or induce the engagement of any employees of PDS (or attempt to do any of these things) either for you or any third party.
- 13.2. For the purposes of this clause 13, "engagement" means: The engagement,

employment, contracting (including through a company or other vehicle owned or controlled by the relevant employee) or use (directly or indirectly) by you of the relevant employee whether for a definite or indefinite period (except as employee of PDS), or the introduction of the employee to other employers with a resulting engagement, employment, contracting or use (including through a company or other vehicle owned or controlled by the employee). “Engages” has a like meaning.

#### **14. Intellectual Property**

- 14.1. For the purposes of this Agreement, “Intellectual Property Rights” means copyright, trademark, design, patent, semiconductor or circuit layout rights and any other rights whether or not they are registered or registrable, relevant to, among other things, the textual, graphical, audio and other information, content, data or material used by PDS in respect to this Agreement
- 14.2. Any pre-existing Intellectual Property Rights owned by PDS before the commencement of this Agreement, will remain vested in PDS.
- 14.3. Any pre-existing Intellectual Property Rights owned by you before the commencement of this Agreement, will remain vested in you.
- 14.4. You agree to grant to PDS a non-exclusive, transferable, royalty free licence to use your pre-existing Intellectual Property Rights to the extent that use relates to any material created by PDS pursuant to this Agreement.
- 14.5. Subject to any Intellectual Property Rights existing in any third party materials, all Intellectual Property Rights, created by PDS on or after the commencement of this Agreement will remain vested in PDS.
- 14.6. Title, ownership and intellectual property rights in the Software shall remain with PDS. Nothing in this Agreement grants to you ownership or intellectual rights in the Software. you must not remove or alter any logo, copyright or other proprietary notices, symbols or labels in the Software.
- 14.7. You must not reverse engineer, decompile or disassemble the Software. You must not distribute, sell, sub-license or otherwise make the whole or part of the Software available for use by a third party.

14.8. You must not use or distribute any part or whole of the Software in conjunction with any product or service for commercial gain unless expressly consented to by PDS and you acknowledge PDS’s proprietary rights over the Software.

14.9. You must not incorporate the Software in any product to be made available commercially unless expressly consented to by PDS and you acknowledge PDS’s proprietary rights over the Software.

#### **15. Your Promises**

- 15.1. You promise that you are not executing this Agreement as a result of or by reason of or in reliance upon any promise, representation, statement or information of any kind whatever given or offered to you by or on behalf of PDS whether in answer to an enquiry or otherwise.
- 15.2. You promise that prior to the placement of any order, you have made your own independent enquiries and satisfied yourself as to the quality and fitness for purpose of the Software, goods and/or services.

#### **16. Personal and other Information**

- 16.1. PDS will deal any information which is protected under the Privacy Act 1988 as amended from time to time (the “Privacy Act”) only in accordance with the Privacy Act.
- 16.2. PDS is not responsible or liable for the unauthorised use of or access to the Software by you, your employees or any of your contractors.
- 16.3. You agree that PDS may retain all data provided by you for its record-keeping purposes.

#### **17. Use of Names**

- 17.1. You must not without PDS's written permission use the name, any trademark or logo of PDS to claim any sponsorship, endorsement, approval or affiliation or other association with PDS by virtue of this Agreement.

## 18. Resolving Disputes

- 18.1. In any dispute arising out of or in connection with this Agreement, you agree to first negotiate in good faith with a senior PDS officer to resolve it.
- 18.2. If the dispute is not resolved by those negotiations within thirty (30) days, you agree that the matter may be referred to the Australian Commercial Dispute Centre Limited (ACDC) for resolution by mediation and if necessary by arbitration in accordance with the Conciliation Rules of the ACDC.

## 19. General

- 19.1. Your rights under this Agreement may not be assigned without the prior written consent of PDS, which consent may be withheld, granted unconditionally or conditionally in the absolute discretion of PDS.
- 19.2. This Agreement is governed by and construed in accordance with the laws of New South Wales, Australia.
- 19.3. If any term or other provision of this Agreement is determined to be invalid, illegal or incapable of being enforced by any rule or law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.
- 19.4. This Agreement, together with the proposal, constitutes the entire agreement between the parties with respect to the subject matter hereof. All prior or contemporaneous statements or agreements with respect to such subject matter are superseded by this Agreement.
- 19.5. No forbearance, delay or indulgence by a party in enforcing the provisions of this Agreement will prejudice or restrict the rights of that party, nor will any waiver of those rights operate as a waiver of any subsequent breach.
- 19.6. A Force Majeure event means anything outside reasonable control of a party, including but not limited to:

- a) Power outages, major infrastructure breakdowns, malicious software, including virus;
- b) acts of God or the public enemy, national emergencies, radioactive contamination, insurrection, riot, hostile or warlike action or sabotage;
- c) a transportation embargo;
- d) industrial action (including a picket); and
- e) any legislation or regulation and any action or inaction of any government or government agency.

- 19.7. If any party is wholly or partially unable to perform its obligations because of a Force Majeure event except for its obligation to pay money then:

- a) as soon as reasonably practicable after the Force Majeure event arises, the party must notify the other party of the extent to which the notifying party is unable to perform its obligations; and
- b) that party's obligation to perform will be suspended for the duration of the delay arising directly out of the Force Majeure event.