

Contract schedule and order form

Including terms and conditions

01-09-2010

HIG Capital



Order Form

Contract schedule

This Agreement is made between Analysys Mason Limited, a company organised and existing under the laws of England and Wales and having its registered office at Second Floor Bush House, North West Wing, London WC2B 4PJ and with registration number 05177472 (“Analysys Mason”) and: H.I.G. Capital

1 Schedule

Subscription service

12 Month corporate access to “Service Fulfillment” Programme,

Additional Services required:

Work Stream 1. TECHNICAL PRODUCT REVIEW (weeks 1 and 2)

Deliverable: Thorough review of Aircom’s product development process and product portfolio in the three areas of network planning, optimisation and performance.

Method: Review of detailed product and product development information, discussions with Aircom management team, updates with key competitors (pending availability), discussion with two Aircom customers (if can be arranged).

Output: Aircom Product Review Report (PowerPoint presentation format) and Analysys Mason presentation outlining key interim and final findings and conclusions. Report to include:

- Review of product research and development history (R&D spend, development milestones, track record of achieved/missed deadlines)
- Detailed review of current and future product development roadmap and strategy
- Review of typical product lifecycle, lead times needed to introduce new products and upgrade features
- Review of product quality, architecture, technical competency, IP and functionality and comparison versus competitors
- Review of product KPIs
- Summary of product differentiators and weaknesses versus competitors and review of how roadmap will address those weaknesses
- Additional steps to address weaknesses that could be taken, and rough estimate of cost and time frame
- Key conclusions and recommendations for H.I.G.

Work Stream 2. COMMERCIAL DUE DILIGENCE REPORT (weeks 2 and 3)

Deliverable: Provide an independent and comprehensive third-party market report outlining key trends and competitive dynamics in Aircom’s key sub-markets of network planning and optimisation, network performance management and services.

Method: Draw on expertise of our specialist Research Analysts and our abundant existing market research, discussions with Aircom management team, discussions with other key players in the market.

Output: Market Review Report (PowerPoint presentation format) and Analysys Mason presentation outlining key interim and final findings and conclusions. Report to include views on:

- Latest market sizing and growth forecasts for product, product-related services and outsourced engineering services
- Key market trends and drivers and influence on demand and supply
- Competitor profiles, market share and SWOT analysis
- Aircom SWOT analysis
- Mitigation strategies for weaknesses and threats
- Key conclusions and recommendations for H.I.G.

Analysys Mason Team

Dr. Mark H. Mortensen, Principal Analyst, Project Manager and perform most of the work

Patrick Kelly, Research Director, Service Assurance subject matter expert

Glen Ragoonanan, Senior Analyst Professional Services subject matter expert

Larry Goldman, Managing Director SW Research, Project Director

Project Timeline

- | | |
|-----------------------------|-------------------|
| • Project Start | 6 September 2010 |
| • Project status call | 10 September 2010 |
| • Interim Report, Stream 1 | 20 September 2010 |
| • Interim Report, Stream 2 | 24 September 2010 |
| • Final Report, Streams 1&2 | 27 September 2010 |

Pricing: £40,000

All fees exclude any value-added, export, withholding or other applicable taxes which will be payable by the client if applicable.

2 Billing details

Purchase Order (P.O.) YES/ NO:	
VAT number - MANDATORY:	
Please indicate if VAT is not applicable to your company	

Billing address	
Name of the contact/department to which the invoice should be addressed:	
Company name as registered:	
Street:	
City:	Postcode:
Country:	
Telephone:	FAX:
Email:	

Delivery address (if different from your billing address)	
Name of the contact/department to which the invoice should be addressed:	
Company name as registered:	
Street:	
City:	Postcode:
Country:	
Telephone:	FAX:
Email:	

Please complete if paying by credit card	
Visa/MasterCard/AMEX Card number:	
Name as it appears on the card:	
Security digits/CVV (last three digits on the back of your credit card):	
Expiry date:	Valid from date (AMEX)
Street:	
City:	Postcode:
Country:	

Payment arrangements

Invoices are payable by the Client within 30 days of the invoice date. If any sum is not paid when due then that sum shall bear interest from the due date until payment is made in full, both before and after any judgment, at 5% per annum over Bank of England's base rate from time to time. Analysys Mason is entitled to suspend performance of the Services as a result of any sums being outstanding.

	For Analysys Mason	For Client
Signature: Position:		
Please print name:		
Date:		

This Agreement is subject to **Analysys Mason's Standard Terms and Conditions** for Services (including Subscription Services) as attached, which form part of the Agreement

Annex:

Standard Terms and Conditions for Services (including Subscription Service)

The following terms and conditions (“Conditions”) set out the basis on which Analysys Mason Limited, a company organised and existing under the laws of England and Wales and having its registered office at Second Floor Bush House, North West Wing, London, WC2B 4PJ and with registration number 05177472 (“Analysys Mason”) will provide Services to the Client and/or provide the Client with access to its Subscription Service.

These Standard Terms and Conditions, together with the Schedule to which they are attached comprise the whole agreement between Analysys Mason and Client in relation to the provision of Services (“Agreement”) and/or access to the Subscription Service.

AGREED TERMS

INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this Agreement (unless the context requires otherwise).

Analysys Mason’s Equipment: any equipment, including tools, systems, cabling or facilities, provided by Analysys Mason or its Sub-Contractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Client.

Acceptance Criteria: any criteria specified in the Schedule for the performance of a Deliverable.

Client: the client of Analysys Mason receiving the benefit of the Services as specified in the Schedule.

Client’s Equipment: any equipment, systems, cabling or facilities provided by the Client and used directly or indirectly in the supply of the Services.

Commencement Date: the date specified in the Schedule.

Confidential Information: information (whether or not recorded in documentary form, or stored on any magnetic or optical disk or memory) relating to

the business, products, affairs and finances of Analysys Mason or the Client for the time being confidential to Analysys Mason or the Client and trade secrets including, without limitation, technical data and know-how relating to the business of Analysys Mason of the Client.

In-put Material: all documents, information and materials provided by the Client relating to the Services including the in-put materials specified in the Schedule.

Intellectual Property Rights: patents, rights to Inventions, copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.

Invention: any invention, idea, discovery, development, improvement or innovation made by Analysys Mason in connection with the provision of the Services, whether or not patentable or capable of registration, and whether or not recorded in any medium.

Non-Conformity: a material failure of a Deliverable to meet the applicable Acceptance Criteria which substantially reduces the functionality of the Deliverable.

Pre-existing Materials: all documents, information and materials provided by Analysys Mason relating to the Services which existed prior to the commencement of this Agreement including those items specified in the Schedule.

Primary Agreement: the agreement between Analysys Mason and the Client further details of which are specified in the Schedule.

Schedule: the terms specified in this Agreement Schedule to which these Standard Terms and Conditions are attached.

Services: the services described in the Schedule.

Sub-Contractor: any party identified in the Schedule to which Analysys Mason shall be entitled to sub-contract performance of the Services, or such other sub-contractors which may be agreed in writing from time to time.

Subscription Service: the service made available by Analysys Mason at www.analysysmason.com and which provides online access to published content

Works: all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software programs, Inventions, ideas, discoveries, developments, improvements or innovations and all materials embodying them in whatever form, including but not limited to hard copy and electronic form, provided by Analysys Mason in connection with the provision of the Services and/or the Subscription Service including without limitation those items identified as Deliverables or Subscription Service materials in the Schedule.

- 1.2 All agreements on the part of either of the parties which comprise more than one person or entity shall be joint and several and the neuter singular gender throughout this Agreement shall include all genders and the plural and the successor in title to the parties.

1 TERM OF ENGAGEMENT

- 2.1 Client shall engage Analysys Mason and Analysys Mason shall provide the Services on the terms of this Agreement.
- 2.2 This Agreement shall commence or shall be deemed to have commenced on the Commencement Date and shall continue unless and

until terminated as provided by the terms of this Agreement.

2 PRECEDENCE

- 3.1 These Conditions shall prevail over any inconsistent terms or conditions contained, or referred to, in the Client's purchase order, confirmation of order, acceptance of a quotation, or specification or other document supplied by the Client, or implied by law, trade custom, practice or course of dealing.

- 3.2 The Client's purchase order, or the Client's acceptance of a quotation for Services by Analysys Mason, constitutes an offer by the Client to purchase the Services specified in it on these Conditions. No offer placed by the Client shall be accepted by Analysys Mason other than:

- a).by a written acknowledgement issued and executed by Analysys Mason; or
- b).(if earlier) by Analysys Mason starting to provide the Services,

when a contract for the supply and purchase of the Services on these Conditions will be established. The Client's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other document shall not govern this Agreement.

- 3.3 Quotations are given by Analysys Mason on the basis that no agreement shall come into existence except in accordance with clause 3.2. Validity of quotation as outlined in contract schedule.

4 ANALYSYS MASON'S OBLIGATIONS

- 4.1 Analysys Mason shall use reasonable endeavours to manage or provide the Services, and to deliver the Deliverables to the Client, in accordance in all material respects with the Schedule.
- 4.2 Analysys Mason shall use reasonable endeavours to meet any performance dates specified in the Schedule, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 4.3 Analysys Mason shall use reasonable endeavours to observe all health and safety rules and regulations, and any other reasonable security requirements that apply at [any of] the Client's premises and that have been communicated to it

under condition e, provided that it shall not be liable under this Agreement if, as a result of such observation, it is in breach of any of its obligations under this Agreement.

5 CLIENT'S OBLIGATIONS

5.1 The Client shall:

- a) co-operate with Analysys Mason in all matters relating to the Services;
- b) provide Analysys Mason, its agents, Sub-Contractors, consultants and employees, in a timely manner and at no charge, with access to the Client's premises, office accommodation, data and other facilities as reasonably required by Analysys Mason for the performances of the Services;
- c) provide to Analysys Mason, in a timely manner, such In-put Material and other information as Analysys Mason may require and ensure that it is accurate in all material respects;
- d) be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials from any of its premises in accordance with all applicable laws, before and during the supply of the Services at those premises, and informing Analysys Mason of all of the Client's obligations and actions under this clause (d);
- e) inform Analysys Mason of all health and safety rules and regulations and any other reasonable security requirements that apply at [any of] the Client's premises;
- f) obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of Analysys Mason's Equipment, the use of In-put Material and the use of the Client's Equipment in relation to Analysys Mason's Equipment [insofar as such licences, consents and legislation relate to the Client's business, premises, staff and equipment], in all cases before the date on which the Services are to start;

5.2 If Analysys Mason's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Client, its agents,

subcontractors, consultants or employees, Analysys Mason shall not be liable for any costs, charges or losses sustained or incurred by the Client arising directly or indirectly from such prevention or delay.

5.3 The Client shall be liable to pay to Analysys Mason, on demand, all reasonable costs, charges or losses sustained or incurred by Analysys Mason (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Client's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this Agreement, subject to Analysys Mason confirming such costs, charges and losses to the Client in writing.

5.4 The Client shall not, without the prior written consent of Analysys Mason, at any time from the date of this Agreement to the expiry of 6 months after the last date of supply of the Services, solicit or entice away from Analysys Mason or employ (or attempt to employ) any person who is, or has been, engaged as an employee, consultant or Sub-Contractor of Analysys Mason in the provision of the Services.

6 SUBSCRIPTION SERVICE

6.1 In consideration of the payment of any fees specified in the Schedule in respect of the Subscription Service, the Client shall be granted access to the Subscription Service and any Works specified in the Schedule as included in such access.

6.2 Access to the Subscription Service shall be provided subject to payment of an annual fee. Access will be provided for a period of 12 months or such other period specified in the schedule beginning on the Commencement Date.

6.3 On termination of the Subscription Service, the Client's access shall be terminated and the Client shall have no further right to access the Subscription Service or any materials provided therein.

6.4 The Subscription Service shall be provided pursuant to further terms of use as set out in

Appendix 1 and in the event of any conflict between this Agreement and such terms of use, the terms of use shall prevail.

7 CHARGES AND PAYMENT

7.1 In consideration of the provision of the Services by Analysys Mason, the Client shall pay the charges as set out in the Schedule, which shall specify whether they shall be on a time and materials basis, a fixed price basis or a combination of both. Clause 7.2 shall apply if Analysys Mason provides Services for a fixed price. The remainder of this clause 7 shall apply in any case.

7.2 Where Services are provided for a fixed price, the total price for the Services shall be the amount set out in the Schedule. The total price shall be paid to Analysys Mason (without deduction or set-off) in instalments, as set out in the Schedule. Analysys Mason shall invoice the Client in accordance with the Schedule for the charges that are then payable, together with the costs of materials, VAT (which Analysys Mason shall add to its invoices at the appropriate rate) and expenses, in accordance with the Schedule.

7.3 Time for payment shall be of the essence of this Agreement.

7.4 All sums payable to Analysys Mason under this Agreement shall become due immediately on its termination, despite any other provision. This clause 7.4 is without prejudice to any right to claim for interest under the law, or any such right under this Agreement.

7.5 Analysys Mason may, without prejudice to any other rights it may have, set off any liability of the Client to Analysys Mason against any liability of Analysys Mason to the Client.

8 DELIVERY AND TESTING

8.1 The parties shall evaluate any Deliverables within fourteen days of delivery against any applicable Acceptance Criteria. Services and Deliverables will be accepted if no Non-Conformities are found.

8.2 The Client shall notify Analysys Mason in writing of any Non-Conformity within fourteen days of delivery. Following receipt of notice of a Non-Conformity, Analysys Mason shall within such period as is reasonable in the circumstances, modify the Deliverables to remedy the Non-

Conformity and deliver the modified Deliverables to the Client.

8.3 If the Deliverables still fail to meet the Acceptance Criteria, then Analysys Mason shall have a further such period as is reasonable in the circumstances to modify the Deliverables to remedy the Non-Conformity and re-deliver the Deliverables to the Client and the process in clauses 8.1 and 8.2 shall apply to the modified Deliverables.

8.4 If, having carried out the procedures set out in clauses 8.1 to 8.3 above, a Non-Conformity remains in the Deliverables, the Client shall have the option to:

- a) accept the non-conforming Deliverable (or the relevant parts thereof) at a reduced price agreed between the parties; or
- b) cease to use the relevant Deliverable (together with any copies thereof). Analysys Mason shall then refund to the Client any fees paid for that Deliverable in full and final settlement of any loss or damage incurred by the Client.

8.5 For the avoidance of doubt all parts of a Deliverable which are tested in accordance with this clause 8 but which are not the subject of a Non-Conformity notified to Analysys Mason in accordance with this clause 8, shall be deemed to have been accepted by the Client within fourteen days of receipt by the Client.

9 INTELLECTUAL PROPERTY RIGHTS

9.1 As between the Client and Analysys Mason, all Intellectual Property Rights and all other rights in the Works and the Pre-existing Materials shall be owned by Analysys Mason. Subject to clause 9.2, Analysys Mason licenses all such rights to the Client free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Client to make reasonable use of the Works and the Services. If this Agreement terminates, this licence shall automatically terminate.

9.2 The Client acknowledges that, where Analysys Mason does not own any Pre-existing Materials, the Client's use of rights in Pre-existing Materials is conditional on Analysys Mason obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle

Analysys Mason to license such rights to the Client.

10 CONFIDENTIALITY AND ANALYSYS MASON'S PROPERTY

10.1 The Client shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Client by Analysys Mason, its employees, agents, consultants or Sub-Contractors and any other Confidential Information concerning Analysys Mason's business or its products which the Client may obtain.

10.2 The Client may disclose such information:

- a) to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the Client's obligations under this Agreement; and
- b) as may be required by law, court order or any governmental or regulatory authority.

10.3 The Client shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this clause 10.2.

10.4 The Client shall not use any such information for any purpose other than to perform its obligations under this Agreement.

10.5 All materials, equipment and tools, drawings, specifications and data supplied by Analysys Mason to the Client (including Pre-existing Materials and Analysys Mason's Equipment) shall, at all times, be and remain as between Analysys Mason and the Client the exclusive property of Analysys Mason, but shall be held by the Client in safe custody at its own risk and maintained and kept in good condition by the Client until returned to Analysys Mason, and shall not be disposed of or used other than in accordance with Analysys Mason's written instructions or authorisation.

11 LIMITATION OF LIABILITY

11.1 This clause 11 sets out the entire financial liability of Analysys Mason (including any liability for the acts or omissions of its employees, agents,

consultants, and Sub-Contractors) to the Client in respect of:

- a) any breach of this Agreement [including [any deliberate personal repudiatory breach OR any deliberate breach of this Contract by Analysys Mason, or its employees, agents or subcontractors]]; and
- b) any use made by the Client of the Services, the Works or any part of them; and
- c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

11.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

11.3 Nothing in this Agreement limits or excludes the liability of Analysys Mason:

- a) for death or personal injury resulting from negligence; or
- b) for any damage or liability incurred by the Client as a result of fraud or fraudulent misrepresentation by Analysys Mason; or
- c) for any liability incurred by the Client as a result of any breach by Analysys Mason of the condition as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982.

11.4 Subject to clauses 11.2 and 11.3, Analysys Mason shall not be liable for loss of profits; loss of business; depletion of goodwill and/or similar losses; loss of anticipated savings; loss of goods; loss of contract; loss of use; loss of corruption of data or information; any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

11.5 Analysys Mason's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of this Agreement shall be limited to the charges as set out in the Schedule.

11.6 No action, regardless of form, arising out of transactions occurring under or contemplated under this Agreement may be brought by either party

more than six years after the cessation of Services pursuant to this Agreement.

12 TERMINATION

12.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate this Agreement without liability to the other on giving the other not less than one month's written notice to the other if:

- a) the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment; or
- b) the other party commits a material breach of any of the terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- c) the other party ceases to do business, becomes unable to pay its debts as they fall due, becomes or is deemed insolvent, has a receiver, liquidator, manager, administrator, administrative receiver or similar officer appointed in respect of the whole or any part of its assets or business (or is the subject of a filing with any court for the appointment of any such officer), makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt or an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction), or any equivalent or similar action or proceeding is taken or suffered in any jurisdiction;
- d) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- e) there is a change of control of the other party.

12.2 Either party may also terminate this Agreement in accordance with any termination rights specified in the Schedule.

12.3 On termination of this Agreement for any reason:

- a) the Client shall immediately pay to Analysys Mason all of Analysys Mason's outstanding

unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Analysys Mason may submit an invoice, which shall be payable immediately on receipt;

- b) the Client shall return all of Analysys Mason's Equipment, Pre-existing Materials and Deliverables. If the Client fails to do so, then Analysys Mason may enter the Client's premises and take possession of them. Until they have been returned or repossessed, the Client shall be solely responsible for their safe keeping; and
- c) the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

12.4 Provisions of this Agreement which either are expressed to survive its termination or from their nature or context it is contemplated that they are to survive such termination shall remain in full force and effect notwithstanding such termination.

13 FORCE MAJEURE

13.1 Analysys Mason shall have no liability to the Client under this Agreement if it, or a Sub-Contractor is prevented from, or delayed in performing, the obligations under this Agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of Analysys Mason or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

14 GENERAL

14.1 Analysys Mason may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not

materially affect the nature, scope of, or the charges for the Services.

14.2 Subject to clause 14.1, no variation of this Agreement or these Conditions [or of any of the documents referred to in them] shall be valid unless it is in writing and signed by or on behalf of each of the parties.

14.3 This Agreement constitutes the entire and only agreement between the parties in relation to its subject matter and replaces and extinguishes all prior or simultaneous agreements, undertakings, arrangements, understandings or statements of any nature made by the parties or any of them whether oral or written (and, if written, whether or not in draft form) with respect to such subject matter. Each of the parties acknowledges that they are not relying on any statements, warranties or representations given or made by any of them in relation to the subject matter of this Agreement, save those expressly set out in this Agreement, and that they shall have no rights or remedies with respect to such subject matter otherwise than under this Agreement save to the extent that they arise out of the fraud or fraudulent misrepresentation of another party.

14.4 This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, and all the counterparts together shall constitute one and the same instrument.

14.5 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no person other than the Client and Analysys Mason shall have any rights under it. The terms of this Agreement or any of them may be varied, amended or modified or this Agreement may be suspended, cancelled or terminated by Agreement in writing between the parties or this Agreement may be rescinded (in each case), without the consent of any third party.

14.6 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under this Agreement or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further

exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

14.7 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of this Agreement, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

14.8 If a provision of this Agreement (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention].

14.9 The Client shall not, without the prior written consent of Analysys Mason, assign, transfer, charge, mortgage, subcontract, or deal in any other manner with all or any of its rights or obligations under this Agreement.

14.10 .Analysys Mason may at any time assign, transfer, charge, mortgage, subcontract, or deal in any other manner with all or any of its rights under this Agreement and may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent.

14.11 .Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

14.12 .Any notice or other communication required to be given under this Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party and for the attention of the person specified in the Schedule, or as otherwise specified by the relevant party by notice in writing to the other party. A notice or other communication required to be given under or in connection with this Agreement shall not be validly served if sent by e-mail.

14.13. This Agreement shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees to submit to the non-exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with this Agreement.

Appendix 1 – Terms of Use for Subscription Service

This page (together with the Schedule and the Standard Terms and Conditions for Services sets out the terms of use on which the Client may make use of the Subscription Service provided at website www.analysismason.com or through the Client's Intranet

1 ACCESSING THE SUBSCRIPTION SERVICE

- 1.1 Access to the Subscription Service is permitted subject to payment of an annual fee. Access will be provided for an initial period of 12 months or such other period as specified in the schedule beginning on the Commencement Date.
- 1.2 Analysys Mason reserve the right to withdraw or amend the Subscription Service without notice. Analysys Mason will not be liable if for any reason the Subscription Service is unavailable at any time or for any period.
- 1.3 To access the Subscription Service, the Client will choose, or will be provided with, a user identification code, password or any other piece of information as part of Analysys Mason's security procedures. The Client shall treat such information as confidential, and shall not disclose it to any third party. Analysys Mason reserves the right to disable any user identification code or password, whether chosen by, or allocated to, the Client, if in Analysys Mason's reasonable opinion, the Client has failed to comply with any of the provisions of these terms of use.
- 1.4 The Client shall be responsible for making all arrangements necessary for it to have access to the Subscription Service. The Client shall be responsible for ensuring that all persons who access the Subscription Service through the Client's internet connection are aware of these terms, and that they comply with them.

2 ACCEPTABLE USE

- 2.1 The Client may use the Subscription Service only for lawful purposes. The Client may not use the Subscription Service:
- in any way that breaches any applicable local, national or international law or regulation;
 - in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;

- to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam);
- to provide services to third parties through a service bureau, outsourcing model, as an application service provider or pursuant to any other similar arrangement; or
- to knowingly transmit any data, send or upload any material that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware.

2.2 The Client shall not:

- reproduce, duplicate, copy or re-sell any part of the Subscription Service and/or any Works specified in the Schedule as included in such access in contravention of these terms of use; or
- access without authority, interfere with, damage or disrupt any part of the Subscription Service or the site via which it is provided.

3 INTELLECTUAL PROPERTY RIGHTS

- 3.1 Analysys Mason is the owner or the licensee of all intellectual property rights in the Subscription Service, and in any material provided in it (including any Works specified in the Schedule as included in such service).
- 3.2 The Client may print off and download the whole of or extracts, of, the Works specified in the Schedule as included in the Subscription Service for its personal, internal reference only.
- 3.3 The Client may not modify the paper or digital copies of any materials (including the Works specified in the Schedule as included in the Subscription Service) printed off or downloaded in any way.
- 3.4 Analysys Mason's status (and that of any identified contributors) as the authors of any material provided as part of the Subscription Service must always be acknowledged.
- 3.5 The Client may not use any part of the materials provided as part of the Subscription Service (including the Works specified in the Schedule) other than for their own, internal purposes without

obtaining a licence to do so from Analysys Mason or its licensors.

- 3.6 Any breach of these terms of use, shall entitle Analysys Mason to terminate the Client's right to use the Subscription Service immediately and the Client shall, at Analysys Mason's option, return or destroy any copies of such materials it has made.

4 RELIANCE ON INFORMATION POSTED

- 4.1 Commentary and other materials posted as part of the Subscription Service are not intended to amount to advice on which reliance should be placed. Analysys Mason therefore disclaims all liability and responsibility arising from any reliance placed on such materials by the Client, or by anyone who may be informed of any of the contents of such materials.

5 LIABILITY

- 5.1 The material displayed via the Subscription Service (including any Works specified in the Schedule as included in such service) is provided without any guarantees, conditions or warranties as to its accuracy. To the extent permitted by law, Analysys Mason, and members of its group of companies and third parties connected to such expressly exclude:

- a) all conditions, warranties and other terms which might otherwise be implied by statute, common law or the law of equity; and
- b) any liability for loss of income or revenue; loss of business; loss of profits or contracts; loss of anticipated savings; loss of data; loss of goodwill; wasted management or office time or any indirect or consequential loss or damage incurred by any user in connection with the Subscription Service however arising and whether caused by tort (including negligence or negligent misstatement), breach of contract or otherwise, even if foreseeable.

- 5.2 Analysys Mason's total liability to the Client in connection with the Subscription Service and/or the Works specified in the Schedule as part of such service, however arising and whether caused by tort (including negligence or negligent misstatement), breach of contract or otherwise, shall be limited to direct losses only and in no

circumstances exceed the amount paid by the Client for the Subscription Service.

- 5.3 Nothing in this Condition shall affect Analysys Mason's liability for death or personal injury arising from its negligence, nor its liability for fraudulent misrepresentation or misrepresentation as to a fundamental matter, nor any other liability which cannot be excluded or limited under applicable law.

- 5.4 Analysys Mason shall have no liability for any loss or damage caused by a distributed denial-of-service attack, viruses or other technologically harmful material that may infect the Client's computer equipment, computer programs, data or other proprietary material through use of the Subscription Service or to the downloading of any material posted on it, or on any website linked to it.

6 LINKS FROM THE SUBSCRIPTION SERVICE

- 6.1 Where the Subscription Service contains links to other sites and resources provided by third parties, these links are provided for information only. Analysys Mason shall have no responsibility for such site or for any loss or damage that may arise from the Client's use of such sites.

7 JURISDICTION AND APPLICABLE LAW

- 7.1 The English courts will have non-exclusive jurisdiction over any claim arising from, or related to, the Subscription Service although Analysys Mason retains the right to bring proceedings against the Client for breach of these conditions in the Client's country of residence or any other relevant country.

- 7.2 These terms of use and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.