



***Offshore Stainless  
Supplies Limited***  
***("the Customer")***

**Terms and Conditions of Purchase Nov 2023**

## 1. INTERPRETATION

The following definitions and rules of interpretation apply in these Conditions.

### 1.1 Definitions:

- Articles:** any items, components, materials or equipment belonging to the Customer which the Customer provides to the Supplier in accordance with clause 3.8.
- Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- Business Hours:** the period from 8.00 am to 5.00 pm on any Business Day.
- Commencement Date:** has the meaning given in clause 2.2.
- Conditions:** these terms and conditions as amended from time to time in accordance with clause 17.9.
- Contract:** the contract between the Customer and the Supplier for the supply of Goods or Services or Goods and Services in accordance with these Conditions.
- Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be interpreted accordingly.
- Customer:** Offshore Stainless Supplies Limited (registered in England and Wales with Company number 03888553) with registered address at Unit 8, Walker Industrial Park, Guide, Blackburn, Lancashire, BB1 2QE.
- Customer Materials:** has the meaning set out in clause 5.3(i).
- Deliverables:** all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
- Delivery Date:** has the meaning given in clause 4.2(a).
- Delivery Location:** has the meaning given in clause 4.2(b).
- Goods:** the goods (or any part of them) set out in the Order.

<b>Goods Specification:</b>	any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.
<b>Intellectual Property Rights:</b>	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
<b>Irrevocable Costs:</b>	the direct costs to the Supplier, to an aggregate amount not exceeding 80% of the purchase price for the cancelled commitment.
<b>Mandatory Policies:</b>	the Customer's business policies as updated from time to time.
<b>Order:</b>	the Customer's order for the supply of Goods and/or Services.
<b>Services:</b>	the services, including any Deliverables, to be provided by the Supplier under the Contract.
<b>Service Specification:</b>	the description or specification for Services agreed in writing by the Customer and the Supplier.
<b>Standard Stock Items:</b>	Goods which the Supplier offers for sale at any time.
<b>Supplier:</b>	the person or firm from whom the Customer purchases the Goods and/or Services.

## 1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** excludes fax but not email.

## 2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Customer to purchase Goods or Services or Goods and Services from the Supplier in accordance with these Conditions and no other contract.

2.2 The Order shall be deemed to be accepted on the earlier of:

- (a) the Supplier issuing written acceptance of the Order; or
- (b) any act by the Supplier consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence (**Commencement Date**). Within 24 hours of the Supplier accepting the Customer's Order, the Supplier shall confirm the Delivery Date in writing to the Customer.

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

2.5 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

2.6 The Supplier is responsible for ensuring that the terms of the Order and all additional documentation are complete and accurate. The Supplier is responsible for contacting the Customer if there is any discrepancy, clerical, typographical or other error or omission in any Order submitted by the Customer. This includes any errors which the Supplier is or ought to be aware of during the course of business. Any typographical, numerical, clerical or other error or omission in any Order submitted by the Customer shall be subject to correction without any liability on the part of the Customer.

### **3. SUPPLY OF GOODS**

3.1 The Supplier shall ensure that the Goods shall:

- (a) correspond with their description, any applicable Goods Specification, and any specifications as set out in the Customer's Order;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;
- (c) where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 24 months after delivery; and
- (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

3.2 If the Customer orders Goods, then unless otherwise stated the Order is deemed to require and include at no extra cost, the supply of all relevant documentation and certification, and the installation, testing and commissioning of those Goods, necessary to enable the Customer to use them for their intended purposes.

3.3 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

3.4 The Customer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

- 3.5 If following such inspection or testing the Customer considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance. The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 3.6 The Customer shall be allowed to inspect any Goods (including any Articles which the Customer supplies to the Supplier) and the Supplier's premises for manufacture and storage so long as the Customer requests an inspection by providing reasonable notice. If, as a result of the inspection, the Customer is not satisfied that the quality of the Goods or the standards of the Supplier's manufacture, storage or handling does not conform with the Contract, the Supplier will take such steps as are necessary to ensure compliance within 28 Business Days. If, after 28 Business Days, the Customer is required to conduct a further inspection, and they are still not satisfied they can cancel the Contract immediately without penalty.
- 3.7 If the Contract terms refer to terms such as DDP which bear defined meanings in the current edition of Incoterms 2020, those defined meanings will apply unless expressly stated otherwise.
- 3.8 The Customer may agree to provide and make available to the Supplier, goods on a free issue basis or Articles and any such goods and Articles will remain the Customer's absolute property throughout and will be at the Supplier's risk while the goods and Articles are, or are supposed to be, in their possession. The Supplier is not to part with possession (save to the Customer) of such goods and Articles unless with the Customer's express prior consent.
- 3.9 If Goods have been offered by the Supplier as Standard Stock Items, the Customer can, by providing written notice to the Supplier, at any time up to delivery cancel its commitment to buy them without liability. Any other commitment of the Customer's to receive and pay for Goods (which are not Standard Stock Items) may be cancelled by the Customer. The Customer will reimburse the Supplier for all Irrecoverable Costs properly incurred, or unavoidably committed, by the Supplier in fulfilling the relevant accepted Order up to the point of cancellation, provided that the Supplier can evidence and provides a breakdown of the Irrecoverable Costs incurred. The Customer will be entitled to the benefit of the part-finished Goods in question.
- 3.10 While Articles are in the Supplier's custody, they must not use them, copy them or disseminate them, electronically or otherwise, except in the performance of this Contract.

#### **4. DELIVERY OF GOODS**

- 4.1 The Supplier shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
  - (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered;
  - (c) all claims made by the Supplier about any Goods, and all serious or clear claims in their advertising and promotional material are correct and can be relied upon; and
  - (d) it states clearly on the delivery note any requirement for the Customer to return any packaging material for the Goods to the Supplier. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 4.2 The Supplier shall deliver the Goods:

- (a) on the date specified in the Order or, if no such date is specified, then within 3 Business Days of the date of the Order (**Delivery Date**);
- (b) to the Customer's premises at Units 10 & 11, Walker Industrial Park, Guide, Blackburn, Lancashire, BB1 2QE or such other location as is set out in the Order or as instructed by the Customer before delivery (**Delivery Location**); and
- (c) during Business Hours or as instructed by the Customer.

4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

4.4 If the Supplier:

- (a) delivers less than 95% of the quantity of Goods ordered, the Customer may reject the Goods; or
- (b) delivers more than 105% of the quantity of Goods ordered, the Customer may at its sole discretion reject the Goods or the excess Goods.

4.5 Any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods. The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 6.1.

4.6 Subject to clause 4.7, Title and risk in the Goods shall pass to the Customer on completion of delivery.

4.7 Title to Goods will pass to Customer on delivery unless the Customer has paid in whole or in part for the Goods in advance. In that case it will pass to the Customer as soon as the Goods have (or, if Goods are being assembled for the Customer, each successive component of the Goods has) been appropriated to the Contract or upon payment being made (if earlier).

4.8 Acceptance does not occur until the Customer has had a reasonable time to inspect, test, consider and, in the case of latent defect, a reasonable time after the defect becomes apparent. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract. If following such inspection or testing, the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, then the Company shall inform the Supplier and the Supplier shall immediately take remedial action to ensure its compliance.

## **5. SUPPLY OF SERVICES**

5.1 The Supplier shall from the date set out in the Order and for the duration of the Contract (or such other duration agreed by the Customer in writing) supply the Services to the Customer fully (which includes the provision of any training, manuals, certifications and instructions to allow the Customer to benefit from them for their intended purpose) in accordance with the terms of the Contract.

5.2 The Supplier shall meet any performance dates for the Services specified in the Order or that the Customer notifies to the Supplier and time is of the essence in relation to any of those performance dates.

5.3 In providing the Services, the Supplier shall:

- (a) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;

- (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- (d) ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
- (g) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- (h) observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises. The Customer may refuse or terminate access to any individual who does not comply with this clause. The Supplier will indemnify the Customer for all damage and injury caused by its employees, contractors and other representatives;
- (i) hold all materials, plans, equipment and tools, drawings, computer programs, specifications and data supplied by the Customer to the Supplier (**Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
- (j) not do or omit to do anything which may cause loss or disruption to the Customer's business or cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;
- (k) find out from the Customer the purposes that they intend the Deliverables to be put to (including any applicable deadline affecting the Customer). The Supplier promises that the Deliverables will be suitable for those intended purposes, save only for any unsuitability which the Supplier has, as soon as might reasonably have been expected of them expressly notified to the Customer;
- (l) comply with any additional obligations as set out in the Service Specification.

5.4 If the Customer orders Goods or Services then, unless otherwise stated, the Customer's Order includes any legal rights necessary to use those Goods or Services and for the complete performance of those Services including any employee instruction, manuals, explanations or certifications necessary to enable the Customer to benefit from them for their intended purposes.

## 6. CUSTOMER REMEDIES

6.1 If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, the Customer shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;

- (b) to refuse to accept any subsequent performance of the Services or delivery of the Goods which the Supplier attempts to make;
- (c) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods or services from a third party;
- (d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided or Goods that it has not delivered; and
- (e) to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

6.2 If the Goods are not delivered by the applicable date, the Customer may, at its option and in addition to any other remedies available, claim or deduct 1% of the price of the Goods for each week's delay in delivery of the Goods, by way of liquidated damages, until the earlier of delivery of the Goods or termination or abandonment of the Contract by the Customer, up to a maximum of 10% of the total price of the Goods. The Supplier acknowledges that the damages set out in this clause are a fair and proportionate pre estimate of the loss, disruption and inconvenience suffered by the Customer as a result of the late delivery. If the Customer exercises its rights in respect of late delivery under this clause 6.2 then any amounts recovered by the Customer shall be deducted from any amounts recovered should the Customer also seek compensation under any of the remedies set out in clause 6.1 in respect of the late delivery of the Goods.

6.3 If the Services are not performed by the applicable date, the Customer may, at its option and in addition to any other remedies available, claim or deduct 1% of the price of the Services for each week's delay in performance of the Services, by way of liquidated damages, until the earlier of performance of the Services or termination or abandonment of the Contract by the Customer, up to a maximum of 10% of the total price of the Services. The Supplier acknowledges that the damages set out in this clause are a fair and proportionate pre estimate of the loss, disruption and inconvenience suffered by the Customer as a result of the late performance. If the Customer exercises its rights in respect of late performance under this clause 6.3 then any amounts recovered by the Customer shall be deducted from any amounts recovered should the Customer also seek compensation under any of the remedies set out in clause 6.1 in respect of the late performance of the Services.

6.4 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to repair or replace the rejected Goods within 7 Business Days, or to provide a full refund of the price of the rejected Goods (if paid);
- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute goods from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 3.1.





- 6.5 If the Supplier has supplied Services that do not comply with the requirements of clause 5.3(d) then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - (b) to return the Deliverables to the Supplier at the Supplier's own risk and expense;
  - (c) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
  - (d) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
  - (e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute services or deliverables from a third party; and
  - (f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to comply with clause 5.3(d).

6.6 These Conditions shall extend to any substituted or remedial services or repaired or replacement goods supplied by the Supplier.

6.7 The Customer's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

## 7. CUSTOMER'S OBLIGATIONS

The Customer shall:

- (a) provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services; and
- (b) provide such necessary information for the provision of the Services as the Supplier may reasonably request.

## 8. CHARGES AND PAYMENT

8.1 The price for the Goods and/or Services:

- (a) shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date;
- (b) shall be payable in pounds sterling;
- (c) shall be fixed for the duration for the Contract; and
- (d) shall be inclusive of the costs of packaging, insurance, import duties and tariffs, handling and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Customer.

8.2 The Customer will be entitled to any discount for prompt payment, bulk purchase or the like normally granted by the Supplier in comparable circumstances.

8.3 The charges for the Services shall be set out in the Order and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

- 8.4 In respect of the Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant purchase order number.
- 8.5 In consideration of the supply of Goods and/or Services by the Supplier, the Customer shall pay the invoiced amounts within 60 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.
- 8.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 8.7 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when the base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from 14 Business Days after the dispute is resolved until payment.
- 8.8 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.
- 8.9 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Customer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.
- 8.10 If the Customer will be reliant on the Supplier for any supplies of maintenance, training, spare parts, consumables or other goods, rights or services to benefit fully from the Goods and Services already provided by the Supplier ("**Follow-on Deliverables**") then the Supplier will provide those Follow-on Deliverables or procure them to be provided, for at least 60 months following full performance, at fair and reasonable prices which take no advantage of the Customer's dependence on the Supplier for their supply. Nothing in this Clause will prevent the Customer from sourcing the supply of such Follow-on Deliverables from any other third party and the Customer is not obligated to purchase them from the Supplier for the term stated herein.

## **9. INTELLECTUAL PROPERTY RIGHTS**

- 9.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any Customer Materials) shall be owned by the Supplier.
- 9.2 The Supplier grants to the Customer or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding Customer Materials) for the purpose of receiving and using the Services and the Deliverables.



9.3 The Customer grants the supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy any materials provided by the Customer to the Supplier for the term of the contract for the purpose of providing the Services to the Customer.

9.4 The Supplier acknowledges that all rights in the Customer Materials are and shall remain the exclusive property of the Customer.

## **10. INDEMNITY**

10.1 The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with:

- (a) any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding the Customer Materials);
- (b) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and
- (c) any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.

10.2 This clause 9 shall survive termination of the Contract.

## **11. INSURANCE**

During the term of the Contract and for a period of 3 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

## **12. CONFIDENTIALITY**

12.1 Each party undertakes that it shall not at any time and for a period of two years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.

12.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.



### **13. COMPLIANCE WITH RELEVANT LAWS AND POLICIES**

- 13.1 In performing its obligations under the Contract, the Supplier shall:
- (a) comply with all applicable laws, statutes, regulations and codes from time to time in force; and
  - (b) comply with the Mandatory Policies.

### **14. TERMINATION**

- 14.1 Without affecting any other right or remedy available to it, the Customer may terminate the Contract:
- (a) with immediate effect by giving written notice to the Supplier if:
    - (i) there is a change of Control of the Supplier; or
    - (ii) the Supplier commits a breach of clause 13.1.
  - (b) for convenience by giving the Supplier 1 months' written notice.
- 14.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 7 Business Days after being notified to do so;
  - (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business. or
  - (d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

### **15. CONSEQUENCES OF TERMINATION**

- 15.1 On termination of the Contract, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete and return all Customer Materials, Articles and excess free issue goods. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 15.2 Termination of the Contract shall not affect the parties' rights and remedies that have accrued as at termination including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 15.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

## 16. FORCE MAJEURE

16.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- (f) collapse of buildings, fire, explosion or accident; and
- (g) material interruption or failure of utility service.

16.2 Provided it has complied with clause 16.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

16.3 The Affected Party shall:

- (a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than 2 days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

16.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 7 Business Days the party not affected by the Force Majeure Event may terminate this agreement by giving 7 Business Days written notice to the Affected Party.

## 17. GENERAL

17.1 **Assignment and other dealings.**

- (a) The Customer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.
- (b) The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Customer.

17.2 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.



**17.3 Notices.**

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
  - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
  - (ii) sent by email (but only if evidence of successful transmission is provided by the party and if the parties have communicated on contract matters by that email route).
- (b) Any notice shall be deemed to have been received:
  - (i) if delivered by hand, at the time the notice is left at the proper address;
  - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
  - (iii) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

**17.4 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 17.4 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

**17.5 Waiver.**

- (a) Except as set out in clause 2.5, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

**17.6 No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

**17.7 Entire agreement.**

- (a) The Contract constitutes the entire agreement between the parties.
- (b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.



17.8 **Third party rights.**

- (i) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- (ii) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

17.9 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.

17.10 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

17.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.



## **SCHEDULE 1 MANDATORY POLICIES**

The Mandatory Policies are:

- Modern Slavery and Human Trafficking Policy.
- Corporate and Social Responsibility Policy.
- Anti-Bribery and Anti-Corruption Policy.
- Ethics Policy.
- Data and Privacy Policy.
- Security Policy.