

## **IMPORTANT NOTICE TO ALL SUPPLIERS:**

*Balmoral will accept no materials with Russian origins, specifically, in accordance with Article 3g(1)(d) of EU Council Regulation 2023/1214 of 23 June 2023, amending EU Regulation No 833/2014 (concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine), it is now prohibited to import into the EU (and similarly into the UK, Norway, and Switzerland) iron and steel products that are listed in Annex XVII to EU Regulation 833/2014 (as amended) that have been processed in a third country and incorporate Russian-origin iron and steel inputs that are listed in Annex XVII. Annex XVII corresponds to tariff headings 7206-7229 within Chapter 72, and the full Chapter 73.*

*In addition, to comply with this requirement, importers are required to provide evidence of the country of origin of the iron and steel inputs used for the processing of products listed in Annex XVII. While Mill Test Certificates (MTCs) will normally satisfy this requirement, Customs authorities may request additional documentation, such as invoices, delivery bills, quality certificates, long-term supplier's declarations, costing and manufacturing documents, customs documents of the exporting country, business correspondence, production descriptions and/or manufacturer's declarations or exclusion clauses in sales contracts indicating the non-Russian origin of the input products.*

## BALMORAL COMTEC LIMITED TERMS AND CONDITIONS OF PURCHASE

### 1. DEFINITIONS

In these terms and conditions:

**AFFILIATES** means, in relation to a PARTY, those corporations, companies and other legal entities which control, are directly or indirectly controlled by, or are under common control with, that PARTY. The term "control" in relation to a body corporate means the power of a PERSON to secure that the affairs of the body corporate are conducted in accordance with the wishes of that PERSON either (a) by means of the holding of shares, or the possession of voting power, in or in relation to that or any other body corporate; or (b) by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating that body corporate; and "controlled by" and "under common control with" are to be interpreted accordingly.

**CONDITIONS** means the general terms and conditions of purchase set out in this document.

**CONFIDENTIAL INFORMATION** has the meaning given in Article 10.

**CONTRACT** means the contract created between the PARTIES in respect of the WORK, comprising the PURCHASE ORDER issued by PURCHASER and accepted by SUPPLIER, the CONDITIONS, any SPECIAL CONDITIONS, and any SPECIFICATIONS.

**DELIVERABLES** means any outputs of the SERVICES and any other documents and materials, all as set out in the CONTRACT, which SUPPLIER shall provide to PURCHASER in relation to the SERVICES.

**DELIVERY ADDRESS** means the address for delivery of the WORK stated in the CONTRACT.

**DELIVERY DATE** means each date or period specified in the CONTRACT on or during which SUPPLIER shall deliver the WORK to PURCHASER.

**ENCUMBRANCE** means any interest or equity of any PERSON (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, title retention or other security agreement or arrangement.

**FORCE MAJEURE EVENT** has the meaning given to it in Article 17.

**GOODS** means the goods and materials described in the PURCHASE ORDER and which SUPPLIER shall supply to PURCHASER in accordance with the CONTRACT.

**INTELLECTUAL PROPERTY RIGHTS** means all patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in 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 such rights and all similar or equivalent rights or forms of protection which subsist in any part of the world.

**PARTIES** means SUPPLIER and PURCHASER and **PARTY** means either of them.

**PERSON** means a natural or legal person, including a corporate or unincorporated body (whether or not having a separate legal personality).

**PRICE** means the total price for the WORK as stated in the CONTRACT.

**PURCHASER** means Balmoral Comtec Limited, Balmoral Park, Loirston, Aberdeen, AB12 3GY, Scotland, a company registered in Scotland (registered number SC301819), or any AFFILIATE of Balmoral Comtec Limited that is a party to the CONTRACT.

**PURCHASER MATERIALS** means all materials and equipment, tools, drawings, SPECIFICATIONS, and data supplied by PURCHASER to SUPPLIER.

**PURCHASE ORDER** means a PURCHASER-generated document that constitutes an offer by PURCHASER to purchase the WORK that SUPPLIER is to provide in accordance with the SPECIFICATIONS, subject to the CONDITIONS and any SPECIAL CONDITIONS.

**SERVICES** means the services described in the PURCHASE ORDER and which SUPPLIER shall provide to PURCHASER in accordance with the CONTRACT.

**SPECIAL CONDITIONS** means any special conditions set out in or accompanying the PURCHASE ORDER which are to apply to the CONTRACT (in addition to the CONDITIONS).

**SPECIFICATIONS** means all plans, drawings, data and other technical information relating to the WORK, and all safety and technical standards applicable to the WORK which are within, incorporated into, attached to, or referenced in, the CONTRACT.

**SUBCONTRACT** means any contract between SUPPLIER and any other PERSON for the performance by that other PERSON of part of the WORK.

**SUBCONTRACTOR** means the party other than SUPPLIER to a SUBCONTRACT.

**SUPPLIER** means the PERSON named as such in the CONTRACT.

**WORK** means all GOODS or SERVICES or both, that SUPPLIER shall provide to PURCHASER in accordance with the CONTRACT.

**WRITTEN** or **IN WRITING** means in the form of a written, printed, or electronically-made document that creates a permanent record, including e-mails only when (i) the email is transmitted containing a request for receipt to be acknowledged; and (ii) such acknowledgement of receipt is duly provided.

## 2. BASIS OF CONTRACT

- 2.1 The CONDITIONS are the only terms and conditions upon which PURCHASER is prepared to transact with SUPPLIER and apply to the exclusion of any other terms or conditions that SUPPLIER seeks to impose or incorporate, or which may be implied by trade custom or practice or course of dealing. Any other terms and conditions endorsed upon, delivered with, or contained or referred to in (i) SUPPLIER's quotation, acknowledgement, or acceptance of the PURCHASE ORDER; or (ii) any specification or similar document provided by SUPPLIER; do NOT form part of the CONTRACT and SUPPLIER waives any right it otherwise might have to rely on such other terms and conditions.
- 2.2 The PURCHASE ORDER constitutes an offer by PURCHASER to purchase the WORK in accordance with the CONTRACT, including the CONDITIONS, any SPECIAL CONDITIONS, and the SPECIFICATIONS.
- 2.3 The PURCHASE ORDER will be deemed to be accepted by SUPPLIER only upon, and no contract shall exist between the PARTIES until, the SUPPLIER has issued a WRITTEN acceptance of the PURCHASE ORDER.
- 2.4 Any purported variation to the CONDITIONS will be inapplicable and of no force and effect unless expressly agreed IN WRITING by the PARTIES.

## 3. INSPECTION AND TESTING

- 3.1 PURCHASER is entitled to:
  - (i) inspect and test the WORK during its manufacture, processing or storage at SUPPLIER's or any SUBCONTRACTOR's premises at any reasonable time prior to delivery, and SUPPLIER and SUBCONTRACTORS shall afford to PURCHASER all such facilities as may be reasonably required by PURCHASER; and
  - (ii) require that one or more samples be submitted for inspection and testing prior to despatch of the WORK.
- 3.2 Such inspection and testing will not (i) constitute acceptance of the WORK by PURCHASER; or (ii) reduce or otherwise affect SUPPLIER's obligations under the CONTRACT.
- 3.3 If PURCHASER is not satisfied, as a result of any inspection or testing carried out in accordance with Articles 3.1(i) and (ii), that the WORK conforms or will conform in all respects with the CONTRACT and informs SUPPLIER of this within 7 (seven) working days of such inspection or testing, SUPPLIER shall take such measures as are necessary to ensure compliance.
- 3.4 Should the WORK or any part of the WORK fails inspection or testing, PURCHASER reserves the right to charge SUPPLIER for any travel and accommodation costs incurred by PURCHASER in respect of any re-inspection or re-testing.
- 3.5 PURCHASER is entitled to reject any of the WORK delivered which is not in conformity with the CONTRACT, and will not be considered to have accepted any of the WORK until PURCHASER has had a reasonable time to inspect the WORK following delivery.

- 3.6 WORK delivered in accordance with the CONTRACT is accepted contingent upon it being in full conformity with the CONTRACT and therefore delivery is accepted subject to PURCHASER's inspection and acceptance of the WORK at the DELIVERY ADDRESS. Such inspection and acceptance will not prejudice PURCHASER's rights in respect of defects not identified by inspection at the time of delivery, but which PURCHASER discovers later.

#### **4. DELIVERY**

- 4.1 SUPPLIER shall deliver the WORK to the DELIVERY ADDRESS during normal working hours unless specified otherwise in the PURCHASE ORDER. Should SUPPLIER attempt to deliver the WORK to another address, PURCHASER reserves the right (i) to refuse to accept delivery at that address; or (ii) to charge SUPPLIER for the costs of subsequent transfer.
- 4.2 Timely performance of the WORK is of critical importance to PURCHASER, including with regard to fulfilment of PURCHASER's obligations to its clients. SUPPLIER shall deliver the WORK on the DELIVERY DATE and if it fails to do so PURCHASER will be entitled to invoke the provisions of Article 4.8.
- 4.3 Should a FORCE MAJEURE EVENT delay or threaten to delay delivery of the WORK, SUPPLIER shall immediately give PURCHASER notice IN WRITING of such delay or threatened delay. PURCHASER shall grant SUPPLIER such extension of time as may be reasonable in the circumstances of actual delay caused by a FORCE MAJEURE EVENT.
- 4.4 SUPPLIER shall properly pack, protect and secure the WORK, and all deliveries must prominently bear the PURCHASE ORDER number. PURCHASER will not be obliged to accept delivery in instalments. SUPPLIER shall be responsible and liable for any damage to or loss of the WORK occurring before PURCHASER has accepted delivery of the WORK as provided in Article 3.6.
- 4.5 If PURCHASER is unable for any reason to accept delivery of the WORK on the DELIVERY DATE, SUPPLIER shall store, insure, and safeguard the WORK, at its own expense, for such reasonable period as PURCHASER requires and take all steps to prevent its deterioration until delivery takes place.
- 4.6 SUPPLIER shall provide PURCHASER, upon acceptance of the PURCHASE ORDER, with any instructions or other information required to enable PURCHASER to accept delivery of the WORK.
- 4.7 SUPPLIER shall notify PURCHASER immediately if SUPPLIER is or expects to be unable to deliver the WORK on the DELIVERY DATE, stating the reasons for the delay, detailing the steps being taken to mitigate further delay, and the new anticipated date for delivery of the WORK. Should SUPPLIER fail to make delivery on the DELIVERY DATE, except to the extent of delay attributable to a FORCE MAJEURE EVENT, PURCHASER will be entitled to payment of liquidated damages by SUPPLIER in accordance with Article 4.8.
- 4.8 Unless otherwise specified in the CONTRACT, SELLER shall pay liquidated damages for delay in delivery to PURCHASER as follows:
- (i) two percent (2%) of the line value of the GOODS/ SERVICES delivered late by between 2 (two) and 5 (five) calendar days; or
  - (ii) four percent (4%) of the line value of the GOODS/ SERVICES delivered late by between 6 (six) and 10 (ten) calendar days; or
  - (iii) six percent (6%) of the line value of the GOODS/ SERVICES delivered late by between 11 (eleven) and 14 (fourteen) calendar days; or
  - (iv) ten percent (10%) of the line value of the GOODS/ SERVICES delivered late by more than 14 (fourteen) calendar days;

the maximum aggregate amount of such liquidated damages not to exceed ten percent (10%) of the PRICE.

Such liquidated damages are PURCHASER's only financial remedy for SUPPLIER's delay in delivery, without prejudice to PURCHASER's right to terminate under Article 12.1 (v) if the maximum aggregate amount of liquidated damages accrues to, or will reasonably be expected to accrue to, ten percent (10%) of the PRICE.

## **5. TITLE AND RISK**

- 5.1 Subject to Article 5.3, title to the WORK will pass to PURCHASER on the earlier of:
- (i) payment of the PRICE in accordance with the payment terms set out in the CONTRACT; or
  - (ii) delivery of the WORK to the DELIVERY ADDRESS, but without prejudice to any right of rejection which PURCHASER has under the CONTRACT.
- 5.2 Notwithstanding the passing of title, risk of damage to or loss of the WORK remains with SUPPLIER until:
- (i) acceptance of the SERVICES by PURCHASER; or
  - (ii) delivery of the GOODS to the DELIVERY ADDRESS;
- risk in any rejected GOODS remaining with SUPPLIER.
- 5.3 If SUPPLIER postpones delivery at the request of PURCHASER pursuant to Article 4.5, title in the WORK shall pass to PURCHASER 7 (seven) days after the date of receipt of notification from SUPPLIER that the WORK is duly completed and ready for delivery, or on such other date as may be agreed IN WRITING between the PARTIES, but the WORK will remain at SUPPLIER's risk until delivery at the DELIVERY ADDRESS in accordance with the applicable Incoterm®.
- 5.4 PURCHASER MATERIALS and all rights in PURCHASER MATERIALS are and will remain exclusively the property of PURCHASER.

## **6. PRICE AND PAYMENT**

- 6.1 Subject to the following provisions of this Article 6, PURCHASER shall pay SUPPLIER the PRICE in accordance with the payment terms set out in the CONTRACT.
- 6.2 The PRICE is exclusive of any applicable Value Added Tax (VAT), which will be payable by PURCHASER subject to receipt of a valid VAT invoice, but inclusive of all charges for packaging, packing, shipping, carriage, insurance, and delivery of the WORK to the DELIVERY ADDRESS, and any taxes, duties, or levies other than VAT.
- 6.3 PURCHASER reserves the right to set off against the PRICE any sums owed by SUPPLIER to PURCHASER.
- 6.4 Unless otherwise specified in the CONTRACT, PURCHASER shall pay for the WORK within the 60 (sixty) days following the end of the month of receipt of SUPPLIER's correctly prepared and adequately supported invoice for the WORK.
- 6.5 SUPPLIER must quote the PURCHASE ORDER reference on all invoices and send them to the address indicated on the PURCHASE ORDER. PURCHASER will return invoices which have no PURCHASE ORDER reference.
- 6.6 PURCHASER may withhold payment in whole or in part for any invoices containing incorrect or unsubstantiated amounts. Payment of the undisputed part of the invoice will be made within 60 (sixty) days following the end of the month of the receipt of a credit note from SUPPLIER for the value of the disallowed amounts.
- 6.7 Payment by PURCHASER shall be without prejudice to any claims or rights which it may have against SUPPLIER and will not constitute any admission by PURCHASER as to the proper performance by SUPPLIER of its obligations under the CONTRACT.

## **7. SUPPLIER RESPONSIBILITIES**

- 7.1 SUPPLIER shall ensure that the GOODS:
- (i) are of satisfactory quality, free from defects, and fit for the purpose which the GOODS are designed to fulfil, or where no purpose is specified, for which they are customarily used, and in this respect PURCHASER is relying on SUPPLIER's skill and judgment;
  - (ii) conform in all respects with the CONTRACT;
  - (iii) where they are manufactured products, are free from defects in design, materials, and workmanship; and
  - (iv) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling, and delivery of the GOODS.

- 7.2 SUPPLIER shall ensure that it has and maintains, at all times, all the licences, permissions, authorisations, consents, and permits it needs to discharge its obligations under the CONTRACT.
- 7.3 SUPPLIER shall ensure that PURCHASER:
- (i) is provided with adequate instructions to enable PURCHASER to make full use of the GOODS; and
  - (ii) acquires the GOODS free from any ENCUMBRANCE.
- 7.4 SUPPLIER shall ensure that:
- (i) the SERVICES and the DELIVERABLES conform in all respects with the CONTRACT;
  - (ii) the DELIVERABLES are fit for any purpose PURCHASER expressly or implicitly makes known to SUPPLIER;
  - (iii) the SERVICES are performed with the highest level of care, skill, and diligence in accordance with best practice in SUPPLIER's industry, profession, or trade; and
  - (iv) the DELIVERABLES, and all goods, materials, standards, and techniques used in providing the SERVICES, are of best quality and free from defects in design, workmanship, and otherwise.
- 7.5 Where PURCHASER MATERIALS are provided, SUPPLIER shall keep PURCHASER MATERIALS in safe custody at its own risk, maintain them in good condition until returned to PURCHASER, and not dispose of or use them otherwise than in accordance with PURCHASER's WRITTEN instructions or authorisation. SUPPLIER shall be responsible and liable for all damage to or loss of PURCHASER MATERIALS, howsoever caused, while they are in SUPPLIER's custody. If requested by PURCHASER, SUPPLIER shall mark PURCHASER MATERIALS as being the property of PURCHASER.

## **8. REMEDIES**

- 8.1 If the WORK (a) is not delivered on the DELIVERY DATE; (b) will be delivered after the date when the maximum liquidated damages will have accrued under Article 4.8; or (c) does not comply with SUPPLIER's obligations as set out in Article 7; then PURCHASER may exercise, without limiting any of its other rights or remedies, and whether or not it has accepted the WORK, any one or more of the following remedies:
- (i) require SUPPLIER to pay liquidated damages in accordance with Article 4.8;
  - (ii) terminate the CONTRACT or any part thereof (but, in the case of late delivery of the WORK, only when the maximum liquidated damages for delay have accrued or will inevitably accrue);
  - (iii) reject the WORK (in whole or in part) and return it to SUPPLIER at SUPPLIER's own risk and expense;
  - (iv) require SUPPLIER to repair, replace, or re-perform any rejected WORK or to provide a full refund of the price of the rejected WORK (if paid);
  - (v) refuse to accept any subsequent delivery of the WORK that SUPPLIER attempts to make;
  - (vi) recover from SUPPLIER any additional costs incurred by PURCHASER in obtaining substitutes for the GOODS or SERVICES from a third party; and
  - (vii) claim damages for any other costs, losses, or expenses incurred by PURCHASER in obtaining substitutes or replacements for the WORK.
- 8.2 The WORK or part of the WORK that is replaced or repaired in accordance with Article 8.1(iv) will be subject to the provisions of the CONTRACT in the same manner as the WORK originally provided.
- 8.3 Without prejudice to any of PURCHASER's remedies or rights (whether contractual, statutory, or otherwise), and notwithstanding any inspection and acceptance of the WORK by PURCHASER, SUPPLIER shall guarantee the WORK for a period of twenty-four (24) months from the date of delivery to PURCHASER, and shall promptly repair or replace any defective WORK or defective part of the WORK at SUPPLIER's sole cost and expense within such guarantee period.
- 8.4 Nothing in the CONTRACT will operate to exclude any warranty, guarantee, or condition on the part of SUPPLIER as to quality, fitness for purpose, or any other matter that is implied by law,



custom of the trade, or otherwise, all such warranties, guarantees, and conditions accordingly applying unless expressly excluded by the terms of the CONTRACT.

- 8.5 PURCHASER's rights and remedies under the CONTRACT are in addition to its statutory rights and remedies and those in common law.

## 9. INDEMNITIES

- 9.1 SUPPLIER shall indemnify and hold harmless PURCHASER from and against all liabilities, costs, expenses, damages, and losses (including but not limited to 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 PURCHASER as a result of or in connection with any claim made against PURCHASER:

- (i) for actual or alleged infringement of a third party's INTELLECTUAL PROPERTY RIGHTS arising out of or in connection with the supply or use of the WORK, to the extent that the claim is attributable to acts or omissions of SUPPLIER, SUBCONTRACTORS, or their respective officers, directors, employees (including agency or contract personnel), or agents;
- (ii) by a third party for death, personal injury, or damage to property arising out of or in connection with defects in the WORK, to the extent that the defects in the WORK are attributable to acts or omissions of SUPPLIER, SUBCONTRACTORS, or their respective officers, directors, employees (including agency or contract personnel), or agents;
- (iii) by a third party arising out of or in connection with the supply of the WORK, to the extent that the claim arises out of the breach, negligent performance or failure or delay in performance of the CONTRACT by SUPPLIER, SUBCONTRACTORS, or their respective officers, directors, employees (including agency or contract personnel), or agents.

## 10. CONFIDENTIALITY

- 10.1 In this Article 10, **CONFIDENTIAL INFORMATION** means any information (however recorded or preserved) which either PARTY (the **RECEIVING PARTY**) may have or acquire (whether before or after the date of the CONTRACT) in relation to the customers, suppliers, business, assets or affairs, plans, intentions or market opportunities or the operations, processes, product information, know-how, designs, trade secrets or software of the other PARTY (the **DISCLOSING PARTY**), as a consequence of the negotiations relating to the CONTRACT or the performance of the CONTRACT, but excludes the information addressed in Article 10.2.

- 10.2 Information is not CONFIDENTIAL INFORMATION if:

- (i) it is or becomes generally available to the public (other than as a result of disclosure by the RECEIVING PARTY in breach of its obligations in this Article 10); or
- (ii) the RECEIVING PARTY can establish to the reasonable satisfaction of the DISCLOSING PARTY that it obtained the information lawfully from a PERSON not connected with the DISCLOSING PARTY and who is not under any obligation of confidence in respect of the information; or
- (iii) the RECEIVING PARTY can establish to the reasonable satisfaction of the DISCLOSING PARTY that the information was lawfully known to the RECEIVING PARTY before the date of the CONTRACT and that the RECEIVING PARTY was not under any obligation of confidence in respect of the information; or
- (iv) the PARTIES agree IN WRITING that it is not CONFIDENTIAL INFORMATION;

but the entirety of information containing CONFIDENTIAL INFORMATION is to be construed as CONFIDENTIAL INFORMATION even if any part of it would otherwise fall under the foregoing exceptions.

- 10.3 Each PARTY shall at all times keep confidential (and ensure that its officers, directors, employees, agents, subcontractors, and AFFILIATES, and the officers, directors, employees, and agents of its subcontractors and AFFILIATES keep confidential) any CONFIDENTIAL INFORMATION of the other PARTY that is disclosed to it and shall only use such CONFIDENTIAL INFORMATION for the purpose of exercising its rights and performing its obligations under the CONTRACT, and shall not disclose such CONFIDENTIAL INFORMATION except:

- (i) with the WRITTEN consent of the DISCLOSING PARTY; or
- (ii) as may be required by law or any governmental or other regulatory body or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permissible to do so, it gives the DISCLOSING PARTY as much notice as possible of such required disclosure and, where notice of disclosure is not prohibited and is given in accordance with this Article, it takes into account the reasonable requests of the DISCLOSING PARTY in relation to the content of such disclosure.

10.4 On completion or termination of the CONTRACT, each PARTY shall:

- (i) return to the other PARTY all documents and materials (and any copies) containing, reflecting, incorporating or based on the other PARTY's CONFIDENTIAL INFORMATION; and
- (ii) erase all the other PARTY's CONFIDENTIAL INFORMATION from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically practicable).

10.5 The provisions of this Article 10 shall continue to apply after the completion or termination of the CONTRACT.

## **11. INTELLECTUAL PROPERTY RIGHTS**

11.1 PURCHASER and its licensors retain ownership of all INTELLECTUAL PROPERTY RIGHTS in PURCHASER MATERIALS.

11.2 PURCHASER grants to SUPPLIER a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify PURCHASER MATERIALS for the term of the CONTRACT solely for the purpose of providing the WORK to PURCHASER.

11.3 Subject to Article 11.5, SUPPLIER and its licensors retain ownership of all INTELLECTUAL PROPERTY RIGHTS in the DELIVERABLES, excluding PURCHASER MATERIALS.

11.4 SUPPLIER grants to PURCHASER, or shall procure the direct grant to PURCHASER of, a fully paid-up, worldwide, non-exclusive, royalty-free, perpetual and irrevocable licence to use, copy and modify the DELIVERABLES for the purpose of receiving and using the WORK and the DELIVERABLES in its business; and PURCHASER may sub-license the rights as granted in this Article 11.4:

- (i) to its AFFILIATES and customers; and
- (ii) to third parties for the purpose of PURCHASER's receipt of services similar to the SERVICES, subject to such third parties entering into appropriate confidentiality undertakings.

11.5 In the event that INTELLECTUAL PROPERTY RIGHTS arise in respect of DELIVERABLES which have been created by SUPPLIER based wholly or mainly on information provided by PURCHASER, SUPPLIER assigns to PURCHASER the full legal title to and beneficial ownership of all INTELLECTUAL PROPERTY RIGHTS in the DELIVERABLES, free from any third-party rights. In such event SUPPLIER shall:

- (i) obtain waivers of all moral rights in the DELIVERABLES to which any individual is now or may be at any time in the future entitled under Chapter IV of Part I of the Copyright and Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction; and
- (ii) promptly, at PURCHASER's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as PURCHASER may from time to time require for the purpose of securing for PURCHASER all rights, title, and interest in and to the INTELLECTUAL PROPERTY RIGHTS assigned to PURCHASER.

## **12. TERMINATION**

12.1 Without limiting its other rights or remedies, PURCHASER is entitled to terminate the CONTRACT with immediate effect and without liability to SUPPLIER by giving notice to SUPPLIER if:

- (i) SUPPLIER 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), 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; or

- (ii) SUPPLIER takes any step or action in connection with SUPPLIER being made bankrupt, entering into any composition or arrangement with its creditors, having a receiver appointed to any of its assets, or ceasing to carry on its business or if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
  - (iii) SUPPLIER suspends, or threatens to suspend, or ceases, or threatens to cease, to carry on all or a substantial part of its business; or
  - (iv) SUPPLIER's financial position deteriorates to such an extent that, in PURCHASER's reasonable opinion, SUPPLIER's capability to adequately fulfil its obligations under the CONTRACT has been placed in jeopardy; or
  - (v) the maximum amount of liquidated damages under Article 4.8 has accrued and the WORK still has not been delivered; or the maximum amount of liquidated damages under Article 4.8 will inevitably accrue before the WORK will be delivered; or
  - (vi) SUPPLIER commits a material breach of any term of the CONTRACT and (if such breach is remediable) fails to remedy that breach within thirty (30) days of SUPPLIER being notified IN WRITING by PURCHASER to do so.
- 12.2 PURCHASER may terminate the CONTRACT in whole or in part at any time before delivery with immediate effect by giving SUPPLIER WRITTEN notice, whereupon SUPPLIER shall discontinue all work on the CONTRACT. PURCHASER shall pay SUPPLIER fair and reasonable compensation for any work in progress on the WORK at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss. PURCHASER will have no further liability to SUPPLIER as a result of any such termination.
- 12.3 Termination of the CONTRACT, howsoever arising, shall not affect either of the PARTIES' rights and remedies that have accrued as at termination.

### **13. NOTICES**

- 13.1 All notices, demands, or other communications under the CONTRACT are to be given or made IN WRITING and to be (i) delivered by hand; or (ii) sent by first class post or other next working day delivery service or commercial courier addressed to the other PARTY at the address set out in the PURCHASE ORDER or at such other address as may be designated by notice from such other PARTY; or (iii) sent by e-mail, provided the email contains a request for receipt to be acknowledged; and such acknowledgement of receipt is duly provided.
- 13.2 Any notice, demand or other communication shall be deemed to have been received: if delivered by hand, when left at the address referred to in Article 13.1; if sent by first class post, on the second working day after the date of posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or if sent by email on the next working day following transmission.
- 13.3 This Article 13 does not apply to the service of any proceedings or other documents in any legal action or other method of dispute resolution.

### **14. SPARES SUPPORT**

- 14.1 SUPPLIER shall keep spare parts for the WORK for a period of ten (10) years from the date of the PURCHASE ORDER, or for the guarantee period and any re-guarantee periods, whichever is the later. Where spare parts relating to the WORK are to be made obsolete, SUPPLIER shall give PURCHASER at least twelve (12) months' notice IN WRITING.

### **15. ASSIGNMENT/ SUBCONTRACTING**

- 15.1 PURCHASER may at any time assign, novate, transfer, or deal in any other manner with any or all of its rights or obligations under the CONTRACT without the consent of SUPPLIER, but never to the detriment of SUPPLIER.

- 15.2 SUPPLIER shall not assign, transfer, mortgage, charge, declare a trust over, or deal in any other manner with any or all of its rights or obligations under the CONTRACT or any part of it without the prior WRITTEN consent of PURCHASER.
- 15.3 SUPPLIER shall not subcontract performance of any of its obligations under the CONTRACT without the prior WRITTEN consent of PURCHASER, not to be unreasonably withheld. If PURCHASER consents to any subcontracting by SUPPLIER, SUPPLIER shall remain responsible and liable for all acts and omissions of SUBCONTRACTORS as if they were its own.

## 16. ENFORCEMENT

- 16.1 Failure to enforce or to require the performance at any time or times of any provision of the CONTRACT is not to be construed to be a waiver of such provision, and does not affect either the validity of the CONTRACT or any part thereof or the right of a PARTY thereafter to enforce each and every provision in accordance with the terms of the CONTRACT.

## 17. FORCE MAJEURE

- 17.1 Neither PARTY will be liable to the other for any inability to fulfil its obligations under the CONTRACT that is due to any unforeseeable cause beyond its reasonable control (each a **FORCE MAJEURE EVENT**), including:
- (i) an act of God; or
  - (ii) earthquakes, floods, drought, fires, explosions or other natural physical disasters, but not including severe weather; or
  - (iii) failure or shortage of power supplies at a national or international level; or
  - (iv) the act or omission of any government, war, military operations, acts of terrorism, or riots or civil disturbances.
- 17.2 FORCE MAJEURE EVENTS do not include any strike or lock-out, trade dispute or labour disturbance, or delay or failure in manufacture, production or supply by third parties of the GOODS or SERVICES.
- 17.3 Should a FORCE MAJEURE EVENT occur, the PARTY that is or may be delayed in performing the CONTRACT shall notify the other PARTY without delay giving the full particulars thereof, and shall use all reasonable endeavours to remedy the situation as soon as possible.

## 18. DATA PROTECTION

- 18.1 In this Article 18, in addition to the terms defined in Article 1, the following expressions have the following meanings:

**DATA PROTECTION LEGISLATION** means the Data Protection Act 2018, the UK GDPR, the EU Data Protection Directive (95/46/EC), and other applicable laws or regulations, as they may be amended from time to time.

**PERSONAL DATA** means information defined as such in the Data Protection Act 2018 or information treated as personal data under any other law or regulation applicable to the information.

**UK GDPR** means the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (**EU GDPR**) as it forms part of the law of England and Wales, Scotland, and Northern Ireland

- 18.2 Both PARTIES shall comply with all requirements of the DATA PROTECTION LEGISLATION. The PARTIES acknowledge that, in providing the WORK, SUPPLIER may process certain PERSONAL DATA and disclose it to third parties. SUPPLIER shall have in place adequate technical and organisational security measures to protect against unauthorised or unlawful processing of PERSONAL DATA and against loss or destruction of, or damage to, PERSONAL DATA so that the confidentiality of this processing complies with DATA PROTECTION LEGISLATION.

## 19. THIRD PARTY RIGHTS

- 19.1 No PERSON other than a PARTY and its permitted assignees has any right to enforce any terms of the CONTRACT.

## **20. ENTIRE AGREEMENT**

- 20.1 The CONTRACT constitutes the entire understanding between the PARTIES in relation to its subject matter and supersedes all prior agreements, understandings, or arrangements made by either PARTY, whether oral or WRITTEN.
- 20.2 If there is any inconsistency between any SPECIAL CONDITIONS and these CONDITIONS, the SPECIAL CONDITIONS will take precedence.
- 20.3 No amendment of any of the provisions of the CONTRACT will be effective unless made IN WRITING and signed by the authorised representatives of the PARTIES. No waiver by a PARTY of any of its rights under the CONTRACT will be effective unless made IN WRITING and signed by the PARTY's authorised representative, and then it will be effective only to the specific extent detailed in the waiver.

## **21. GOVERNING LAW**

- 21.1 The CONTRACT is governed by and to be construed in accordance with the laws of England and Wales. The PARTIES submit to the exclusive jurisdiction of the English courts in relation to any legal action or proceedings arising out of or in connection with the CONTRACT.

## **22. NO AGENCY**

- 22.1 Neither PARTY is the agent or representative of the other PARTY or is authorised to make or enter into any commitments for or on behalf of the other PARTY.

## **23. REPRESENTATIONS AND WARRANTIES**

- 23.1 Each PARTY represents and warrants that it has the full legal right, power, and authority to enter into and discharge its obligations under the CONTRACT and that the individual executing the CONTRACT on its behalf has been duly authorised to do so.

## **24. SEVERABILITY**

- 24.1 Should any one or more of the provisions contained in the CONTRACT for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision of the CONTRACT, but the CONTRACT will be construed as if such invalid, illegal, or unenforceable provision was never set forth herein, and the CONTRACT will be carried out as nearly as possible according to the original CONDITIONS and intent.

## **25. SURVIVAL**

- 25.1 The CONTRACT remains in full force and effect until all obligations of the PARTIES thereunder have been duly fulfilled, including those with respect to its termination. The following Articles will survive expiration or termination of the CONTRACT: 4.8 (regarding liquidated damages for late delivery), 7.5 (PURCHASER MATERIALS), 8.4 (regarding guarantees), 9 (Indemnities), 10 (Confidentiality), 11 (Intellectual Property), 14 (Spares Support), 21 (Governing Law), and 26 (Insurance)

## **26. INSURANCE**

- 26.1 During performance of the CONTRACT (including during the guarantee period) and for a period of two (2) years thereafter, SUPPLIER shall maintain in force, with a reputable insurance company, as a minimum to cover the liabilities that may arise under or in connection with SUPPLIER's performance of the CONTRACT:
  - (i) professional indemnity insurance; and
  - (ii) product liability insurance; and
  - (iii) public liability insurance.
- 26.2 SUPPLIER shall provide to PURCHASER, on PURCHASER's request, both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.