

## **TERMS AND CONDITIONS OF PURCHASE**

### **1 Definitions**

1.1 In these Terms and Conditions the following words and expressions shall have the meanings set out below unless the context otherwise requires:-

'Buyer' means the University of Stirling, a university established in Scotland by charter dated 14th December 1967, of Stirling, FK9 4LA, or any wholly owned or associated subsidiary of the University of Stirling so named in the Purchase Order.

'Conditions' means these Terms and Conditions between the Buyer and the Supplier.

'Contract' means the contract between the Buyer and the Supplier for the sale and purchase of the Goods and/or the supply and provision of the Services and which is constituted by the Purchase Order and these Conditions.

'Goods' means the goods described in the Purchase Order.

'Intellectual Property Rights' means any copyright and neighboring and related rights, patent, trade mark, service mark or trade name, design rights, database rights, utility models, rights to inventions, 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 to use, and protect the confidentiality of, confidential information or any other similar right of whatever nature, whether registered or unregistered, present or future, together with any application and right to apply for and be granted, any renewals or extensions thereof, and rights to claim priority from, such rights and all similar rights or forms of protection which will subsist now or in future anywhere in the world.

'Purchase Order' means the Buyer's authorised purchase order form.

'Supplier' means the person, firm or company so named in the Purchase Order.

'Services' means the services described in the Purchase Order.

1.2 In interpreting these Conditions:-

1.2.1 headings are for ease of reference only and shall not affect the construction of these Conditions;

1.2.2 the words "including" and "in particular" shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as limiting the generality of any preceding words; and

1.2.3 where reference is made to a statutory provision this includes any statutory provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and any orders, regulations or other delegated or subordinate legislation made from time to time under it.

## **2 Basis of Purchase**

2.1 The Purchase Order constitutes an offer by the Buyer to purchase the Goods and/or the Services subject to the terms of the Purchase Order and these Conditions.

2.2. The terms of the Purchase Order and these Terms and Conditions shall apply to and form part of the Contract to the exclusion of any terms and conditions referred to, offered, or stated to apply by the Supplier or which are implied by trade, custom, practice or course of dealing at any stage in the dealings between the Buyer and Supplier with reference to the Goods and/or Services to which the Contract relates. If the Supplier's general, specific or standard terms and conditions contain the same or a similar over-riding provision, then this Clause 2.2 shall prevail.

2.3 Any amendment to the terms of the Purchase Order and/or these Terms and Conditions shall be binding upon the Buyer only if made by a written instrument expressly amending the Purchase Order and/or these Conditions signed by a duly authorised representative of the Buyer.

## **3 Specifications and Quality**

3.1 The Supplier shall supply the Goods and/or Services:

- in accordance with the specifications and other requirements described in or attached to the Purchase Order;
- using suitably experienced personnel who will carry out their duties with due diligence and in accordance with good industry practice, using materials of good construction and adequate strength which are free of defects in design, materials and workmanship and remain so for 12 months after delivery;
- in compliance with the express terms of the Purchase Order and these Conditions and with the implied conditions, warranties and terms contained in the Sale of Goods Act 1979 (as amended) and related statutes and with any specification of the British Standards Institution (or equivalent) which is relevant to the Goods and/or Services at the time of Contract; and
- in compliance with all applicable statutes, regulations and/or legal requirements (including but not limited to: (i) the Criminal Finances Act 2017; (ii) the Modern Slavery Act 2015; and (iii) the Bribery Act 2010).

3.2 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 its obligations under the Contract.

#### 4 **Variations**

The Supplier shall not alter or provide goods and/or services different from any of the Goods and/or Services, except as expressly directed in writing by the Buyer. The Buyer shall have the right, from time to time during the execution of the Contract, by amendment to the Contract in accordance with Clause 2.3 to direct the Supplier to add to or omit, or otherwise vary, the Goods and/or Services, and the Supplier shall carry out such additions, omissions or variations and be bound by the same conditions, so far as applicable, as though the said additions, omissions or variations were stated in the Purchase Order and/or these Conditions.

#### 5 **Delivery, Packaging and Marking**

5.1 The Goods shall be delivered to and the Services shall be performed: (i) at the address stated in the Purchase Order; (ii) on the date, milestone or within the period stated in the Purchase Order; and (iii) during the Buyer's usual business hours or such other dates and/or period as may be agreed in writing by the Buyer.

5.2 If Goods are incorrectly delivered the Seller will be responsible for any additional expense incurred in delivering them to the correct address.

5.3 If the Buyer arranges for delivery of the Goods and/or Services the Supplier shall pay the Buyer's reasonable costs and expenses of delivery of such Goods and/or Services.

5.5 If the Goods are to be delivered or the Services are to be performed by instalments the Contract will be treated as a single contract and not severable. Failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment shall entitle the Buyer to the remedies set out at Clauses 8 and 16.

5.6 The Supplier shall ensure that:

- each delivery of the Goods is accompanied by a delivery note which shows: (i) the date of the Purchase Order; (ii) the number of the Purchase Order; (iii) the type and quantity of the Goods; (iv) special storage instructions (if any); and (v) if the Goods are being delivered by installments, the outstanding balance of the Goods remaining to be delivered;
- all Goods supplied against the Contract are adequately protected against damage and deterioration in transit and delivered carriage paid;
- any information relating to the handling of Goods upon receipt shall be clearly marked in English on the exterior packaging and accompanying paperwork; and
- unless otherwise expressly provided in the Purchase Order, all returnable packaging is collected and disposed of at no cost to the Buyer.

## **6 Property and Risk**

- 6.1 Subject to Clause 6.2, property and risk in the Goods shall pass to the Buyer immediately after delivery has been satisfactorily effected, provided that such passing of property and risk shall not prejudice either the Buyer's right to reject the Goods pursuant to Clauses 7 or 8 or any other rights that the Buyer may have under the Contract.
- 6.2 Where advance or progress payments are made by the Buyer, property, but not risk, shall pass to the Buyer as soon as the first of such advance or progress payment(s) has been made. All items paid for by the Buyer prior to delivery by the Supplier shall be adequately marked and recorded as being the property of the Buyer.

## **7 Installation and Testing**

- 7.1 Where the Services include installation of any Goods, the Supplier shall install the relevant Goods in the location specified by the Buyer in the Purchase Order or such other location as the Buyer may direct.
- 7.2 On installation the Supplier shall carry out in the presence of the Buyer or its representatives:-
- 7.2.1 general tests specified by the Buyer in order to verify that the Goods are working in accordance with the applicable specification for such Goods; and
- 7.2.2 any tests in respect of such Goods specified in the Purchase Order.
- 7.3 If the Goods (or any part thereof) fail the tests referred to in Clause 7.2 then the Supplier shall forthwith implement free of charge such alterations or modifications to or replacements of the Goods as it shall in the circumstances reasonably judge necessary and in sufficient time to allow the repetition of the tests within seven (7) days of the date of failure. The Supplier shall not be entitled to charge the Buyer for the cost of attendance by its staff, consultants and/or sub-contractors at any such tests or any repeat tests.
- 7.4 If the Goods (or any part thereof) fail the repeat tests then the Buyer shall have the right to reject the Goods in whole or in part.
- 7.5 The Buyer 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.

## **8 Right of rejection**

- 8.1 In the case of Goods and/or Services delivered against the Contract by the Supplier not conforming whether by reason of not being of the quality, or the quantity or fit for the

purpose specified in the Purchase Order, then without limiting any of its other rights or remedies, the Buyer shall have the right to reject any or all such Goods and/or Services within a reasonable time of their delivery. Upon rejection property and risk in the rejected Goods shall revert to the Seller. Further, where the Buyer receives Goods as unexamined the Buyer's rights to subsequently reject them if any latent defect is found shall not be prejudiced nor shall any right of claim for shortage be prejudiced.

- 8.2 Subject to Clause 7, where goods are rejected the Buyer will afford the Supplier reasonable opportunity to replace rejected Goods and/or Services with Goods and/or Services which conform in all respects to the requirements specified in the Purchase Order. If the Supplier fails for whatever reason to meet all or any the aforementioned requirements then the Buyer shall have the right to procure equivalents elsewhere without prejudice to any other rights or remedies which the Buyer may have against the Supplier.
- 8.3 The making of payment (either in whole or in part) shall not prejudice the Buyer's right of rejection. The Supplier shall pay to the Buyer, forthwith on receipt of notice (whether in writing or otherwise) from the Buyer that the Buyer has rejected the Goods and/or Services, in full any amounts paid by the Buyer in respect of rejected Goods and/or Services.
- 8.4 Buyer's rights and remedies under this Clause 8 are in addition to its rights and remedies implied by statute and common law.

## 9 **Prices**

The price of the Goods and/or Services shall be as stated in the Purchase Order and, unless specifically agreed otherwise, all prices shall be firm and fixed and no variation of price nor reconciliation of costs shall be permitted for the duration of the Contract, inclusive of carriage, packaging, installation and certification (where required) but exclusive of VAT.

## 10 **Payment**

- 10.1 Provided the Goods: (i) have been delivered or the Services have been performed on the date, milestone or within the period stated in the Purchase Order; and (ii) comply with the requirements of the Contract to the reasonable satisfaction of the Buyer, then, unless otherwise agreed, payment shall be made by the Buyer by the end of the month following that in which the invoice is received or all of the Goods are delivered or the performance of the Services is completed, whichever is the later.
- 10.2 Each invoice shall quote: (i) the number of the Purchase Order; (ii) the date of the Purchase Order; (iii) the invoice number; (iv) the Supplier's VAT number; and (v) any supporting documents that the Buyer may require. Payment may be delayed but no prompt discount shall be forfeited by the Buyer, if the Supplier fails to mark the Purchase Order number on the consignment, package, packing or advice notes, invoices, monthly

statements and all other correspondence.

- 10.3 Value Added Tax, where applicable, shall be shown separately on all invoices.
- 10.4 Any payment made shall be without prejudice to the Buyer's rights to reject the Goods and/or Services pursuant to Clauses 7 or 8 as applicable.
- 10.5 The Buyer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Buyer against any liability of the Buyer to the Supplier.

## 11 Intellectual Property Rights

- 11.1 The Supplier shall indemnify and keep indemnified the Buyer in full and on demand against all liabilities, damages, actions, suits, claims, demands, losses, charges, costs and expenses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional cost and expenses) which the Buyer may suffer or incur as a result of or in connection with any claim made against the Buyer that the Goods and/or Services infringe or allegedly infringe the Intellectual Property Rights of any third party.
- 11.2 Where the Services include the creation, development or otherwise of Intellectual Property Rights by the Supplier for the Buyer, the Buyer shall own all such Intellectual Property Rights. The Supplier hereby assigns to the Buyer absolutely with full title guarantee all its property, right, title and interest in such Intellectual Property Rights, including: (i) all statutory and common law rights (including but not limited to the right to bring, make, oppose, defend, appeal proceedings, claims or actions and obtain relief in respect of any infringement); (ii) the absolute entitlement to any registration of the Intellectual Property Rights; and (iii) all goodwill attaching to the Intellectual Property Rights. At the request of the Buyer, the Supplier shall execute and deliver all such further documents and forms and perform such acts as may be required for the purpose of giving full effect to this Clause.
- 11.3 The Supplier acknowledges that all materials, equipment and tools, drawings, specifications and data supplied by the Buyer to the Supplier (**'Buyer Materials'**) and all rights in the Buyer Materials are and shall remain the exclusive property of the Buyer. The Supplier shall keep the Buyer Materials in safe custody at its own risk, maintain them in good condition until returned to the Buyer and not dispose or use the same other than in accordance with the Buyer's written instructions or authorisation.
- 11.4 This Clause 11 shall survive termination of the Contract.

## 12 Confidential Information

- 12.1 For the purposes of this Clause, "**Information Legislation**" means the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland)

Regulations 2004.

- 12.2 The Supplier shall keep all information provided by the Buyer, its employees, agents or subcontractors in strict confidence and use such information only for the purposes of fulfilling the Contract. The Supplier shall only disclose such confidential information to those of its employees, agent and subcontractors who need to know it for the purposes of fulfilling the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this Clause as though they were a party to the Contract. If the Supplier is required to disclose the confidential information by law, any governmental or regulatory authority or by a court of competent jurisdiction, the Supplier must first inform the Buyer of the legal or regulatory requirement and give the Buyer an opportunity to object or challenge the requirement, unless the law prohibits such notice.
- 12.2 The Supplier acknowledges that the Buyer is subject to the requirements of the Information Legislation. The Supplier will provide such assistance and co-operation as the Buyer may reasonably require to enable it to comply with its information disclosure obligations under the Information Legislation including (although not only) by providing the Buyer with a copy of any information which it is holding on behalf of the Buyer in the form that the Buyer specifies within seven (7) days of a request from the Buyer to that effect.
- 12.3 The Buyer will be entitled to determine at its absolute discretion whether to disclose upon request or otherwise publish any information under the Information Legislation, including (although not only) any information provided to it by the Supplier or which relates in any way to the Supplier or the Contract. In particular the Buyer will be entitled to determine at its absolute discretion whether it is required to disclose upon request or otherwise publish any information under the Information Legislation, or whether, even if it is not required to disclose upon request or otherwise publish that information under the Information Legislation, it would nevertheless be in the public interest to do so.
- 12.4 Without affecting Clause 12.4, the Buyer will use reasonable endeavours to consult with the Supplier in accordance with the Scottish Ministers' code of practice on the discharge of functions by public bodies under any of the Information Legislation (and/or any subsequent guidance issued by the Scottish Ministers which amends or replaces that code of practice), before disclosing or otherwise publishing under the Information Legislation any information provided to it by the Supplier or which relates in any way to the Supplier or the Contract.
- 12.5 This Clause 12 shall survive termination of the Contract.

### **13 Data Protection**

- 13.1 Both parties will comply with all applicable requirements of the Data Protection Act 2018 (or any successor legislation) and Regulation (EU) 2016/679 General Data Protection Regulation (and any other directly applicable European Union regulation

relating to privacy) (the “**Data Protection Legislation**”). This Clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

- 13.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Buyer is the data controller and the Supplier is the data processor (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation). The Supplier shall process Personal Data (as defined in the Data Protection Legislation) on behalf on the Buyer in accordance with these Conditions.
- 13.3 Without prejudice to the generality of Clause 13.1, the Buyer will ensure that an appropriate lawful basis for the processing of Personal Data is identified, including where necessary gaining appropriate consents and notices, to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of the Contract.
- 13.4 Without prejudice to the generality of Clause 13.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:
- process that Personal Data only on the written instructions of the Buyer;
  - ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data;
  - ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
  - not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Buyer has been obtained and the following conditions are fulfilled: (i) the Buyer or the Supplier has provided appropriate safeguards in relation to the transfer; (ii) the data subject has enforceable rights and effective legal remedies; (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and (iv) the Supplier complies with reasonable instructions notified to it in advance by the Buyer with respect to the processing of the Personal Data;
  - assist the Buyer, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - notify the Buyer immediately on becoming aware of a Personal Data breach;
  - at the written direction of the Buyer, delete or return Personal Data and copies thereof to the Buyer on termination of the Contract unless required by Data Protection Law to store the Personal Data; and
  - maintain complete and accurate records and information to demonstrate its compliance with this Clause and allow for audits by the Buyer or the Buyer's designated auditor.



- 13.5 The Supplier may only authorise a third party (subcontractor) to process the Personal Data if:
- the Buyer provides prior written consent prior to the appointment of each subcontractor;
  - the Supplier enters into a written contract with the subcontractor that contains terms substantially the same as those set out in these Conditions, in particular, in relation to requiring appropriate technical and organisational data security measures, and, upon the Buyer's written request, provides the Buyer with copies of such contracts;
  - the Supplier maintains control over all Personal Data it entrusts to the subcontractor; and
  - the subcontractor's contract terminates automatically on termination of the Contract for any reason.
- 13.6 The Buyer may, at any time on not less than 30 days' notice, revise this Clause by replacing it with any applicable controller to processor standard clauses or similar terms forming party of an applicable certification scheme (which shall apply when replaced by attachment to these Conditions).

## 14 **Safety**

- 14.1 In accordance with the requirements of the Health and Safety at Work Act etc. 1974 (as amended) any safety precautions required for the handling of the material covered by the Contract are to be clearly indicated on each consignment.
- 14.2 Hazardous goods must be marked in accordance with European Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures. All risk and safety warnings and phrases must be in English.
- 14.3 Goods must be accompanied by emergency information in English in the form of written instructions, labels or markings. The Supplier shall observe the requirements of U.K. and international agreements relating to the packing, labelling and carriage of hazardous goods.
- 14.4 Hazard data sheets must be supplied with the delivery for all hazardous materials, and the information contained in the data sheets must meet the legal requirements of the Health and Safety at Work etc. Act 1974 (as amended) and European Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

## 15 **Spares, Usage and Storage**

- 15.1 Without prejudice to any rights that the Buyer may have under the Purchase Order, these Conditions or by statute, common law or otherwise, the Supplier shall, where necessary during the twelve month period from the date of the Contract, supply and fit, free of charge, new spare parts required for the purposes of repair of the Goods.

15.2 The Supplier shall ensure that, where applicable, compatible electro-mechanical spares to effect repairs are also made available to the Buyer, if required, for a period of 7 years from the date of the Contract or such other period as is specified in the Purchase Order.

15.3 The Supplier shall ensure that adequate instruction is given to the Buyer to ensure proper use and storage requirements of the Goods, and shall notify the anticipated life expectancy of any item, whether in storage or in use. The Buyer's rights, whether under the Purchase Order, these Conditions or by statute, common law or otherwise, will not be prejudiced simply by the Supplier's specification of a supposed life expectancy of any item.

## 16 **Indemnity**

16.1 Without prejudice to any rights or remedies of the Buyer, the Supplier shall indemnify and keep indemnified the Buyer in full and on demand against all liabilities, damages, actions, suits, claims, demands, losses, charges, costs and expenses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional cost and expenses) which the Buyer may suffer, or incur, as a result of, or in connection with:

- any damage to the Buyer's and third parties' properties, or in respect of any injury (whether fatal or otherwise) to any person which may result directly or indirectly from any defect in the Goods and/or Services, or the negligent or wrongful act or omission of the Supplier or its sub-contractors, employees, agents, representatives or consultants; and
- any claim made against the Buyer by a third party arising out of or in connection with the supply of the Goods and/or 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 or its sub-contractors, employees, agents, representatives or consultants.

16.2 The Supplier shall maintain in force, with a reputable insurance company, a policy or policies of insurance covering all the matters which are the subject of indemnities under these Conditions and shall at the request of the Buyer produce the relevant policy of policies together with receipts or other evidence of payment of the latest premium due thereunder.

16.3 This Clause 15 shall survive termination of the Contract.

## 17 **Cancellation**

17.1 Any time or period for delivery despatch or completion specified in the Purchase Order or otherwise agreed in writing by the Buyer and the Seller shall be of the essence.

- 17.2 Without prejudice to Clause 16.3, the Buyer shall be entitled to cancel the Purchase Order in respect of all or part only of the Goods and/or Services at any time prior to delivery of the Goods and/or performance of the Services in which event the Buyer's sole liability to the Supplier shall be to pay to the Supplier the price for the Goods and/or Services to the extent already supplied or performed and to reimburse the Supplier for any reasonable sums due by the Supplier to a third party in respect of Goods and/or Services for which the Buyer has exercised its right of cancellation which cannot be avoided by the Supplier.
- 17.3 The Buyer shall be entitled to cancel the Contract or any part thereof, without prejudice to any other remedy the Buyer may have, by giving written notice to the Supplier if :-
- 17.3.1 the Buyer has rejected Goods pursuant to Clauses 7 or 8 above; or
- 17.3.2 there is a material breach by the Supplier of any term of the Purchase Order and/or these Conditions which cannot be remedied or, if remediable, is not remedied within thirty (30) days of that party being requested in writing to do so; or
- 17.3.3 the Supplier takes any step or action in connection with the Supplier being made bankrupt, having a receiver appointed to any of its assets, making any arrangement with its creditors or ceasing to carry on business, or the Buyer has reasonable grounds to believe that any of the foregoing events is about to occur in relation to the Supplier; or
- 17.3.4 the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or agreement with creditors (other than in relation to a solvent restructuring), being wound up (whether voluntary 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 the Buyer has reasonable grounds to believe that any of the foregoing events is about to occur in relation to the Supplier; or
- 17.3.5 the Supplier suspends or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 17.3.6 the Supplier's financial position deteriorates to such an extent that in the Buyer's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- 17.3.7 the Supplier suffers or permits a change of control (within the meaning of Section 1124 of the Corporation Tax Act 2010).

In the event of cancellation for any of the foregoing reasons the Buyer shall not be liable for any unfulfilled commitment under the Contract.

17.4 Termination of the Contract, however arising, shall not affect any of the Buyer's rights and remedies that have accrued as at termination.

17.5 Clauses that expressly or by implication survive termination of the Contract shall continue in full force and effect.

## 18 **Force Majeure**

The Buyer shall not be in breach of the Contract nor liable for delay in performing, or failure to perform any of its obligations under it if such delay or failure results from an event, circumstance or cause beyond its control such as but not limited to any dispute, fire, explosion, accident, act of terrorism or Brexit. In such circumstances, the Buyer shall have the right to: (i) suspend the Contract until such circumstances have ceased; or (ii) terminate the Contract by giving 14 days written notice to the Supplier.

## 19 **Assignment and Sub-Contracting**

19.1 The Buyer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other matter with any of its rights or obligations under the Contract.

19.2 The Supplier shall not assign, transfer, mortgage, charge, subcontract or deal in any other matter with any of its rights or obligations either in whole or in part under the Contract without prior written permission of the Buyer.

19.3 Where prior written authority is given, the Supplier shall remain responsible for the performance of the Contract and shall ensure that any assignee and/or sub-contractor complies with the terms and requirements of the Contract. The Supplier shall be responsible for the acts and omissions of any sub-contractor as if they were the Supplier's own acts and omissions and shall indemnify and keep indemnified the Buyer in full and on demand against all liabilities, damages, actions, suits, claims, demands, losses, charges, costs and expenses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional cost and expenses) which the Buyer may suffer or incur as a result of or in connection with any act or omission of any sub-contractor of the Supplier. When requested by the Buyer, a copy of sub-contract details shall be provided at no charge.

## 20 **No waiver**

No failure of delay by the Buyer in exercising any right or remedy under the Contract or by law shall operate as a waiver of such right or remedy nor shall it prevent or restrict the further exercise of that right or remedy. No single or partial exercise or waiver of any such right or remedy preclude its further exercise or the exercise of any other right or remedy.

21 **Severability**

If any provision or part-provision of these Conditions and/or the Purchase Order becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause shall not affect the validity and enforceability of the remaining provisions and parts of these Conditions and/or the Purchase Order.

22 **Third Party Rights**

Unless it expressly states otherwise, these Conditions do not give rise to any rights under the Contract (Third Party Rights) (Scotland) Act 2017 for any third party to enforce or otherwise invoke any term of these Conditions.

23 **Governing Law**

The Contract shall be governed by and construed in accordance with Scots Law and the Supplier thereby irrevocably submits to the jurisdiction of the Scottish courts. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Buyer to take proceedings against the Supplier in any other court of competent jurisdiction, nor shall the taking of proceedings by the Buyer in any one or more jurisdiction preclude the taking of proceedings by the Buyer in any other jurisdiction, whether concurrently or not.

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