

**TINSLEY BRIDGE GROUP OF COMPANIES**  
**TERMS AND CONDITIONS OF PURCHASE**

**1 INTERPRETATION**

**1.1 Definitions**

In these conditions, the following definitions apply:

**"Business Day"**: a day (other than a Saturday, Sunday or public holiday in England) when banks in London are open for business;

**"Buyer"**: means the Tinsley Bridge group of companies: **Tinsley Bridge Group Limited** (a company registered in England and Wales with company number 02122308), **Tinsley Bridge Limited** (a company registered in England and Wales with company number 01866166), **Tyzack Machine Knives Limited** (a company registered in England and Wales with company number 04288974) and **Tinsley Bridge Services Limited** (a company registered in England and Wales with company number 07065496), whose registered office is 335 Shepcote Lane, Sheffield, S9 1TG, or such other company within the same group of companies which has issued the Purchase Order to the Supplier;

**"Conditions"**: the terms and conditions set out in this document, as amended from time to time in accordance with Condition 16.6;

**"Contract"**: means the Purchase Order, any specification or terms agreed in writing between the Buyer and Supplier relating to the purchase of the Goods and/or Services and these Conditions;

**"Delivery"**: has the meaning given in Condition 6 and **"re-delivery"** shall be construed accordingly;

**"Delivery Location"**: means the point of Delivery specified on the Purchase Order;

**"Force Majeure Event"**: has the meaning given in Condition 14;

**"Goods"**: means the goods (if any) which are the subject of the Purchase Order issued by the Buyer to the Supplier;

**"Intellectual Property Rights"**: means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of 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;

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**"Purchase Order"**: means the order or orders of purchase placed by the Buyer for the supply of the Goods and/or Services;

**"Services"**: means the services (if any) specified in the Purchase Order to be delivered with or without the supply of the Goods ; and

**"Supplier"**: means the person, firm or company to whom the Purchase Order is issued.

## **1.2 Construction**

In these Conditions the following rules apply:

- (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 or assignees;
- (c) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. It includes any subordinate legislation made under that statute or statutory provision as amended or re-enacted;
- (d) any phrase introduced by the terms "including", "include", "in particular", or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (e) a reference to writing or written includes faxes and emails;
- (f) condition headings do not affect the interpretation of these Conditions;
- (g) where Delivery is expressed to be subject to a specific Incoterm, the Incoterms 2010 shall apply but where they conflict with the Contract, the Contract shall prevail; and
- (h) words in the singular include the plural and in the plural include the singular.

## **2. SCOPE OF THE CONTRACT REQUIREMENTS**

The Supplier warrants to the Buyer that all services, equipment and materials necessary to deliver the Goods and/or perform the Services in accordance with the Contract are included in the Supplier's scope of work. The Buyer shall not be liable to pay any extra amount because the Supplier has failed to consider factors that affect the price of the Contract or the time for completion of the Contract.

## **3. BASIS OF CONTRACT**

- 3.1 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 trade, custom, practice, or course of dealings.
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- 3.2 In the event of any conflict between any of the documents forming the Contract:
- (a) the Purchase Order shall prevail over any specification or terms agreed in writing with the Buyer and shall prevail over these Conditions; and
  - (b) any specification or terms agreed in writing with the Buyer shall prevail over these Conditions.
- 3.3 The Purchase Order constitutes an offer by the Buyer to purchase the Goods and/or perform the Services in accordance with these Conditions.
- 3.4 The Purchase Order shall be deemed to be accepted on the earlier of:
- (a) the Supplier issuing a written acceptance of the Purchase Order; and
  - (b) any act by the Supplier consistent with fulfilling the Purchase Order
- at which point the Contract shall come into existence.
- 3.5 The Contract constitutes the entire agreement between the parties. The Supplier acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Buyer which is not set out in the Contract.

#### **4. QUALITY**

- 4.1 The Supplier shall ensure that the Goods shall:
- (a) correspond with their description and any applicable specification, CE Mark, published tolerances, International Standards Specifications and Codes of Practice;
  - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Buyer expressly or by implication, and in this respect the Buyer relies on the Supplier's skill and judgement;
  - (c) where applicable, be free from defects in design, installation, material and workmanship and, unless otherwise specified in the Contract, remain so for not less than 18 months after Delivery or 12 months of putting them into service whichever period shall be the shorter;
  - (d) will conform to all applicable descriptions, specifications, drawings, plans, instructions, data, samples, and models, including those provided by the Supplier after Contract formation;
  - (e) will be composed of all new components;
  - (f) will be free and clear of all liens, encumbrances; and
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- (g) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of Goods and/or Services.

4.2 The Supplier shall:

- (a) co-operate with the Buyer in all matters relating to the Goods and/or Services, and comply with all instructions of the Buyer;
- (b) supply the Services to the Buyer in accordance with the terms of the Contract, with the best care, skill and diligence, in accordance with best practice in the Supplier's industry, profession or trade and in accordance with all applicable legislation;
- (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) provide all equipment, tools and vehicles and such other items as are required to provide the Goods and/or Services;
- (e) use the best quality goods, materials, standards and techniques in the production of the Goods and/or provision of the Services;
- (f) at its own expense, provide all equipment, materials, labour, haulage, power, tools and apparatus necessary for the proper provision of the Services;
- (g) observe all health and safety rules and regulations and any other security requirements that apply at any of the Buyer's premises (if applicable);
- (h) not do or omit to do anything which may cause the Buyer 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 Buyer may rely or act on the Services; and
- (i) meet any performance dates for the Services specified in the Purchase Order or any such dates that the Buyer notifies to the Supplier and time is of the essence in relation to any of those performance dates and delivery of the Services .

4.3 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.

4.4 The Buyer shall have the right of reasonable access to review the process and product under manufacture and inspect and test the Goods and/or Services at any time before Delivery at the Supplier's expense including any sub-contracted process or product. If this right is exercised, the Supplier shall provide or shall procure the provision of all such facilities as may reasonably be required for such inspections and tests. Any such inspection shall be without prejudice to the Supplier's obligations to supply the Goods and/or Services in accordance with the terms of the Contract. If as

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a result of any inspection or tests under this Condition the Buyer is of the reasonable opinion that the Goods and/or Services do not comply with the Purchase Order and/or Specification (if any) or are unlikely on completion of manufacture or processing so to comply the Buyer shall inform the Supplier accordingly in writing and the Supplier shall take such steps as may be necessary to ensure such compliance.

- 4.5 The Supplier shall where required to do so by any applicable statute or regulation or, if requested to do so by the Buyer, supply to the Buyer a copy of the Supplier's test sheets and/or inspection reports certified by the Supplier to be a true copy. The Supplier shall retain the original documents for a period of ten years.
- 4.6 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and/or Services and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Buyer shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

## **5. REPAIRS AND SERVICING**

- 5.1 Where the Contract includes the Supplier repairing or servicing Goods for the Buyer this Condition 5 shall also apply together with the other Conditions.
- 5.2 If the servicing or repair by the Supplier of any Goods is defective then:
  - (a) if the defect can be properly and economically remedied, the Buyer shall at its option be entitled either to require the Supplier to remedy it as soon as possible or can elect to remedy it or procure it to be remedied by another supplier, at the cost and risk of the Supplier; and
  - (b) if the defect cannot be properly and economically remedied and the defective goods are not capable of being used by the Buyer, then the Buyer shall be entitled to invoice the same to the Supplier at their value before servicing or repair.
- 5.3 Goods supplied by the Buyer to the Supplier for servicing or repair shall from the time of receipt until re-delivery as instructed by the Buyer, remain at the risk of the Supplier.
- 5.4 The Supplier at its own cost shall insure all Goods delivered to it by the Buyer from the time of receiving them until re-delivery as instructed by the Buyer for their replacement value against loss, damage or destruction resulting from any insurable risk which can be reasonably contemplated as affecting the Goods and shall, on the Buyer'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.

## **6. DELIVERY**

- 6.1 The Supplier shall ensure that the Goods are properly packed, provided with the appropriate markings according to any applicable laws and regulations, and secured in such manner as to enable them to reach their destination in good condition. For any Goods that are defined as hazardous or dangerous under applicable law, regulation the Supplier shall provide the Buyer with hazardous warning and safe
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handling information in the form of a safety data sheet and appropriate labelling for such Goods as required by such applicable law and/or the Buyer's regulations/policies.

- 6.2 The Supplier shall deliver the Goods and/or perform the Services:
- (a) on the date specified on the Purchase Order, and the time of Delivery or performance shall be of the essence to the Contract.
  - (b) to/at the Delivery Location;
  - (c) during the Buyer's normal business hours, or as instructed by the Buyer.
- 6.3 The Supplier shall not deliver the Goods or perform the Services before the date specified in the Purchase Order without the prior written consent of the Buyer.
- 6.4 The Supplier shall deliver the full quantity of the Goods and/or perform the Services specified in the Purchase Order at one time or in accordance with the rate specified therein. The Buyer may refuse Delivery of part only. The Buyer shall be entitled to return, at the Supplier's expense, any quantity of Goods delivered in excess of the quantity ordered by the Buyer.
- 6.5 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.
- 6.6 The Supplier shall not deliver the Goods and/or perform the Services in instalments without the Buyer's prior written consent. Where it is agreed that the Goods are to be 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 Buyer to the remedies set out in Condition 7.
- 6.7 If the Goods are delivered to the Buyer in excess of the quantities ordered the Buyer shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be available for collection at Supplier's expense within 3 months. Thereafter the Supplier may dispose of such excess Goods at Supplier's expense.
- 6.8 Time of Delivery is of the essence. The times and dates for Delivery specified in the Contract are vital and mandatory to the Contract.
- 6.9 If following such inspection or testing the Buyer considers that any Goods and/or Services delivered to the Buyer do not or are unlikely to comply with Condition 4.1, the Buyer shall be entitled to the remedies set out in Condition 7.

## **7. REMEDIES AND INDEMNITIES**

- 7.1 If the Goods and/or Services are not Delivered/performed on the date they are due as referred to in Condition 6.2(a), or do not comply with the undertakings set out in Condition 4.1, then, without limiting any of its other rights or remedies, the Buyer shall have the right to any one or more of the following remedies, whether or not it has accepted the Goods or Services:
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- (a) to terminate the Contract with immediate effect;
- (b) to reject the Goods (in whole or in part) whether or not title has passed and 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, or to provide a full refund of the price of the rejected Goods (if paid), and/or to re-perform the Services;
- (d) to refuse to accept any subsequent Delivery of the Goods or Services which the Supplier attempts to make;
- (e) to recover from the Supplier any costs or expenditure incurred by the Buyer in obtaining substitute Goods or Services from a third party; and
- (f) to claim damages for any other costs, loss or expenses incurred by the Buyer which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

7.2 The Supplier shall keep the Buyer indemnified in full against all liabilities, costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and legal and other professional fees and expenses) awarded against or suffered or incurred or paid by the Buyer (calculated on a full indemnity basis) as a result of or in connection with:

- (a) any claim made against the Buyer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt or supply or use of the Goods or Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
- (b) any claim made against the Buyer by a third party arising out of, or in connection with, the supply of the Goods or performance of 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; and
- (c) any claim made against the Buyer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods or Services, to the extent that the defect in the Goods or Services is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors.

7.3 Condition 7.2 shall survive termination of the Contract.

7.4 The Buyer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

7.5 These Conditions shall extend to any substituted or remedial Services and/or repaired or replacement Goods supplied by the Supplier.

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## **8. RISK AND TITLE**

- 8.1 The Supplier warrants that it has good and valid title to the Goods or Services being sold and that it may rightfully transfer title in the Goods to the Buyer.
- 8.2 Risk in the Goods shall pass to the Buyer on Delivery.
- 8.3 Title in the Goods shall pass to the Buyer on the earlier of payment and completion of Delivery.

## **9. PRICE AND PAYMENT**

- 9.1 The price of the Goods and/or Services shall be the price set out in the Purchase Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date the Contract came into existence.
- 9.2 The price of the Goods and/or Services in the Purchase Order may only be varied by prior agreement in writing between the Supplier and the Buyer.
- 9.3 The price of the Goods and/or Services are exclusive of amount in respect of value added tax ("**VAT**"), but include the costs of carriage, insurance, import duties and taxes, and any other applicable duties and taxes and are not subject to escalation. No extra charges shall be effective unless agreed in writing and signed by the Buyer.
- 9.4 The Buyer 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 performance of Services.
- 9.5 The Buyer shall pay the Supplier's invoice within 60 days of the end of the month in which it was received by the Buyer, but time for payment shall not be of essence to the Contract.
- 9.6 The Supplier may invoice the Buyer for the Goods and/or Services on or at any time after completion of Delivery.
- 9.7 The Supplier shall not be entitled to assert any credit, set off or counterclaim against the Buyer in order to justify withholding payment of any such amount in whole or in part. The Buyer may, without limiting any other rights or remedies it may have, set off any amount owed to it by the Supplier against any amounts payable by it to the Supplier under the Contract.

## **10. BUYER'S PROPERTY**

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 or permit any third party to use the Buyer Materials other than in accordance with the Buyer's written instructions or authorisation.

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## **11. INSURANCE**

The Supplier shall take out and maintain, with a reputable insurance company, professional indemnity insurance, product liability insurance, and public liability insurance to cover such heads of liability as may arise under or in connection with the Contract (unless otherwise stated by the Buyer), and shall, on the Buyer'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 The Supplier shall keep in strict confidence and shall not disclose to any person any technical or commercial know-how, specifications, inventions, processes or initiatives of the Buyer which are disclosed by the Buyer, its employees, agents, or subcontractors of a confidential nature and any other confidential information concerning the Buyer's business, affairs, customers, clients, suppliers, products or its services, except as permitted by Condition 12.2.

12.2 The Supplier may only disclose the Buyer's confidential information:

- (a) to those of its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purpose of discharging the Supplier's obligations under the Contract. The Supplier shall ensure that such employees, officers, representatives, advisers, agents or subcontractors to whom it discloses the Buyer's confidential information are subject to obligations of confidentiality and comply with this Condition 12; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 The Supplier shall not use the Buyer's confidential information for any purpose other than to perform its obligations under the Contract.

12.4 This Condition 12 shall survive termination of the Contract.

## **13. TERMINATION**

13.1 The Buyer may terminate the Contract in whole or in part at any time for convenience before Delivery or part delivery with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Buyer shall pay the Supplier the price for Goods and/or Services which have already been delivered to the Buyer or at the date of notice of termination are manufactured or ready for delivery or in transit and the cost of materials which the Supplier has purchased to fulfil the Purchase Order and which cannot be used for other orders or be returned for a refund.

13.2 Without affecting any other right or remedy available to it, the Buyer may terminate the Contract with immediate effect by giving written notice to the Supplier if:

- (a) the Supplier commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing to do so;

- (b) the Supplier repeatedly breaches any of the terms of the Contract in such a manner to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;
  - (c) the Supplier suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2), or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
  - (d) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors, other than (where the Supplier is a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
  - (e) (being a company, limited liability partnership or partnership) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier, other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
  - (f) (being an individual) the Supplier is the subject of a bankruptcy petition, application or order;
  - (g) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Supplier's assets and such attachment or process is not discharged within 14 days;
  - (h) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier;
  - (i) (being a company) a floating charge holder over the Supplier's assets has become entitled to appoint or has appointed an administrative receiver;
  - (j) a person becomes entitled to appoint a receiver over all of any of the Supplier's assets or a receiver is appointed over the Supplier's assets;
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- (k) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Condition 13.2(c) to Condition 13.2(j) inclusive;
- (l) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on, all or substantially the whole of its business;
- (m) 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
- (n) (being an individual) the Supplier dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

13.3 On termination of the Contract, the Supplier shall immediately return all Buyer Materials. If the Supplier fails to do so, then the Buyer 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.

13.4 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, liabilities and obligations 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. Conditions which expressly or by implication survive termination of the Contract shall continue in full force and effect.

#### **14. FORCE MAJEURE**

14.1 Neither party (or any person acting on its behalf) shall have any liability or responsibility for failure to fulfil any obligation under the Contract so long as, and to the extent to which, the fulfilment of such obligation is prevented, frustrated, hindered or delayed as a consequence of a Force Majeure Event.

14.2 A party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event:

- (a) notify the other party of the nature and extent of such Force Majeure Event; and
- (b) use all reasonable endeavours to remove any such causes and resume performance under the Contract as soon as feasible.

14.3 If any Force Majeure Event prevents a party from fulfilling its obligations under the Contract for a continuous period of more than seven 7 days or an aggregate period of more than fourteen 14 days in a one month period the party not affected by the Force Majeure Event may terminate the Contract by giving written notice to the affected party.

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14.4 For the purposes of this Condition 14, a Force Majeure Event means an event beyond the reasonable control of a party (or any person acting on its behalf), which by its nature could not have been foreseen by such party (or such person), or, if it could have been foreseen, was unavoidable, and includes acts of God, storms, floods, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) or armed hostilities or other national or international calamity or one or more acts of terrorism or failure of energy sources provided that the mere shortage of material, equipment, labour or supplies and any event or other consequences arising as a result of or in connection with the full or partial withdrawal of the United Kingdom from the European Union will not constitute a Force Majeure Event.

## **15. INTELLECTUAL PROPERTY**

15.1 The Supplier grants to the Buyer, or shall procure the direct grant to the Buyer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence of the Supplier's intellectual property rights solely for the purpose of receiving and using the Goods and Services pursuant to the Contract.

15.2 The Buyer may sub-license the rights granted in Condition 15.1 to any of the Buyer's group of companies and its customers.

## **16. GENERAL**

### **16.1 Assignment and sub-contracting**

- (a) The Buyer may at any time assign, transfer, charge, sub-contract or deal with in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Supplier may not assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Buyer.
- (c) If the Supplier subcontracts work (following the Buyer's consent pursuant to Condition 16.1(b)), the Supplier is responsible and liable for the acts, omissions or defaults of its subcontractors in the performance of obligations under the Contract as if they were the Supplier's own acts, omissions or defaults (and is thereby responsible for providing the Goods and/or Services as if they had not subcontracted). The Contract applies as if the employees and equipment of a subcontractor or supplier of any tier were those of the Supplier.

### **16.2 Notices**

- (a) Any notice or other communication given to a party under or in connection with a Contract shall be in writing, addressed to that party at its registered office or its principal place of business or such other address as that party may have specified to the other party in writing in accordance with this Condition 16.2 and shall be delivered by hand, sent by pre-paid first class post, recorded delivery, commercial courier, fax or email.
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- (b) A notice or other communication shall be deemed to have been received if delivered by hand when left at the address referred to in Condition 16.2(a) if sent by pre-paid first class post or recorded delivery at 9am on the second Business Day after posting if delivered by commercial courier on the date and at the time a courier's delivery receipt is signed or if sent by fax or email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this Condition 16.2(b), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- (c) The provisions of this condition shall not apply to the service of any proceedings or other documents in any legal action.

### **16.3 Severance**

If any Court or competent authority finds that any provision of the Contract or part of any provision is invalid, illegal or unenforceable that provision or part provision 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 to be deleted. In the event of any modification to or deletion of a provision or part-provision under this condition, the validity and enforceability of the other provisions of the Contract shall not be affected.

### **16.4 Waiver**

A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent, preclude or restrict the further exercise of that or any other rights or remedies. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent, preclude or restrict the further exercise of that or any other right or remedy.

### **16.5 Third party rights**

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.

### **16.6 Variation**

Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the parties.

### **16.7 Business Ethics**

- (a) In performing its obligations under the Contract, the Supplier shall and shall procure that each member of its group comply with all applicable laws, statutes, regulations, regulatory policies, guidelines or and
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codes from time to time in force (including, but not limited to, those relating to labour, human rights and business ethics).

- (b) the Supplier warrants that materials or products purchased are neither produced from a conflict material (Tantalum, Tungsten, Tin & Gold), nor has its origin from a Conflict Region ("**Conflict Region**" in this Condition 16.7 refers to the Democratic Republic of the Congo and/or the adjoining countries that are identified in the Dodd Frank Wall Street Reform and Consumer Act of 2010).

## 16.8 Modern Slavery

- (a) Without prejudice to any of the Conditions, the Supplier shall procure and procure that all persons who are performing services or providing goods in connection with, or which will or may be used in performing or to support the performance of the Contract in any part of the world ("**Supply Chain**") shall at all relevant times:
    - (i) comply with the provisions of the Modern Slavery Act 2015 ("**MSA**") and all laws made under it or relating to it, and ensure that all relevant employees, contractors and any other individuals employed or engaged by the Supplier or any of its subcontractors to perform any or all of the services of the Supplier under the Contract have received appropriate training on the same;
    - (ii) comply with any policy of the Buyer relating to modern slavery or human trafficking as is notified to the Supplier by the Buyer from time to time; and
    - (iii) promptly notify the Buyer's project manager in writing if it has reason to believe that it or any member of its Supply Chain is in breach or is likely to breach the MSA or any provisions of this Condition 16.8 (or would do so if it were a party to the Contract), or if it receives a communication from any person alleging breach of the MSA.
  - (b) The Supplier shall maintain detailed, accurate and up-to-date records setting out:
    - (i) its staff hiring procedures;
    - (ii) its supplier selection processes; and
    - (iii) the steps it takes to ensure that it and each member of its Supply Chain is not engaged in the activities prohibited by the MSA, and shall promptly provide copies of such records to the Buyer on the Buyer's request.
  - (c) On the Buyer's reasonable request, the Supplier shall make, and shall require any relevant member of its Supply Chain to make, such adjustments to its processes that relate to staff hiring and supplier
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selection as the Buyer reasonably considers to be desirable to address any risk of non-compliance with the MSA.

#### **16.9 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.

#### **16.10 Governing law and jurisdiction**

- (a) The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with English law.
- (b) Each party irrevocably agrees that the courts of England & 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.
- (c) The parties each:
  - (i) agree that this Condition 16.10 shall remain in full force and effect notwithstanding any future full or partial departure of the United Kingdom from the European Union ("**Brexit**");
  - (ii) irrevocably waive any objection which they have or may at any time have to the courts of England on the ground that they are an inconvenient or inappropriate forum to settle any dispute (including, without limitation, on the grounds of Brexit or a Brexit related issue or circumstance); and
  - (iii) agree that they shall not object to, contest or appeal in any jurisdiction the choice in the Contract of English governing law and/or the exclusive jurisdiction of the English courts and/or the enforcement of any judgment made by the English courts thereunder (including, without limitation, on the grounds of Brexit or a Brexit related issue or circumstance).
- (d) For the avoidance of doubt, the United Nations Convention on the International sale of Goods shall not apply to the Contract.