

TERMS & CONDITIONS OF PURCHASE
(GOODS AND SERVICES)

1. DEFINITIONS

In the following Clauses:

"Additional Terms" means any further or alternative conditions of purchase specified by the Company on the Order or in any other documentation referred to in the Order, including any references by code letters and numbers;

"Applicable Laws" shall mean all applicable laws, statutes, regulation, and codes from time to time in force in connection with the Contract;

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

"Change of Control" occurs when person and/or entity takes 50% or more of the Supplier's shareholding;

"Company" is AQUASIUM TECHNOLOGY LIMITED registered number 04241498 of 43 Pembroke Avenue, Denny Industrial Estate, Waterbeach, Cambridge, CB25 9QX, trading as Cambridge Vacuum Engineering;

"Conditions" means the terms and conditions herewith set out and any Additional Terms;

"Confidential Information" has the meaning as set out in clause 15;

"Contract" the contract between the Supplier and the Company for the supply of Goods and/or Services in accordance with these Conditions;

"Discloser" a party to the contract when it discloses its Confidential Information, directly or indirectly, to the other party.

"Excess" shall mean where the Supplier delivers 105% or more of the Goods and/or Services ordered;

"Goods" means products, components or materials provided by the Supplier to the Company, as specified in the Order, including deliverables derived from any Services;

"Order" means a printed and numbered purchase order form duly signed and issued by an authorised representative of the Company;

"Output" means any information, reports, designs, drawings, data, or documentation produced by the Supplier for the Company in the course of supplying Goods or carrying out Services;

"Purchasing Officer" means a person in the Company which holds the title and/or responsibility of Head of Procurement, Purchasing Manager, Buyer and/or purchasing officer;

"Purpose" the passing of Confidential Information between parties in connection with the terms of the Contract;

"Recipient" a party to the Contract when it receives Confidential Information, directly or indirectly, from the other party;

"Relevant Requirements" all Applicable Laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including the Bribery Act 2010;

"Shortfall" shall mean where the Supplier delivers 95% or less of the Goods and/or Services ordered;

"Intellectual Property Rights" means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

the "Services" means any services provided by the Supplier to the Company, as specified within the Order; and

"the Supplier" means the person, firm, or Company to whom the Order is addressed in connection with providing the Goods and/or Services.

1.1 Clause and paragraph headings shall not affect the interpretation of the Contract.

1.2 The Order forms part of the Contract and shall have effect as if set out in full in the body of the Contract. Any reference to the Contract includes the Order.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.

1.4 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.

1.5 A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended, or re-enacted from time to time.

1.6 A reference to writing or written includes email but not fax.

1.7 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase, or term preceding those terms.

1.8 An obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.9 A reference to a **company** shall include any company, corporation, or other body corporate, wherever and however incorporated or established.

1.10 The Contract shall be binding on, and enure to the benefit of, the parties to the Contract and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.

2. BASIS OF PURCHASE

2.1 Unless otherwise expressly agreed in writing, all contracts for the provision of the Goods and/or Services to the Company by the Supplier shall be governed by these Conditions.

2.2 These Conditions may be varied only by a supplementary Order or in writing signed by an authorised Purchasing Officer of the Company and not by any act or statement by any other person acting or purporting to act on behalf of the Company.

2.3 Acceptance of the Order by the Supplier shall constitute a contract that incorporates these Conditions between the Company and Supplier. Without prejudice to any other mode of acceptance, the commencement by the Supplier of any work on the Goods and/or Services following dispatch to the Supplier of the Order, including work related to samples or tooling, shall comprise acceptance by the Supplier of the Contract on these Conditions and therefore constitute a binding contract.

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

2.5 If the whole or part of the Goods and/or Services is required to fulfil a contract for a British or foreign government department, that whole or part shall be deemed to be the subject of a sub-contract made under such terms and conditions as may be in force from time to time under the Contract for the said government department and any right of termination exercisable by the government department in question shall be equally exercisable by the Company in relation to the Supplier.

3. CHARGES AND PAYMENT

3.1 Unless otherwise stated in the payment schedule as set out in the Order, all prices in the Contract are fixed and shall include:

- a) the cost of packaging, insurance, and carriage of the Goods and/or Services; and
- b) exclude amounts in respect of VAT, which the Company shall additionally be liable to pay the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice.

3.2 If the Company issues the Order for the Goods and/or Services based on provisional or estimated prices, the Supplier shall notify the Company of a definitive price as soon as possible and in any event within five Business Days of the date of the Order thereafter so that the parties can agree a final contract price. Any delay on the part of the Supplier in so notifying the Company may delay payment to the Supplier under the Contract.

3.3 No extra charges shall be effective unless agreed in writing and signed by the Company.

3.4 Unless otherwise previously agreed in writing, payment by the Company shall be made against a correct statement of account within two calendar months from the end of the month in which the account is received to the bank that has been nominated by the Supplier in writing. Any delay in payment due to the Supplier's failure to render such account or due to errors or omissions in such account shall not prejudice the Company's entitlement to any discounts that may be agreed.

3.5 The Company may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Company against any liability of the Company to the Supplier.

4. CONDITIONS FOR THE SUPPLY

4.1 The Supplier agrees that as conditions of the Contract:

4.1.1 the Supplier has the right to sell the Goods, is properly qualified to supply the Goods and/or to undertake Services, as the case may be, such qualifications to include the provision to the Company of any Output resulting from the Goods and/or Services;

4.1.2 in relation to Goods, the Supplier has and retains, until property passes to the Company, absolute title free of any lien, charge or other encumbrance and the Company shall enjoy quiet possession thereof;

4.1.3 all Goods shall conform in every respect with the description and specification and with any sample provided by the Supplier;

4.1.4 the Goods shall be of satisfactory quality (within the meaning of the Sale of Goods Act 1979 and/or Supply of Goods and Services Act 1982) and fit for any purpose held out by the Supplier or made known to the Supplier by the Company expressly or by implication, and in this respect the Company relies on the Supplier's skill and judgement;

TERMS & CONDITIONS OF PURCHASE
(GOODS AND SERVICES)

- 4.1.5 the Goods shall be free from defects in design, material and workmanship and remain so for a period of twelve months after delivery;
- 4.1.6 the Goods shall comply with all Applicable Laws relating to the manufacture, labelling, packaging, storage, handling, and delivery of the Goods;
- 4.1.7 the Supplier's obligations under this clause shall be in no way affected by whether or not, the Goods are ordered by description, patent or trade name, or the Company has examined samples thereof or any defect would have been apparent had it done so;
- 4.1.8 the Company shall not be bound to accept and pay for any Goods not specified in or in Excess/Shortfall of its requirements as set out in the Order nor shall the Company be responsible for such Goods or for tools and equipment therefore left on its premises; and
- 4.1.9 the Company will not accept any Goods until it has had a reasonable opportunity to examine them to ascertain if they comply with the Contract.
- 4.2 If the Company rejects any Goods under the provisions of Clause 4.1.5 or any Goods under Clause 4.1.9 above, the Company shall not be bound to return them to the Supplier but may, at its option, require the Supplier to collect them promptly or may return them at the risk and expense of the Supplier.
- 4.3 The Supplier shall not make any changes in the design, specification, composition, or quantities of the Goods without the Company's prior written consent.
- 4.4 The Company reserves the right by written notice to require changes in the design, specification, composition or quantities, method of carriage or delivery time applicable to the Goods for which changes the Supplier shall be entitled to reasonable costs that have been incurred in connection with providing the Goods.
- 4.5 If the Goods have a determinable shelf life or are otherwise subject to deterioration, the Supplier shall inform the Company before delivery of the storage conditions recommended for the longest possible shelf life and the minimum duration thereof.
- 4.6 The Company reserves the right to cancel or terminate any Order at any time prior to its acceptance by the Supplier without incurring any liability. Where an Order has been accepted by the Supplier, the Company may cancel the Order within 14 days of such acceptance without incurring any liability to the Supplier.
- 5. WARRANTY**
- 5.1 The Supplier shall, where it reasonably can, transfer to the Company the benefits of any guarantee or warranty given to the Supplier by a third party in respect of any part of the Goods and/or Services sourced externally. If, during the period of twelve months following delivery as defined in clause 6 (or such other period as may be specified in the Contract), any part of the Goods and/or Services is found to be defective in materials, workmanship, or design (to the extent that the Supplier was responsible for design) the Supplier shall in respect of any Goods and/or Services, subject to the provisions of clause 7:
- 5.1.1 In the case of Goods, at the Company's option and Supplier's own cost, immediately repair or replace the defective part or to provide a refund of the purchase price within the Contract of the rejected Goods; and
- 5.1.2 The provisions of clause 5.1 shall also apply to any spare or replacement parts for Goods provided by the Supplier during the term of the Contract.
- 5.2 The original warranty period specified under clause 5.1 shall continue to apply after any repair, replacement or re-performance have been carried out by the Supplier in response to a warranty claim for a period of twelve months after delivery.
- 5.3 It is the responsibility of the Supplier to verify that any Goods and/or Services submitted adhere to all Applicable UK Laws relating to health and safety.
- 5.4 The Supplier's liability under clause 5 shall not extend to defects arising from fair wear and tear, misuse, unauthorised modification, repair or replacement or improper storage, installation, or maintenance.
- 5.5 The Supplier shall be liable for any and all reasonable costs incurred by the Company and/or the Company's customers in removing, re-fitting, or re-installing Goods following a valid claim made by the Company under clause 5.
- 5.6 During the term of the Contract and for a period of two years thereafter, the Supplier shall maintain in force, with a reputable insurance company product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Company'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.
- 5.7 Where the Supplier recommends the use of particular materials, accessories, storage or maintenance procedures, the Company and/or its customers may use alternatives without affecting the warranty set out under clause 5 provided it can be reasonably demonstrated that the use of such alternatives has had no adverse effect on the Goods and/or Services in question.
- 5.8 The Supplier expressly agrees that the warranty it provides under clause 5 may be transferred by the Company in the course of, and as part of, any transfer by the Company of title or possession in the Goods to another party. Where such transfer concerns only part of the Goods, the warranty relevant to that part (if any) shall be transferable.
- 5.9 In performing its obligations under this Contract, the Supplier shall comply with all applicable policies, procedures, and codes of conduct of the Company, as may be communicated to the Supplier from time to time.
- 6. DELIVERY**
- 6.1 The Supplier shall deliver the Goods and/or Services to the location, date and time as specified within the Order, or, in the absence of such provision, at the address of the Company set out in these Conditions within 5 Business Days of the date of the Order.
- 6.2 In the case of Services, delivery shall be deemed to take place when all the Services have been completed or performed and the relevant Output (if any) has been delivered to the Company in accordance with 6.1.
- 6.3 In the case of Goods, delivery shall be deemed to take place when the Goods have been delivered and accepted by the Company in accordance with clause 6.1.
- 6.4 If the Supplier delivers only part of the Goods and/or Services due under the Contract, the Company may choose not to reject such partial delivery and shall pay only for that part of the Goods and/or Services delivered and accepted by the Company, however, this is without prejudice to any rights or remedies the Company may retain in respect of undelivered or rejected Goods and/or Services.
- 6.5 The time stipulated for delivery of the Goods and/or Services shall in relation to both Goods and/or Services be of the essence of the Contract. In the event of delay (for any reason), the Company may:
- 6.5.1 obtain such delivery from a third party, with all associated costs to be borne by the Supplier; or
- 6.5.2 the Company may cancel the Order without liability.
- 6.6 In relation to the Goods, where the delivery is rejected, they are returnable at the Supplier's risk and expense. If the Supplier fails to collect the rejected Goods within a reasonable period after notification of the rejection, the Company may charge the Supplier storage costs and sell or dispose of the rejected Goods.
- The Company will account to the Supplier for the proceeds of sale (if any) after deducting the price paid for the Goods, storage costs and its reasonable costs and expenses in connection with the sale.
- 6.7 In relation to Goods, the Supplier shall not deliver the Contract in instalments without the Company's prior written consent. Where it is agreed that the Contract may be delivered by instalments, such instalments shall be invoiced 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 Company to the remedies as specified in clause 7.
- 6.8 The Company shall be entitled to specify the rate of delivery of Goods by means of schedules.
- 6.9 Where the Goods are successfully delivered, the Goods must be accompanied by a delivery note setting out the date of the Order, the Order number, the type and quantity of Goods, special storage instructions (if any), whether the Goods are being delivered in instalments, and the outstanding balance of Goods remaining to be delivered.
- 6.10 All necessary instructions for the safe and proper use of Goods must be provided to the Company prior to delivery. Any exemption to the foregoing must be requested in writing and confirmed by a statement on the Order. In particular, the Supplier must specify any operational or health risk which may arise during handling, storage, use or disposal after use, including any known misuses of the Goods.
- 7. COMPANY REMEDIES**
- 7.1 If the Goods do not comply with clauses 4,5 and 6, then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, the Company may exercise any one or more of the following remedies:
- 7.1.1 to terminate the Contract;
- 7.1.2 if and to the extent the Goods and/or Services remain undelivered, the Company may cancel the remainder of the Contract without incurring any liability from the Supplier;
- 7.1.3 to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
- 7.1.4 to recover from the Supplier any costs incurred by the Company in obtaining substitute goods from a third party; and
- 7.1.5 to claim damages for any other costs, loss or expenses incurred by the Company which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.
- 7.2 These conditions shall apply to repaired or replacement Goods and/or Services supplied by the Supplier.

TERMS & CONDITIONS OF PURCHASE
(GOODS AND SERVICES)

7.3 The Company's rights and remedies under these conditions are in addition to its rights and remedies implied by statute and common law.

8. FORCE MAJEURE

8.1 The Supplier shall immediately advise the Company in writing of any delay in the completion of the Contract.

8.2 For each day the Goods and/ or Services remain undelivered in accordance with the time and date specified within the Contract, the Company shall be entitled to a 5% deduction of the original price as stated within the Contract.

8.3 During the period of time the Goods and/or Services remain undelivered, the obligations on the Company shall be suspended.

8.4 If the Supplier is unable to fulfil its obligations for the Goods and/or Services for a period of two weeks of the delivery date as specified in the Contract, then without prejudice to any other remedies available to the Company, the Company may terminate the Contract without incurring any liability for doing so or may agree, in its absolute discretion, to extend the time of the obligations specified within the Contract.

9. TRANSFER OF RISK

9.1 Risk in Goods shall pass from the Supplier on the successful delivery of the same to the Company.

9.2 The property in the Goods shall pass to the Company on the earlier of payment of the price invoiced or on acceptance by the Company of the Goods. If the Goods or any part thereof are rejected by the Company, the property and risk therein shall remain with or thereupon revert to the Supplier.

10. LIABILITY AND INDEMNITY

10.1 The Supplier, its employees and agents enter and remain on the Company's premises at their own risk and shall not make any claim against the Company or its employees or agents in respect of any loss or damage, except in the case of death or personal injury wholly attributable to the wilful action, inaction or negligence of the Company, its employees, or agents. Whilst on the Company's premises, the Supplier's employees or agents shall at all times comply with the Company's site regulations and shall obey all reasonable instructions given by the Company's authorised personnel.

10.2 All Goods must be safe and without risk to health when used at work and all necessary instructions for the safe and proper use of Goods must be provided to the Company prior to delivery. Any exemption to the foregoing must be requested in writing and confirmed by a statement on the Order. In particular, the Supplier must specify any operational or health risk when may arise during handling, storage, use or disposal after use, including any known misuses of the Supplier.

10.3 The Supplier agrees to indemnify and hold harmless the Company against all losses, expenses and damages which the Company might suffer as a result of any claim or allegation that the Goods infringe the patents, copyright, registered design or other like protection of any other person or do not comply with a statute, statutory instrument or regulation for the time being in force unless and only to such extent as the Goods are provided in accordance with a design or specification stipulated by the Company, in which case the Company agrees to indemnify and hold harmless the Supplier against all such losses, expenses and damages which the Supplier might suffer as a direct consequence of following the aforesaid design or specification.

10.4 The Supplier will maintain at all times product liability insurance cover in respect of the Goods of a kind and in an amount satisfactory to the Company.

10.5 The Company shall on demand be entitled to inspect and receive copies of all documents relating to the said insurance cover.

10.6 If any claim is made against the Company in respect of injury, liability, claim, proceedings, loss or damage of any kind due or alleged to be due to a defect in the materials, workmanship or (save where the same has been stipulated by the Company) design of the Goods, the Supplier will provide all facilities, assistance or advice required by the Company for the purpose of contesting or dealing with such claim and the Supplier will indemnify and hold harmless the Company against the same and against any damage, loss, cost or expense incurred in connection therewith.

10.7 If any claim in respect of Goods is made against the Supplier under clause 10.6, the Supplier shall promptly notify the Company and the Company shall have full power and authority (if it thinks fit to take over the conduct of the matter and to make any disposal or settlement thereof as agent of the Supplier as may seem to the Company in its absolute discretion to be meet, proper or convenient.

10.8 The Supplier shall, if so requested by the Company, accept as final and binding the decision of any English or foreign court in relation to such liability, claim, proceeding, loss, or damage.

11. QUALITY – INSPECTION AND SAMPLES

11.1 The Company reserves the right, on serving reasonable notice to the Supplier, to inspect all or part of the Goods and/or Services before delivery to the Company but such inspection shall neither relieve the Supplier of any obligation under the Contract nor impose any obligation on the Company.

11.2 If required by the Company, the Supplier shall submit samples of Goods to the Company for approval and shall not proceed further with the Contract until the Company communicates such approval. The Company may retain the samples until all of the Goods and/or Services are delivered.

11.3 The Company may request changes to the Goods and/or Services to ensure they comply with the Contract, the Supplier must at their own expense make those changes immediately.

11.4 The Company's authorised representative may, at any reasonable time, enter any premises under the Supplier's control to inspect any tools, plant, equipment, materials, or processes used or to be used by the Supplier in carrying out the Contract but no such inspection shall otherwise relieve the Supplier of its obligations under the Contract.

11.5 The Company's authorised representative shall be entitled to remove samples of tools and Goods. If any changes, adaptations, modifications, or improvements are required by the Company to bring the Goods up to the specification set out in the Contract, the Supplier shall carry out the same as soon as reasonably possible.

11.6 The Supplier shall maintain ISO 9001 or equivalent certification or have the intention of working towards achieving this certification. To verify the Supplier's compliance with this certification, the Company shall, upon reasonable written notice to the Supplier, be entitled to:

11.6.1 enter and inspect the Supplier's premises; and

11.6.2 inspect, audit and take copies of relevant records, and other documents as necessary,

11.7 The Supplier shall always maintain traceability records for all materials and parts. Upon request by the Company, the Supplier shall provide the relevant documentation including, material traceability certificates and certificates of conformance for materials/orders.

12. PACKAGING

12.1 Where cases or packing of a durable nature are charged extra by the Supplier, they will be invoiced separately at no more than their actual value at the date of the Contract and will be credited in full upon their return by the Company to the Supplier or to its carrier. Such cases or packing are to be clearly marked "Returnable" with the Supplier's name.

12.2 The Company may by written notice require changes in the method or type of packing.

13. THIRD PARTY

13.1 The Supplier shall not assign or subcontract the Contract or any part of it without the prior written permission of the Company, such permission not to be unreasonably refused. The Supplier shall be wholly responsible for any work assigned or sub-let under this clause 13 and shall not use the existence of any sub- contract or any terms thereof as a defence to any legal proceedings.

13.2 The Company may assign the Contract to any other third party.

14. INTELLECTUAL PROPERTY AND OWNERSHIP

14.1 Unless otherwise provided in the Contract, all Intellectual Property Rights arising from the Contract are generated by the Supplier in the sole interest of the Company, are fully compensated for by the price of the Contract and shall be exclusively owned by the Company. If such rights originate with an employee or sub-contractor of the Supplier, the Supplier shall use reasonable endeavours to procure the transfer of such rights to the Company.

14.2 The Company shall have the right to publish any Output.

14.3 Any tools, Intellectual Property Rights, plates, free issue materials or documents or other items supplied by the Company to the Supplier, or for which the Company has provided the whole or part of the cost, to enable the Supplier to execute the Contract shall become and/or remain the exclusive property of the Company (or that of any customer of the Company under whose contract the Company is acting), shall be kept in good condition and be returned to the Company on demand at the Supplier's risk (in the case of items for which the Company has provided only a part of the cost, upon payment of the remainder of such cost) and shall not be used by the Supplier without the Company's prior written contract for any purpose other than the provision of Goods and/or Services to the Company.

14.4 The Supplier shall ensure that all such tooling is maintained in good condition and shall immediately replace any such tooling or part thereof which is lost or damaged.

14.5 The Supplier waives any lien it might have, whether at the date hereof or subsequently, on any of the property of the Company or of the Company's customers, as the case may be. This paragraph shall not be construed as a waiver of any other right of recovery that may be available to the Supplier.

TERMS & CONDITIONS OF PURCHASE
(GOODS AND SERVICES)

- 14.6 The Supplier shall not without the prior written authority of the Company sell, hire, sub-licence, assign, use or otherwise dispose of, to or for any other person, any Intellectual Property Rights, Goods produced by the Supplier in accordance with the Contract. The Supplier shall promptly refer to the Company all enquiries received for such Goods or tooling.
- 14.7 The Company shall have an option exercisable by written notice to pay no more than the balance of the replacement cost for the outright ownership of any materials, samples, jigs, patterns, tooling or any other item essential to the manufacture of Goods to designs, drawings or specifications furnished by the Company. At the request and cost of the Company the Supplier shall deliver any such essential items to the Company in accordance with the Company's instructions.
- 14.8 Any tooling, dies, moulds, jigs or fixtures funded in whole or in part by the Company shall remain the exclusive property of the Company, unless otherwise agreed. The Supplier shall label and segregate such tooling and return it upon request.
- Within thirty days of receipt of the option notice the Supplier will notify the Company of the amount claimed as the said unrecovered balance and the Company will within thirty days of receipt of such notification pay the amount agreed or, if it is not agreed, the amount fixed by an independent Chartered Accountant acting as expert and selected by the President for the time being of the Institute of Chartered Accountants in England and Wales.
- 15. CONFIDENTIALITY AND PUBLICATION**
- 15.1 Subject to clause 15.3, **Confidential Information** means all information of a confidential or proprietary nature relating to the Purpose which the Discloser or its representatives directly or indirectly discloses, or makes available, to the Recipient or its representatives, before, on or after the date of the Contract. This includes:
- 15.1.1 the existence and terms of the Contract;
- 15.1.2 all confidential information relating to:
- a) discussions, negotiations, and any information are taking place concerning the Purpose and the status of those discussions and negotiations;
 - b) the business, assets, affairs, customers, clients, suppliers, plans, intentions, or market opportunities of the Discloser;
 - c) the operations, processes, product information, know-how, technical information, designs, trade secrets or software of the Discloser;
 - d) any information, findings, data, or analysis derived from Confidential Information; and
 - e) any other information that is identified as being of a confidential proprietary nature,
- but excludes any information referred to clause 15.2.
- 15.2 Information is not Confidential Information if:
- 15.2.1 it is, or becomes, generally available to the public other than as a direct or indirect result of the information being disclosed by the Recipient or its representatives in breach of the Contract (except that any compilation of otherwise public information in a form not publicly known shall still be treated as Confidential Information);
- 15.2.2 it was available to the Recipient on a non-confidential basis prior to disclosure by the Discloser;
- 15.2.3 it was, is or becomes available to the Recipient before the information was disclosed by the Discloser;
- 15.2.4 it was lawfully in the possession of the Recipient before the information was disclosed by the Discloser;
- 15.2.5 disclosure of the information is required by operation of the law;
- 15.2.6 it is developed by or for the Recipient independently of the information disclosed by the Discloser and the Recipient provides documentary evidence of such independence to the reasonable satisfaction of the Discloser; or
- 15.2.7 the parties agree in writing that the information is not confidential.
- 15.3 If the parties to the Contract have previously signed the Company's standard Supplier Confidentiality Contract, and or the Company's non-disclosure contract, that shall form part of the Contract. However, where there is conflict between these conditions and any agreement referred to in this clause 15.3, the Contract shall take precedence.
- 15.4 The receiving party agrees to return all information subject to this clause 15.4 and copies thereof to the supplying party on demand provided always that such return does not hinder the fulfilment of that party's obligations under the Contract.
- 16. TERMINATION**
- 16.1 The Company may by notice in writing to the Supplier terminate the Contract forthwith either in its entirety or to the extent that Goods and/or Services are undelivered and in any event without prejudice to any other rights the Company may have if:
- 16.1.1 the Supplier commits any breach of this or any other contract with the Company, PROVIDED that, if such breach is remediable and the Company has given written notice thereof to the Supplier and the same has not been remedied within seven days of receipt of such notice or, if immediate remedy is not practicable, the Supplier has not taken substantive action within the same seven-day period to remedy the breach;
- 16.1.2 the Supplier takes any steps or actions in connection with its entering into administration, provisional liquidation or any composition or arrangement with its creditors (other than a solvent restructuring), having a receiver appointed to any of its 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 jurisdictions;
- 16.1.3 the Supplier suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- 16.1.4 where the Supplier is an individual or a partnership, he or any partner dies, or any steps are taken with a view to making a bankruptcy order against him or any partner;
- 16.1.5 the Company has reasonable grounds to believe the Supplier may be unable to fulfil its obligations under the Contract;
- 16.1.6 the Supplier suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- 16.1.7 the Supplier's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy;
- 16.1.8 the Supplier becomes subject to a Change of Control event (other than any such control in place at the commencement of the Contract); or
- 16.1.9 outside England and Wales, anything corresponding to any of the above occurs.
- 16.2 Summarily and without liability by notice in writing to the Supplier. The exercise of this Clause 16.2 shall not prejudice the rights of the Company under the Conditions or the law concerning insolvency.
- 17. ANTI-BRIBERY AND ANTI-CORRUPTION**
- 17.1 The Supplier shall during the term of this Contract:
- 17.1.1 comply with the Relevant Requirements;
- 17.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;
- 17.1.3 establish, maintain and enforce its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements;
- 17.1.4 immediately notify the Company (in writing) if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier and the Supplier warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of the Contract;
- 17.1.5 notify the Company (in writing) if it becomes aware of any breach of clause 17.1 (a), or has reason to believe it has received a request or demand for any undue financial or other advantage.
- 17.2 The Supplier shall ensure that any of its agents, consultants, contractors, subcontractors or other persons engaged in performance of the Supplier's obligations under this Contract do so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 17 (**Relevant Terms**). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Company for any breach by such persons of any of the Relevant Terms.
- 17.3 For the purpose of this clause 17, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.
- 18. ANTI-SLAVERY AND HUMAN TRAFFICKING**
- 18.1 In performing its obligations under the Contract, the Supplier shall:
- 18.1.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force (**Anti-Slavery Laws**), including the Modern Slavery Act 2015;
- 18.1.2 not engage in any activity, practice or conduct that would constitute an offence under sections 1,2 or 4 of the Modern Slavery Act 2015 if such activity, practice or conduct had been carried out in England and Wales;
- 18.1.3 comply with the Anti-Slavery Policy provided by the Company;
- 18.1.4 include in contracts with its subcontractors anti-slavery and human trafficking provisions which are at least as onerous as those set out in this clause 18;
- 18.1.5 notify the Company as soon as it becomes aware of any actual or suspected breach of clause 18.1 (a) and clause 18.1 (b);

TERMS & CONDITIONS OF PURCHASE
(GOODS AND SERVICES)

- 18.1.6 maintain a complete set of records to trace the supply chain of all Goods and/or Services provided to the Company in connection with this Contract; and permit the Company and its third party representatives to inspect the Supplier's premises, records, and to meet the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause 18.
- 18.2 The Supplier represents and warrants that it has not been convicted of any offence involving slavery and human trafficking or been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.
- 19. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**
Unless expressly agreed between the Company and the Supplier, nothing in these Conditions shall be enforceable by any person who is not party to them.
- 20. ASSIGNMENT AND OTHER DEALINGS**
- 20.1 The Company may at any time assign, transfer, mortgage, charge, subcontract, or deal in any other manner with all or any of its rights or obligations under the Contract.
- 20.2 The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Company.
- 20.3 In the event that any goods, materials, or services provided by the Supplier fail to meet the requirements, specifications, or standards set forth in this Agreement or any order placed with the Supplier by the Company, the Company shall notify the Supplier in writing of the non-conformance. Such notification shall specify the nature of the deficiency and any supporting evidence. The Supplier is required to undertake all necessary corrective actions including but not limited to rework or replacement of parts supplied, delivery changes and travel to CVE site, to rectify the non-conformance in as timely manner as possible.
- 21. ENTIRE AGREEMENT**
- 21.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.
- 21.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 22. VARIATION**
No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 23. WAIVER**
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 or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that right or remedy.
- 24. SEVERANCE**
If any provision or part-provision of the Contract is or 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 rest of the Contract.
- 25. NOTICES**
- 25.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or fax or email.
- 25.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 25.1; if sent by pre-paid first class post or other next working day delivery service, at 09.00 on the second Business Day after 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 fax or email, one Business Day after transmission.
- 25.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 26. GOVERNING LAW**
The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 27. JURISDICTION**
- 27.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.
- 27.2 In the event of a dispute arising between the Supplier and the Company, before issuing legal proceedings, the parties shall resolve to enter into good faith negotiations. If unresolved within 20 business days, either party may refer the dispute to mediation or arbitration before resorting to litigation in accordance with clause 27.3.
- 27.3 Where a dispute arises out of or in connection with this Contract is referred to arbitration in accordance with clause 27.2, arbitration shall be conducted under the rules of the London Court of Intervention and Arbitration, which rules are deemed to be incorporated by reference into this clause.
- 27.3.1 The number of arbitrators shall be one.
- 27.3.2 The seat, or legal place, of arbitration shall be London.
- 27.3.3 The governing law of the contract shall be the substantive law of England and Wales.
- 27.3.4 For the avoidance of doubt, the parties shall not be obliged to conduct arbitration proceedings before conducting litigation in the courts.