



These Terms and Conditions apply to all Contracts for purchase of Products and/or Services and/or the hire of Equipment entered into by James Fisher and Sons plc or any of its subsidiaries or related companies.

Attention is drawn in particular to clause 6, which contains warranties and indemnities in the Company's favour in certain circumstances.

## 1. Definitions

In these Terms and Conditions, unless the context otherwise requires:

**"Applicable Laws"** means all applicable national, supranational, foreign or local laws (including case law), legislation, statutes, statutory instruments, rules, regulations, edicts, by-laws or directions or guidance from government or governmental agencies including any rules, regulations, guidelines or other requirements of relevant regulatory authorities which have the force of law together with any industry codes of practice in effect from time to time which relate to the Contract and/or the Parties.

**"Company"** means James Fisher and Sons plc or any of its subsidiaries or related companies which is party to the Contract.

**"Company's Address"** means Fisher House, PO Box 4, Barrow-in-Furness, Cumbria, LA14 1HR or the usual place of business of the Company or as otherwise set out in the Contract.

**"Completion Date"** means the date specified in the Purchase Order by which the Supplier is required to fully and satisfactorily complete the Service(s).

**"Company Property"** means any goods, materials, equipment, tools or the like or any specifications, drawings or such data supplied to the Supplier by the Company or its agents, customers, personnel or subcontractors for the purposes of the Contract.

**"Contract"** means the agreement between the Company and the Supplier, whereby the Supplier sells or supplies Products or hires Equipment or provides a Service to the Company, incorporating these Terms and Conditions.

**"Control"** means the power to direct or cause the direction or management of the policies or affairs of an entity, whether through ownership of shares, voting rights, control of the board of directors (or local equivalent) by contract or otherwise and "Controlling" and "Controlled" shall be construed accordingly.

**"Data Protection Laws"** means the General Data Protection Regulation (EU) 2016/679 and any associated regulations or instruments and any other data protection laws, regulations, regulatory requirements, guidance and codes of practice to the extent applicable to the Contract, including but not limited to the Data Protection Act 2018, the European Union (Withdrawal) Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.

**"Delivery Date(s)"** means the date or dates specified in the Purchase Order for the Supplier to deliver the Products or Equipment.

**"Equipment"** means the equipment, plant, machinery, tools, parts and accessories, including any instalment, part or combination of same, which the Company is to hire from the Supplier, and/or the Supplier is to provide Services in respect of, in accordance with the Contract.

**"Export Controls and Sanctions Laws"** means any applicable laws, regulations, rules, licences, orders or requirements relating to importing, export controls, trade or economic sanctions and embargoes.

**"Hire Period"** means the period from the time the Equipment is delivered by the Supplier to the Company until the time the Equipment is made available by the Company for collection by the Supplier at Company's Address or other such address as may be agreed in Writing.

**"IPR"** means any patents, rights to inventions, registered designs, copyright and related rights, database rights, design rights, topography rights, trade secrets, processes rights in know-how, rights of confidence and any other intellectual or industrial property or other proprietary rights of any nature 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.

**"Losses" or "Claims"** includes all actions, causes of action, claims, demands, proceedings, damages, awards, payments, debts, losses, costs, expenses (including legal or professional expenses), penalties, fines, compensation or other liabilities whether direct, indirect, consequential or otherwise including loss of profit, business, turnover or market share, and interest thereon.

**"Mandatory Policies"** means the Company's policies and procedures relating to ethics, anti-bribery and corruption, slavery and human trafficking, tax evasion and data privacy, which are available on the James Fisher and Sons plc website (<https://www.james-fisher.com>) and as may be updated from time to time.

**"Party"** means each of the Company and the Supplier and **"Parties"** shall be construed accordingly.

**"Price"** means the charge made by the Supplier for the provision of Services, sale of Products or hire of Equipment as further defined in the Contract.

**"Product(s)"** means any goods, materials, equipment, machinery, products or articles of whatsoever nature, which the Supplier is to sell to the Company, or provide any Services in respect of, under the Contract.

**"Purchase Order"** means the written instruction issued by the Company to the Supplier setting out the requirements of the Company for the purchase of Products and/or Services and/or the hire of Equipment.

**"Quotation"** means the Supplier's quotation for the provision of Services, sale of Products and/or hire of Equipment.

**"Service(s)"** means any services or work provided by the Supplier to the Company under the Contract including the provision of any consultancy or advisory services, research or design services, or the service, maintenance, refurbishment or provision of qualified operators for the use or operation of the Products or Equipment.

**"Supplier"** means any person, firm, company, partnership, competent authority or other business entity engaged in supplying Services, hiring Equipment or providing Products to the Company under the Contract.

**"Terms and Conditions"** means the Terms and Conditions set out in this document and any other terms and conditions agreed pursuant to clause 2.1.



**"Writing"** means any form of written communication including electronic mail ("Email") where the parties have agreed either expressly or by a course of dealing to communicate by Email and have provided each other with correct Email addresses accordingly, save that any Email shall take effect only when received by the recipient.

**"Workforce"** means the Supplier and/or its personnel, employees, agency workers, agents, officers, directors, contractors, sub-contractors including any key personnel, or any other person at the behest of the Supplier.

## **2. Application**

- 2.1 All business conducted by the Supplier with the Company, including any Contracts, Purchase Orders, Quotations or pre-contractual negotiations, shall be subject to these Terms and Conditions to the exclusion of any and all other terms and conditions, including any standard or general terms and conditions of purchase, sale, hire or for services confirmed or referred to in any Quotation or acknowledgement from the Supplier, except where the Parties have identified or incorporated mutually agreed special conditions into a Purchase Order to modify, supplement or amend these Terms and Conditions ("Special Conditions"). Such Special Conditions shall apply equally with these Terms and Conditions but in the event of a conflict or any ambiguity between these Terms and Conditions and the Special Conditions, the Special Conditions shall prevail.
- 2.2 Any and all statements, warranties, representations, advice or recommendations made or given by the Company during negotiations prior to the conclusion of a Contract are not binding unless incorporated into the Contract in Writing and signed by both parties.
- 2.3 The headings in these Terms and Conditions are for convenience only and shall not affect their interpretation.
- 2.4 If any provision of these Terms and Conditions is held by any competent court, tribunal or authority to be invalid or unenforceable in whole or in part the validity of the remainder of the provision and all other remaining provisions of these Terms and Conditions shall not be affected thereby.
- 2.5 A Contract shall be formed when the Supplier accepts the Company's Purchase Order subject to these Terms and Conditions.
- 2.6 The Supplier will sell Products and/or hire Equipment and/or provide Services to the Company and the Company will pay the specified Price, in accordance with the Contract.

## **3. Performance of Contract**

- 3.1 Unless otherwise agreed in Writing or specified in the Purchase Order, the place of performance of the Contract, including any delivery of Products or Equipment or where any Services are to be provided, shall be the Company's Address. Unless otherwise agreed in Writing, it is the Supplier's obligation and risk to deliver any Products or Equipment the subject of the Contract to the Company's Address or any other address the Company may nominate.
- 3.2 Where the Supplier agrees to sell Products or hire Equipment to the Company, it is the essence of the Contract that the Supplier will deliver any Products or Equipment to the relevant address by the Delivery Date within normal office hours.
- 3.3 Where the Supplier agrees to provide a Service to the Company, it is the essence of the Contract that the Supplier will complete the Service by the Completion Date.
- 3.4 The Supplier must notify the Company immediately of any circumstances whatsoever which might cause non-compliance with the Completion Date and/or the Delivery Date(s).
- 3.5 The Supplier shall provide the Company in good time with any instructions or other information required to enable the Company to accept performance of the Services and/or delivery of the Products or Equipment.
- 3.6 Products or Equipment shall remain at the risk of the Supplier until acceptance by the Company. Where applicable, ownership of the Products shall pass to the Company on delivery, save that if Company makes any advance payment to the Supplier before delivery, title to Product shall pass to the Company in proportion to the advance payment made. Where Company has made advance payment equal to or greater than 80% or more of the Price, title to the Product shall pass in full to Company and where advance payment is required before delivery, Supplier shall at request of the Company issue a vesting certificate in a form acceptable to Company or provide bank security in a form and from a provider acceptable to Company.
- 3.7 The Company shall not be obliged to accept quantities of Product, which vary from those specified in the Contract or accept delivery of Product in instalments unless expressly agreed in the Contract.
- 3.8 The Supplier shall not effect delivery earlier than the relevant Delivery Date without prior written consent from the Company.
- 3.9 Expedition. The Company reserves the right to request that the delivery of the Products, Equipment and/or Services is expedited. The Supplier shall use its best endeavours to accept any such request from the Company.
- 3.10 Suspension. The Company reserves the right to request that the delivery of the Products, Equipment and/or Services is suspended at any time. Supplier shall not be entitled to any additional costs relating to suspension, unless such suspension continues for a period greater than 6 months and any additional costs must be agreed in advance and in writing with the Company. For the avoidance of doubt, any suspension relating to force majeure (as defined in clause 15) shall not entitle the Supplier to any additional costs.
- 3.11 The Products and/or Equipment will be properly packed and secured in such a manner as to reach their destination undamaged and in good condition.
- 3.12 The Company shall not be deemed to have accepted any Product until it has had a reasonable time to inspect and test them following delivery (including but not limited to the Company's rights in clause 6.5). For the avoidance of doubt no inspection or testing by the Company whether before or after delivery of the Product nor the signing of any delivery note or other document acknowledging physical receipt of any Product shall be deemed to constitute or evidence acceptance or approval of the Product nor be deemed a waiver of the Company's rights either to cancel or return all or any part thereof where the Products are found to be defective or not in accordance with the Contract.
- 3.13 Where Company hires any Equipment, Company shall not be liable to pay any hire charges during any period of downtime of the Equipment and the Company shall have no liability for the Equipment outside the Hire Period. Where there is a total loss to the Equipment, the Hire Period will immediately end and there will be no ongoing liability to pay any hire charges.

## **4. Price**

- 4.1 The Price for the provision of Services, purchase of Products or hire of Equipment shall be that agreed between the



parties and confirmed in Writing by the Company or specified in the Purchase Order. All sums payable under the Contract are exclusive of VAT, which shall be added if appropriate at the rate prevailing at the relevant tax point but inclusive of any other applicable tax or duty payable upon such sums.

- 4.2 Unless otherwise specified, the Price for any Services, Products or Equipment provided by the Supplier shall be inclusive of any and all costs, charges or taxes relating to storage, loading, carriage, unloading, delivery and insurance of any Products or Equipment or any licence fees, duties, local taxes or additional costs of such nature.
- 4.3 The Company shall not accept any variation of the Price or any additional charges from the Supplier unless agreed in Writing by the Company.

#### **5. Invoicing and Payment**

- 5.1 The Supplier will issue to the Company an invoice or invoices for the Price of any Services, Products or Equipment at the intervals agreed in the Contract, or in the absence of such terms, following completion of the Contract.
- 5.2 Unless otherwise agreed, the Company will pay undisputed invoice(s) within sixty (60) days of receipt of the invoice.
- 5.3 The Company shall have the right to set-off in law or equity against any sums due to the Supplier any sums which in the Company's opinion is due from the Supplier to the Company. Any amounts paid by the Company in error or in excess of Supplier's entitlement shall be refunded to the Company immediately.

#### **6. Warranties, Representations, Risk and Indemnities**

- 6.1 The Supplier represents, warrants and guarantees to the Company that the Products sold or Equipment supplied by the Supplier:
- 6.1.1 are of the best available design;
  - 6.1.2 are of the best quality, material and workmanship;
  - 6.1.3 are fit for purpose and meet all standard industry requirements;
  - 6.1.4 are genuine product and not counterfeit (in whole or part);
  - 6.1.5 are without fault;
  - 6.1.6 conform in all respects with the Company's Purchase Order and any specification, drawing, requirement or other information provided to the Supplier; and
  - 6.1.7 comply with all Applicable Laws.
- 6.2 The Company's rights under these Terms and Conditions are in addition to the statutory terms implied in favour of the Company by the Sale of Goods Act 1979 and/or the Supply of Goods and Services Act 1982, and any subsequent amending or relevant legislation.
- 6.3 The Company is entitled to rely on any statement, warranty, representation, advice and/or recommendation made by the Supplier during negotiations and/or after the date of the Contract, and such statements, warranties, representations, advice and/or recommendations shall be deemed incorporated into the Contract.
- 6.4 Where the Supplier is providing a Service to the Company, the Supplier agrees to exercise utmost care and skill in doing so and in accordance with any applicable industry standards and that the Services will be performed by appropriately trained and qualified personnel.
- 6.5 Prior to delivery of any Products or Equipment by the Supplier, the Company shall have the right if it so wishes to inspect and test the Products or Equipment at all times, and if the results of such inspection or testing cause the Company to consider that the Products or Equipment do not, or are unlikely to, conform with the Purchase Order and/or any specification, drawing or information provided to the Supplier, the Company shall inform the Supplier and the Supplier shall immediately take such action as is necessary to ensure conformity.
- 6.6 Where the Supplier is not the manufacturer of the Products or Equipment, the Supplier will transfer to the Company the benefit of any warranty or guarantee given to the Supplier in respect of such Products or Equipment.
- 6.7 The Supplier shall indemnify the Company in full against all Losses incurred by the Company as a result of or in connection with:
- 6.7.1 defective workmanship, quality or materials (including any counterfeit product);
  - 6.7.2 an infringement or alleged infringement of any intellectual property rights caused by the use, manufacture or supply of the Services, Products or Equipment;
  - 6.7.3 breach or negligent performance or failure or delay in performance of the Contract by the Supplier;
  - 6.7.4 defective Products or Equipment;
  - 6.7.5 the use or possession of the Equipment or the Products or the Equipment or Products failing to perform as expected, including any explosion or other malfunction of the Equipment or Products;
  - 6.7.6 any failure by the Supplier to comply with any term or terms of the Contract (including but not limited to any breach of clauses 10, 11 and/or 12); and
  - 6.7.7 any claim made against the Company by a third party which relates to any of the foregoing.
- 6.8 Without prejudice to any other right or remedy which the Company may have, if any fault or defect in any Products shall occur within twelve (12) months after the Products have been delivered, the Company shall notify the Supplier and the Supplier shall then (at the Company's option) either replace the Products or make good the Products at the expense of the Supplier and any Products so replaced or made good shall be guaranteed by the Supplier on the same terms for a further period of twelve (12) months. The Supplier shall be liable for all costs relating to the foregoing, including Company's costs relating to the removal and replacement of any defective or counterfeit Product and any additional testing or certification that may be required by Company to demonstrate compliance with the Contract requirements.
- 6.9 Where the Supplier's Workforce boards any vessel or craft or enters the environs of any other property or premises owned or leased or occupied by the Company, in connection with the Contract,
- 6.9.1 the Supplier agrees to hold the Company, its employees, directors, crew, servants, agents and insurers (together the "Indemnified Parties") harmless, and to indemnify them:-



- 6.9.1.1 for any Losses of whatsoever nature that they may sustain and/or incur as a result of any act or omission by the Supplier's Workforce, and
  - 6.9.1.2 in respect of their liability for any Claims of whatsoever nature which may be made against them by the Supplier's Workforce, their heirs or assigns, and
  - 6.9.1.3 in respect of their liability for any Claims of whatsoever nature which may be made against them by any third party arising out of any default, act or omission by the Supplier's Workforce, and
  - 6.9.1.4 in respect of any and all Losses incurred by them arising from any injury to or illness of the Supplier's Workforce.
- 6.9.2 the Supplier also:
- 6.9.2.1 undertakes and guarantees that all its liabilities, of whatsoever nature arising out of this clause 6.9 will be insured by the Supplier with an insurance company or facility acceptable to the Company, and further that the insurance company or facility concerned will waive its rights of subrogation against the Indemnified Parties, and
  - 6.9.2.2 agrees, in the event of any proceedings, action, arbitration and/or claim being commenced against the Indemnified Parties in respect of any and all of the matters referred above, provide the Indemnified Parties from time to time on demand with sufficient funds to defend any such proceedings.

## **7. Company's Property**

- 7.1 All Company Property shall be dealt with strictly in accordance with Company's instructions and shall at all times remain the exclusive property of the Company and shall be held by the Supplier in safe custody and maintained and kept in good order and condition by the Supplier until returned to the Company. Where possible all Company Property shall be stored separately and clearly marked or identifiable as the property of the Company. The Supplier shall be responsible for maintaining insurance to cover any Company Property in its possession and shall be fully responsible for any loss or damage to Company Property whilst in the Supplier's care, custody and control.
- 7.2 On expiry or termination of the Contract (for whatever reason), or as may be requested by the Company at any time, the Supplier shall promptly return to the Company (or dispose of in accordance with the Company's instructions) all Company Property (including any copies thereof) in its possession and shall certify to the Customer when the same has been completed.

## **8. Confidentiality, Intellectual Property and Non-solicitation**

- 8.1 All Company Property and all techniques, processes, inventions, trade secrets, equipment, drawings, designs, specifications, documents, proposals and information concerning the Services, Products or Equipment or relating to the Company's business of which the Supplier and its Workforce shall obtain knowledge or information (except to the extent that they are within or fall into the public domain other than by breach of the Contract) shall remain both during and after the completion of the business conducted under the Contract the absolute and exclusive property of the Company and the Supplier shall keep confidential and retain the same with the utmost secrecy and shall use its utmost endeavours to ensure that all its Workforce shall abide by the terms of this provision as though it were binding upon each of them and the Supplier shall not, and shall procure that each member of its Workforce shall not, copy, publish, create derivative works, disclose or permit to be disclosed to any third party or otherwise use the same other than as expressly agreed with the Company and to the extent required for the purpose of the provision of the Products, Equipment and/or Services, nor shall it cause or permit anything which may damage or endanger the IPR of the Company or allow or assist others to do so.
- 8.2 All IPR relating to any and all documents, works, software, data, datasets and all other material in whatever form including hard copy and electronic form produced or recorded by the Supplier or its Workforce in the provision of Products, Equipment and/or Services are hereby assigned to the Company and shall be the absolute property of the Company to do with as the Company deems appropriate. The Supplier shall, if so required by the Company, and in any event on the termination of the Contract, surrender to the Company all original and copy documents, working papers, digital files, and all other property containing IPR and/or belonging to the Company which is in the Supplier's or its Workforce's custody, power or control and shall deliver, and (if requested by the Company) shall procure that each relevant member of its Workforce delivers an assignment, undertaking and waiver (in a form approved by the Company) to assign all IPR relating to any and all documents, works, software or data and all other material in whatever form including hard copy and electronic form produced or recorded by the Supplier or its Workforce (as the case may be) in the provision of the Products, Equipment and/or Services and to waive all rights in relation thereto.
- 8.3 The Supplier shall grant or procure the grant of an appropriate licence or sub-licence to the Company at no extra cost, of any third party IPR that is or may be incorporated or utilised in any work done by the Supplier for the Company under the Contract to enable the Company to make full use of any Products, Equipment or Services provided to the Company under the Contract (including enabling the Company to repair, update and maintain the Products or Equipment, and to sell or supply the Products or any part of the Products to the Company's customers).
- 8.4 Supplier hereby agrees and undertakes promptly at the request of the Company, but at its own cost, to do all such acts or deeds and execute all such documents as may be required by the Company to give effect to the provisions and intentions of this clause 8.
- 8.5 The Supplier hereby agrees that, during the term of the Contract and for a period of twelve (12) months after expiry or termination howsoever caused, he will not solicit the Company's staff who are known by the Supplier or by any member of Supplier's Workforce to have been employed or engaged in the performance of the Contract. For the purposes of this clause, 'solicit' means a direct or indirect attempt to induce such person to take an engagement with such party as an employee, director, sub-contractor or independent contractor provided that this clause shall not apply to any engagement as a result of a general advertisement or recruitment campaign.

## **9. Rejection and Termination**

- 9.1 Without prejudice to any other right or remedy which the Company may have, if any Services, Products or Equipment are not supplied in accordance with the Contract, or the Supplier fails to comply with any terms of the Contract, the Company may avail itself of any one or more of the following remedies at its discretion, whether or not part of the



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Services, Products or Equipment have been accepted by the Company:

- 9.1.1 to terminate the Contract (in whole or in part) by notice in Writing, without any liability on the part of the Company;
  - 9.1.2 to reject any Products or Equipment (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier and require a full refund for the Products or Equipment so returned, to be paid by the Supplier; or
  - 9.1.3 to refuse to accept deliveries of any further Products or Equipment and without any liability on the part of the Company.
- 9.2 The Company shall further be entitled to terminate the Contract forthwith by notice in Writing to the Supplier if:
- 9.2.1 the Supplier makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction); or
  - 9.2.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Supplier; or
  - 9.2.3 the Supplier ceases or threatens to cease to carry on business;
  - 9.2.4 where the Supplier is resident in a jurisdiction other than England and Wales, an event similar to any of those specified in the above sub-clauses occurs to or in relation to the Supplier; or
  - 9.2.5 the Supplier undergoes a change of Control.
- 9.3 In the event of termination by the Company pursuant to clause 9.2 above then, without prejudice to any other right or remedy available to the Company, the Company shall be under no further obligations under the Contract and any sums already paid by the Company to the Supplier but not earned shall become repayable immediately notwithstanding any previous agreement or arrangement to the contrary and the Company shall be entitled to charge interest at the per annum rate of 2% above the base bank rate from time to time of HSBC Bank PLC from the time of such cancellation or suspension on any sums owed by the Supplier to the Company until the Company receives payment in full.
- 9.4 Notwithstanding the foregoing, the Company may terminate the Contract for convenience at any time with immediate effect by notice in writing to the Supplier. Upon such notification from the Company, the Supplier shall cease all work and use all reasonable efforts to effect cancellation of any commitments or orders placed by it in connection with the Contract. Subject to the Supplier using all reasonable endeavours to minimise and mitigate any costs incurred and, where requested by the Company, reuse any materials or work performed, the Company will pay the Supplier for any reasonably justified direct out of pocket costs and expenses (relating to materials used and work executed in accordance with the Company's instructions prior to the notice of termination) provided that the Supplier: (i) notifies the Company within five (5) working days of the Company's notice of termination the amount to which it claims it is entitled in accordance with the foregoing; (ii) makes available to the Company all materials and work for which it is seeking payment; and (iii) shall provide such written evidence to substantiate any claim for costs incurred as the Company may reasonably request. The amount payable to the Supplier (if any) will be agreed between the Parties and any payment due to the Supplier shall be paid to the Supplier in accordance with the payment terms set out in the Contract. In no circumstances shall these costs exceed the Contract price.

## **10. Compliance with Applicable Laws**

- 10.1 The Supplier shall at all times relating to performance of the Contract comply with all Applicable Laws and the Mandatory Policies. In addition to the generality of the foregoing, the Supplier shall also comply the requirements of this clause 10, as set out below.
- 10.2 **Anti-Bribery and Corruption.** The Supplier shall:
- 10.2.1 comply, and shall procure that each of its suppliers and subcontractors, and the members of its and their Workforces shall comply, with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including the Bribery Act 2010;
  - 10.2.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
  - 10.2.3 have and shall maintain in place throughout the term of the Contract its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure its compliance with clauses 10.2.1 and 10.2.2 and will enforce them where appropriate;
  - 10.2.4 promptly report to the Company any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Contract;
  - 10.2.5 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 officers, employees or direct or indirect owners at the date of the Contract); and
  - 10.2.6 ensure that any person associated with the Supplier who is providing Products or Services, or hiring Equipment in connection with the Contract does 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 sub-clause 10.2.
- 10.3 **Modern Slavery.** The Supplier shall:
- 10.3.1 comply, and shall procure that each of its suppliers and subcontractors, and the members of its and their Workforces, shall comply with all applicable laws, statutes, regulations and codes relating to slavery, servitude, forced or compulsory labour and human trafficking including the Modern Slavery Act 2015;
  - 10.3.2 undertake not to purchase any resource, materials or products from producers, suppliers or manufacturers using forced or compulsory labour in its operations or practices;
  - 10.3.3 have and shall maintain in place throughout the term of the Contract its own policies and procedures to ensure its compliance with clauses 10.3.1 and 10.3.2 and will enforce them where appropriate;
  - 10.3.4 immediately notify the Company in writing if it becomes aware of any breach or alleged breach of this clause



- within its supply chain (and the Supplier warrants that has not been convicted of any offence involving slavery and human trafficking and, having made reasonable enquiries, to the best of its knowledge none of its suppliers or subcontractors or its or their Workforce or direct or indirect owners at the date of the Contract have been or are the subject of any investigation, enquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding an offence or alleged offence of or in connection with slavery and human trafficking); and
- 10.3.5 ensure that any person associated with the Supplier who is providing Products or Services, or hiring Equipment in connection with the Contract does 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 sub-clause 10.3.
- 10.4 **Tax Evasion.** The Supplier shall:
- 10.4.1 comply, and shall procure that each of its suppliers and subcontractors, and the members of its and their Workforces, shall comply with all applicable laws, statutes, regulations and codes relating to tax evasion including the Criminal Finances Act 2017;
- 10.4.2 undertake not to engage in any activity, practice or conduct which would constitute either: (i) a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017; or (ii) a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017;
- 10.4.3 have and shall maintain in place throughout the term of the Contract its own policies and procedures to ensure its compliance with clauses 10.4.1 and 10.4.2 and will enforce them where appropriate;
- 10.4.4 immediately notify the Customer in writing if it becomes aware of any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the Contract; and
- 10.4.5 ensure that any person associated with the Supplier who is providing Products or Services, or hiring Equipment in connection with the Contract does 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 sub-clause 10.4.
- 11. Quality Assurance**
- 11.1 Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Products, Equipment and/or Services and will provide evidence of the same to the Company upon written request by the Company.
- 11.2 Supplier shall supply free of charge to the Company any applicable conformity certificates or other quality control or regulatory documents including on request test certificates/reports as required by any Applicable Law, as set out in the Contract and any further documents and assistance in relation to the same as the Company reasonably requires. The Supplier shall retain all supporting documentation in accordance with the requirements of Applicable Laws.
- 11.3 Supplier shall supply free of charge to the Company any applicable service bulletin, notice or maintenance instruction applicable to the safe use, installation or safety of the Products or Equipment, including any such bulletin, instruction or notice required by Applicable Laws and shall ensure the Company is in possession of the latest issue of such information at all times.
- 11.4 Specifications for materials referred to in the Contract are deemed to refer to the latest issues of specifications, drawings and other technical documents. It is the responsibility of the Supplier to ensure that the Products and Equipment supplied are in conformity with the latest documents issued.
- 11.5 All Product with a restricted shelf life shall have a minimum of 75% of its shelf life remaining at the delivery to the Company unless the Company expressly approves otherwise in writing. Upon delivery of the Product, Supplier will, provide a copy of the certification from the original manufacturer, with written proof of the date of manufacture and shelf life or expiry date.
- 11.6 Should the Supplier become aware of or suspect that it has supplied Product and/or Equipment that does not comply with any quality requirements as required under the Contract (including but not limited to those set out in clause 6.1 above), the Supplier shall as soon as practicable notify the Company in writing. The Supplier shall provide documentation that authenticates the affected Products and/or Equipment and, where applicable, provide traceability of the sourcing route. Notwithstanding any other remedy available to the Company, the Supplier shall support the Company in any investigation of any suspected defective or counterfeit Product and/or Equipment and provide all assistance that the Company may reasonably request.
- 11.7 The Supplier shall promptly keep the Company informed of any matter of which it is or reasonably should, as supplier of the Products or Equipment, be aware relating to the storage, transportation, handling, assembly or use of the Products or Equipment by the Company (including legislation or advice from responsible or professional or legal bodies in respect of raw materials used in the manufacture of the Products) and the actions it has taken or proposes to take and those that the Company should take in relation to such matters.
- 12. Export Controls and Sanctions**
- 12.1 Supplier shall comply with all Export Controls and Sanctions Laws and shall not do anything, which would cause the Company to be in breach of any Export Controls and Sanctions Laws.
- 12.2 Supplier shall notify Company in writing at the time the Contract is formed, as well as when any changes occur or subsequent information is received by the Supplier, where the Products or Equipment (or any part thereof) are subject to Export Controls and Sanctions Laws or require a licence or any other authorisation in order to import or export pursuant to Export Controls and Sanctions Laws.
- 12.3 The Supplier represents and warrants that it will:
- 12.3.1 provide all information about the Products and/or Equipment, including, where relevant, information regarding constituent parts thereof that may be necessary for the Company's compliance with all Export Controls and Sanctions Laws;
- 12.3.2 notify the Company immediately in writing of any change to the export control information provided to the Company by the Supplier;
- 12.3.3 supply the Company with copies of any licenses, agreements or other authorisations relating to the Products and/or Equipment immediately on demand by the Company;
- 12.3.4 immediately notify the Company if the Supplier becomes identified either individually or collectively on any list



of denied, debarred, embargoed, blocked, prohibited, specially designated, sanctioned or otherwise ineligible parties maintained by any government or international organisation or if the Supplier's export privileges, licenses, agreements or other authorisations are otherwise denied, suspended or revoked in whole or in part by any government entity or agency.

- 12.4 The Company shall not be obliged to perform any obligation under the Contract and shall have the right to terminate the Contract, without being liable for any damages or costs of any kind, if, in the Company's sole discretion, it determines that such performance in full or part may be in violation of any Export Controls and Sanctions Laws.

### **13. Data Protection**

- 13.1 The Parties acknowledge that it is not intended that any Personal Data shall be processed under the Contract, or in the provision of the Products, Services or hire of Equipment. Nonetheless, each Party shall, at its own expense, ensure that it complies with and ensure that it reasonably assists the other Party to comply with the requirements of Data Protection Laws where relevant and applicable.
- 13.2 The Parties shall notify each other immediately if it considers that any requirements of the Data Protection Laws have been infringed in relation to the Contract.
- 13.3 Should it be required that Personal Data is processed under the Contract or in the provision of the Products, Services or hire of Equipment, the Parties shall enter into a separate data processing agreement detailing the Parties' respective obligations in accordance with the requirements of the Data Protection Laws.
- 13.4 For the purposes of this clause, "processed" and "Personal Data" shall have the meanings as per Data Protection Laws.

### **14. Insurance**

- 14.1 The Supplier shall, at its own cost, effect and keep in place with reputable insurers such insurance policies as are appropriate and adequate having regard to its obligations and liabilities under the Contract including, as a minimum and unless expressly set out otherwise in the Purchase Order:
- 14.1.1 employer's liability insurance (or local equivalent) as required by Applicable Laws;
  - 14.1.2 public liability insurance with a minimum cover of £5,000,000 per claim;
  - 14.1.3 products liability insurance with a minimum cover of £5,000,000 per claim; and
  - 14.1.4 professional indemnity insurance with a minimum cover of £2,000,000 per claim (for Services which include design, advice and/or consultancy services).
- 14.2 The Supplier shall on the written request of the Company from time to time provide the Company with reasonable details of the insurance maintained in force in accordance with this clause 14, and, on the renewal of each policy, the Supplier shall send a copy of the premium receipt to the Company when requested to do so in writing by the Company.
- 14.3 The Supplier shall do nothing to invalidate any of the policies maintained in force in accordance with this clause 14.
- 14.4 To the extent applicable, the Supplier shall ensure that its insurance policies contain standard waiver of subrogation and indemnity to principal protection to the extent of the liabilities assumed by the Supplier under the Contract.

### **15. Force Majeure**

- 15.1 The Company shall not be liable to the Supplier or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations due to any cause beyond the Company's reasonable control including:
- 15.1.1 act of God, storm, flood, tempest or other weather conditions, explosion, fire or accident;
  - 15.1.2 war or threat of war, civil war, hostilities, sabotage, insurrection, riot or civil disturbance, or requisition;
  - 15.1.3 Governmental or local authority acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind;
  - 15.1.4 import or export regulations or embargoes;
  - 15.1.5 strikes, lock-outs or other industrial actions or trade disputes whether involving employees of the Company or of a third party;
  - 15.1.6 failure or breakdown in equipment or machinery from power failure or other external causes;
  - 15.1.7 pandemics and epidemics.

### **16. Notices**

- 16.1 Any notice required to be given by either Party under the Contract shall be delivered or sent by pre-paid first class recorded delivery letter addressed to the registered office of the party to be served or to such other place as may be designated by the other Party for the purpose of service and shall be deemed to have been served in the case of a notice delivered by hand, when delivered, in the case of a letter, forty-eight (48) hours after the time of posting.

### **17. Record Keeping and Audit**

- 17.1 The Supplier shall maintain complete and accurate records of all work performed under the Contract and in relation to the supply of the Products, Equipment and/or the provision of the Services.
- 17.2 The Supplier shall permit the Company and nominated third parties to access the facilities from which the Supplier provides the Products, Equipment and/or Services on written notice as may be reasonably required in order to:
- 17.2.1 Fulfil any request by any regulator and/or ensure compliance with any legal or regulatory requirement to applicable to the Company;
  - 17.2.2 identify suspected fraud or bribes;
  - 17.2.3 verify that the Products, Equipment and/or Services have been or are being supplied in accordance with the Contract.

### **18. General**

- 18.1 Assignment and other dealings. The Supplier shall not assign, transfer or sub-contract the Contract or any benefit, interest, right or obligation under the Contract, without the prior agreement of the Company in Writing.
- 18.2 Liens. The Supplier shall not exercise any right of lien, general or otherwise and howsoever arising, over any Products



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- or any Company Property in the Supplier's possession, in respect of any sums owed by the Company to the Supplier under the Contract or otherwise.
- 18.3 Variations. No amendment or variation to the Contract shall be effective unless it is in writing, refers specifically to the Contract and is signed by a duly authorised representative of each of the Parties to the Contract.
- 18.4 No Partnership. Nothing in the Contract shall create, or be deemed to create, a partnership or joint venture or relationship of employer and employee or principal and agent between the parties and no employee of the Supplier shall be deemed to be or have become an employee of the Company.
- 18.5 Third Party Rights. No person who is not a party to the Contract (including any employee, officer, agent, representative or subcontractor of either party) shall have the right (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any part of the Contract which expressly or by implication confers a benefit on that person without the express prior agreement in writing of the Parties.
- 18.6 Waiver. No act, omission, delay or indulgence on the part of the Company in enforcing the Contract or any of the Terms and Conditions thereof shall operate as a waiver of the Company's rights thereunder, unless in each case the Company expressly so agrees in Writing.
- 18.7 Severance. If at any time any part of the Contract is held to be or becomes void or otherwise unenforceable for any reason under any Applicable Law, the same shall be deemed omitted from the Contract and the validity and/or enforceability of the remaining provisions of the Contract shall not in any way be affected or impaired as a result of that omission.
- 19. Governing Law and Jurisdiction**
- 19.1 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 the laws of England.
- 19.2 The Parties hereby agree that any Claims, disputes, legal actions, suits or proceedings that either Party may have against the other arising out of or in connection with the Contract shall be subject to the exclusive jurisdiction of the English Courts. In addition the Supplier hereby agrees that the Company shall have the right to bring any Claims, disputes, legal actions, suits or proceedings it may have against the Supplier in the courts of any jurisdiction where the Supplier or any of its property or assets may be found or located, and the Supplier hereby irrevocably submits to the jurisdiction of any such court.