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## UK STANDARD CONDITIONS OF PURCHASE

### GOODS AND RELATED WORKS AND SERVICES

In these Conditions:

**"Company"** means Howorth Air Technology Limited or any subsidiary or associate company of Howorth Air Technology Limited which may form part of its corporate group (from time to time) and is party to the contract which incorporates these Conditions

**"Company's Representative"** means the person identified as such in the Order or such replacement as may be notified from time to time in writing by the Company to the Supplier

**"Completion Date"** has the meaning ascribed to that term in Condition 7.1

**"Conditions"** means the terms and conditions set out in Conditions 1 to 35 below

**"Contract"** means the Conditions and the Order together

**"Contract Sum"** means the sum or sums stated in the Order as the price payable for the Goods and/or Services

**"Interest Rate"** a rate 3% per annum above the official dealing rate of the Bank of England current at the date that a payment due under these conditions becomes overdue

**"Invoice"** means the form of invoice for interim payment to be submitted by the Supplier to the Company in accordance with Condition 10.1

**"Main Contract"** means such agreement entered into by the Company with third parties as shall be further identified in the Order

**"Numbered Documents"** means the quantities, drawings, specifications, standards and stipulations as set out in the documents either contained in or annexed to the Order (if any)

**"Order"** means the form of order or orders placed by the Company (including any Numbered Documents)

**"Goods"** means the goods which are the subject of the Order including, without limitation, plant, machinery, equipment, vehicles and materials (including packaging), whether raw or partly or wholly manufactured

**"Retention"** means the percentage of the monies owed by the Company to the Supplier which the Company may be entitled to deduct and retain in accordance with Condition 35

**"Services"** means any services to be provided by or on behalf of the Supplier to the Company in connection with the Order

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

#### 1. APPLICATION OF THESE CONDITIONS

- 1.1. Subject to Condition 1.2 the Company only enters into contracts on the basis of these Conditions which can only be altered or qualified by a document signed by the Company's Representative.

- 1.2. In the event of a conflict between any of these Conditions and any express term or condition (whether of the Main Contract or otherwise) referred to in the Order, the latter shall prevail.
- 1.3. The performance of Services or delivery of Goods by the Supplier pursuant to the Order shall constitute acceptance of this Contract where acceptance has not previously been communicated to the Company.
- 1.4. Any works, services or supplies performed or provided hereto by the Supplier for the Company in connection with the subject matter of this Contract, shall be treated as having been performed under and shall be subject to the provisions of this Contract and any payments made by the Company to the Supplier in respect thereof shall be treated as payments on account of the Contract Sum.
- 1.5. Nothing contained in this Contract shall in any way detract from the Supplier's obligations under common law or statute or any express warranty or condition contained in the Order.

#### 2. INSTRUCTIONS

The Supplier shall comply at all times with the Company Representative's instructions in relation to the delivery of the Goods and/or performance of the Services including (without implying limitation) any instructions or restrictions in relation to access, health and safety procedures and any site rules in force at any relevant site.

#### 3. QUALITY AND GUARANTEE

- 3.1. Goods shall be of first class quality, new and shall be supplied strictly in accordance with the provisions of the Order and shall conform to all relevant UK and EU standards, specifications and conditions and all Goods and Services provided by the Supplier shall be fit for the purposes intended or to be reasonably inferred from the provisions of the Order, with best practice and shall pass such inspection as may be required by the Company, its customers or their agents.
- 3.2. The Supplier warrants that it has the necessary expertise to carry out the Order in accordance with this Contract and confirms the accuracy of all statements and representations made in respect of the Goods and Services prior to the Order.

#### 4. CONSUMER PROTECTION ACT 1987 (THE "ACT")

- 4.1. The Supplier warrants that all Goods supplied to the Company together with all necessary instructions, information and warnings supplied with them will be designed, manufactured and produced in such a manner as to ensure that under no circumstances could the Goods be held to be defective pursuant to Part 1 of the Act.
- 4.2. If the Supplier becomes aware at any time of any incidents, events or discoveries which are in any way relevant to the safe operation of Goods previously supplied, the Supplier shall without delay issue written notice of them to the Company.
- 4.3. The Supplier shall indemnify, reimburse and compensate the Company for all losses and damages (including costs, expenses and charges for legal action in which the Company may be



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involved) which the Company may incur or have to bear as a result of any claim or claims arising as a result of the Goods being adjudged defective pursuant to the provisions of Part 1 of the Act.

## 5. DELIVERY/ADVICE NOTES

- 5.1. Subject to Condition 7.4, the Supplier shall comply in all respects with the Company's dates for delivery of Goods and completion of Services as set out in the Order and any reasonable request for information about progress against these dates shall be provided by the Supplier without delay.
- 5.2. All Goods supplied against the Order, properly packed and secured in such a manner as to reach their destination in good condition, shall (unless otherwise directed by the Company's Representative) be delivered by the Supplier to the Company with the works carriage paid, in accordance with the Company's instructions stated in the Order and/or issued by the Company's Representative and bearing the Company's order number on each package.
- 5.3. Delivery of the Goods shall be completed when the Goods have been unloaded at the point of delivery specified in the Order and the delivery has been accepted by the Company's Representative or such duly authorised agent, employee or site representative of the Company's Representative. Title in the Goods shall pass to the Company on delivery.
- 5.4. If the Supplier is responsible for delivery or for arranging delivery of the Goods to the Company's premises the Supplier will be liable for all damage which it or its carrier causes to the Company's property in the course of delivery.
- 5.5. If Goods are delivered before the date specified in the Order, the Company shall be entitled at its sole discretion to refuse to take delivery or to charge for insurance and storage of the Goods until the contractual date for delivery.
- 5.6. If a carrier is specified in connection with the Order such carrier shall be deemed to be an agent of the Supplier and not of the Company.
- 5.7. Consignment or part deliveries may be rejected unless the Company has agreed in writing to accept such deliveries.
- 5.8. Notwithstanding that:
  - 5.8.1. the Company has accepted delivery of all or part of the Goods; or
  - 5.8.2. where the contract is for the sale of specific goods, the title in the Goods has passed to the Company; the breach by the Supplier of any express or implied condition to be fulfilled by it may (subject to Condition 8.3) be treated as a ground for rejecting the Goods and treating the contract as repudiated.
- 5.9. Unless otherwise stated in the Order the Supplier is responsible for obtaining all the export and import licences for the Goods and shall be responsible for any delays due to such licences not being available when required.
- 5.10. In the case of Goods supplied from outside the United Kingdom, the Supplier shall ensure that accurate information is provided to the Company's Representative as to the country of origin of the Goods and shall be liable to the Company for any additional duties or taxes for which the Company may be accountable should the country of origin prove to be different from that advised by the Supplier.

## 6. RISK AND TITLE

- 6.1. Unless otherwise stated on the Order, risk in the Goods purchased shall pass to the Company upon either the completion of delivery as specified in Condition 5.3 or (where the Supplier is to install the Goods) the completion of the installation and title to the Goods or any part of the Goods shall pass upon the earlier of either such delivery or the time of any payment being made for them. The Supplier shall be responsible for transport and unloading costs and insurance of Goods to their full value against all risk of damage or loss prior to either the completion of delivery or (where the Supplier is to install the Goods) the completion of the installation.
- 6.2. All tools, equipment and materials of the Supplier required in the performance of the Supplier's obligations under this Contract shall be and remain at the sole risk of the Supplier whether or not they are upon premises of the Company or other premises specified in the Order.
- 6.3. Where the Supplier has contracted to perform Services or work upon Goods or materials without title thereto passing to or belonging to the Supplier, risk shall pass to the Supplier in respect of such Goods and materials when it takes delivery thereof and shall remain with the Supplier until the Goods or materials processed or worked upon as the case may be are redelivered to the Company. Delivery for the purposes of this Condition shall mean the time of parting with physical possession by the Company and redelivery shall mean upon taking or retaining possession by the Company's Representative or such duly authorised agent, employee or site representative of the Company's Representative.
- 6.4. No unfixed materials, goods and equipment that have been delivered to or placed on the site and intended for them shall be removed unless the Contractor has consented in writing to such removal (such consent not to be unreasonably withheld or delayed).
- 6.5. If for any reason the Company is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery the Supplier shall at its expense store the Goods for a reasonable time having regard to the circumstances and shall safeguard them and take all reasonable steps to prevent their deterioration until their actual delivery.
- 6.6. Unless otherwise agreed in writing no maker's name or mark (other than the Company's) shall appear on any Goods supplied pursuant to the Order.

## 7. TIME

- 7.1. The Supplier is not entitled to an extension of time to its obligation in Condition 5.1 to deliver the Goods and/or complete the Services by the date stated in the Order (the "Completion Date") unless:
  - 7.1.1. the Company has been granted an extension of time under the Main Contract as a result of the same event causing the delay; or
  - 7.1.2. the Company have issued a revised Order in accordance with Condition 14 which the Supplier notifies the Company has or is likely to cause delay; or
  - 7.1.3. a circumstance arises as a result of any error, omission, act of prevention, negligence or default of the Company which has or will contribute to the delay (including,



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without limitation, any delay arising from the right of the Supplier to suspend the performance of its Services pursuant to Condition 34); or

- 7.1.4. subject to Condition 7.1.1, the Supplier is unable to perform its obligations due to the occurrence of a force majeure event, (together the "Delay Events") provided always that the Supplier shall constantly use his best endeavours to prevent delay, howsoever caused, and to prevent the delivery of the Goods and/or completion of the Services being delayed or further delayed beyond the relevant Completion Date.
- 7.2. The Supplier shall promptly notify the Company's Representative when it becomes aware of any event which will or may cause delay to the Supplier's obligation to deliver the Goods and/or complete its Services by the relevant Completion Date together with full particulars of the event and an estimate of the actual or potential delay to that Completion Date. If the Supplier fails to promptly notify the Company's Representative in accordance with this Condition, the Supplier confirms that its entitlement to an extension of time, pursuant to Condition 7.1, shall be waived.
- 7.3. The Company's Representative shall consider the information provided by the Supplier pursuant to Condition 7.2 and if it considers that:
  - 7.3.1. the event is a Delay Event; and
  - 7.3.2. such Delay Event is reasonably likely to cause delay to the Completion Date, then the Company's Representative shall notify the Supplier of an extension of time by fixing such revised Completion Date as it considers to be reasonable, provided the Company's Representative shall at no time be obliged to fix the revised Completion Date in relation to any Delay Event which arises pursuant to Condition 7.1.1 after the revised date for completion of the works granted to the Company under the Main Contract in relation to the same event.
- 7.4. Failure by the Supplier to adhere to any provision as to time contained in the Order shall entitle the Company at its option to treat the contract as repudiated in whole or in part. The Company shall be entitled to exercise its option at any time notwithstanding that it has acquiesced in any delay unless a written extension of time has been given to the Supplier by the Company's Representative and the time of any extension has not elapsed.
- 7.5. Failure by the Company to exercise its option under Condition 7.4 in respect of any part of an Order shall not be deemed to constitute a waiver with respect to any subsequent part of that Order.
- 7.6. Unless an extension of time has been agreed by the Company in accordance with Condition 7.4, the Supplier's failure to effect delivery on the date or dates specified shall entitle the Company either to purchase substitute Goods and to hold the Supplier accountable for all loss or additional costs (or both) incurred as a result or else (if selected in the Order) to recover such ascertained and liquidated damages for late delivery of Goods and/or performance of Services as may be set out in the Order.

## 8. INSPECTION AND TESTING

- 8.1. Any inspector or representative authorised by the Company shall be entitled to inspect the Goods either complete or in the process of manufacture or, as the case may be, any Services being performed at any reasonable time at the relevant Site and to require all defects or deficiencies to be made good and alterations made in the event of any failure in the opinion of the Company to comply with the terms of the Order, provided nevertheless that such inspection or right to inspect shall not of itself constitute acceptance or approval of all or any part of the Goods and/or Services and does not prejudice the Company's ability to reject the Goods or Services to be rejected.
- 8.2. The Company shall be entitled to require the Supplier to perform the obligations contained in Condition 8.3 or, at its option, reject the Goods and treat the contract as repudiated at any time prior to the expiration of the following periods:
  - 8.2.1. [twelve] months from delivery of the Goods in accordance with Condition 5.3; or
  - 8.2.2. [twelve] months from the certification of practical completion of the Works (as defined in the Main Contract), Whichever is the later
- 8.3. Without prejudice to the Company's right to treat the contract as repudiated, where the Company notifies the Supplier of any defective or damaged Goods (whether due to defective design, materials or workmanship or otherwise) or faulty workmanship in the provision of the Services, the Supplier shall be responsible for making good with all possible speed the defective or damaged Goods or faulty workmanship (fair wear and tear excepted) including full replacement where necessary together with all costs of delivery to site and installation and all other costs and expenses incurred by the Company including but not limited to costs in relation to the premises at which the Goods are situated or to other plant and machinery in order to enable or facilitate such making good by the Supplier.

## 9. PRICE

- 9.1. The Company shall pay the Supplier the Contract Sum at the times and in the manner specified in the Contract.
- 9.2. The Company shall not be responsible for the payment of any charges for Goods supplied or Services performed in excess of the Goods or Services required by the Order or any variation of it unless authorised in writing by the Company's Representative in a further priced Order.
- 9.3. All prices are fixed inclusive of delivery, VAT (if applicable) and any other applicable duties and taxes and are not subject to escalation.
- 9.4. No payment will be made for containers, crates or packing materials of any description except by special arrangement in writing.

## 10. PAYMENT

- 10.1. All invoices for Goods/or Services shall be rendered in triplicate clearly stating the purchase order number of the relevant Order and shall be accompanied by such details to evidence such request for payment as may be stated in the Order (the "Invoice").T
- 10.2. the Supplier shall submit the Invoice for payment to the Company's Representative either:



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10.2.1. on completion of each stage of Services and/or on delivery of the Goods (if Option A is selected in the Order); or

10.2.2. on the dates provided for each application for payment (if Option B is selected in the Order), as is more fully described in the Order.

10.3. All invoices shall be net of any discount or Retention in accordance with the Order.

10.4. No later than 5 days after receipt of the Invoice submitted by the Supplier in accordance with Conditions 10.1 and 10.2, the Company shall give written notice to the Supplier which shall specify in relation to that Invoice the amount of payment to be made, to what the amount of the payment relates and the basis on which that amount was calculated.

10.5. No later than 1 day before the final date for payment set out in Condition 10.6, the Company shall give written notice to the Supplier which shall specify any amount proposed to be withheld and/or deducted from the amount due, the ground or grounds for such withholding and/or deduction and the amount of withholding and/or deduction attributable to each ground.

10.6. The final date for payment by the Company shall be 60 days after the receipt of the Invoice properly submitted by the Supplier in accordance with Conditions 10.1 and 10.2.

10.7. Subject to Condition 10.5, the Company shall be entitled to deduct from any monies due or to be become due to the Supplier any monies owed from the Supplier to the Company.

10.8. If the Company does not pay the amount properly due to the Supplier by the final date for its payment the Company shall pay to the Supplier in addition to the amount not properly paid simple interest thereon at the Interest Rate for the period until successful payment is made. Payment of such interest shall be treated as a debt due to the Supplier by the Company.

10.9. The Parties agree that Condition 10.8 is a substantial remedy for late payment of any sum payable under these conditions in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998.

10.10. No payment of or on account of the contract price shall constitute any admission by the Company as to proper performance by the Supplier of its obligations.

#### 11. VALUE ADDED TAX

All Suppliers who are registered for value added tax are required to issue a proper tax invoice in accordance with the relevant legislation before the Company shall be required to make payment for Goods or Services supplied in accordance with the Order.

#### 12. CONSTRUCTION INDUSTRY SCHEME

Where it is stated in the Order that the Company is a 'contractor' for the purposes of CIS, the obligation of the Company to make any payment under this Contract is subject to the provisions of the CIS.

#### 13. ADVANCE PAYMENT

Where the Order states that an advance payment will be made to a Supplier, the advance payment shall be paid to the Supplier on the date and reimbursed to the Company on the terms stated in the Order and, where the Order states that an advance payment bond is required, such payment shall only be made if the Supplier has provided to the Company a bond in such terms and from a surety as may be approved by the Company.

#### 14. VARIATION

14.1. Any amendments to the Order (including any increase in the Contract Sum) shall be made by agreement with the Company's Representative evidenced in writing.

14.2. The Company shall not be liable for any orders or amendments to orders other than those issued or confirmed on the Company's official Order or amendment forms duly signed on behalf of the Company by the Company's Representative.

14.3. The Supplier shall advise the Company's Representative immediately if such amendments either prevent the specified delivery date(s) being met or have any other significant implication regarding the Supplier's obligations to the Company.

#### 15. HEALTH AND SAFETY

15.1. The Supplier warrants that:

15.1.1. in the carrying out of the Services including (without limitation) the design, manufacture, supply and installation of the Goods (including all work on site) and the provision of information relating to them it will comply with all of the obligations, requirements and duties imposed on it by the Health and Safety at Work Act 1974 or arising out of the Construction (Design and Management) Regulations 2007 and any amendments thereto or re-enactments thereof and all other legal requirements, statutory provisions, bye-laws, rules and regulations so far as they are applicable to the site or the Goods or the carrying out of the Services and that it will perform its obligations under the Contract such that no liability is incurred by the Company under such statutory provisions, bye-laws, rules and regulations; and

15.1.2. that all Goods supplied will be supplied with all necessary safety guards and devices sufficient to comply with current statutory requirements. Where Goods are to be supplied without guards or safety devices then the Supplier must:

15.1.2.1. state such to be the case in writing in its quotation or acknowledgement of order; and

15.1.2.2. specify in writing such guards and devices as will be required to be purchased by the Company.

#### 16. INDEMNITY

16.1. The Supplier agrees to indemnify the Company against:

16.1.1. all losses, costs, damages, expenses and claims caused to and made against the Company to the extent caused or contributed to by the Supplier's breach of its express or implied obligations under this Contract;

16.1.2. all losses, costs, damages, expenses and claims caused to and made against the Company (including in respect of personal injury to or the death of any person or in respect of any loss, injury or damage whatsoever to any property real or personal) arising out of the acts and omissions of the Supplier, its employees, agents or its sub-Suppliers in supplying the Goods and/or carrying out the Services;

16.1.3. any claims for infringement of any patents, design right, copyright, registered design, trade mark or any other intellectual property rights by reason of the use or sale of the Goods supplied (save where the same shall have





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been manufactured in accordance with specifications or designs supplied solely by the Company) and against all losses, costs, damages, expenses and claims which the Company may incur or have to bear or for which the Company may become liable as a result of such claims for infringement;

16.1.4. all claims in respect of royalties payable by the Supplier in respect of the Goods;

16.1.5. all claims arising out of errors and omissions in drawings, calculations, packing details or other particulars supplied by the Supplier; all such amounts shall be a debt payable by the Supplier to the Company.

#### 17. SUB-LETTING

17.1. The Supplier shall not without the written consent of the Company's Representative sub-let or assign all or any part of the Order.

17.2. Any authority given by the Company for the Supplier to sublet the Order or any part of it shall:

17.2.1. not impose any duty on the Company to enquire as to the competency of any authorised sub-Supplier or supplier but the Supplier shall ensure that any authorised sub-Supplier is competent and that the work is properly done; and

17.2.2. the Supplier shall remain wholly responsible for the supply of the Goods and for carrying out and completing the Services in all respects in accordance with the Contract notwithstanding any such sub-letting.

17.3. The Supplier confirms that it and its sub-contractors will provide a collateral warranty within 14 days of a written request by the Company in the same terms, in such a form and to such beneficiaries as may be required by the Company. Execution and delivery of each of these collateral warranties in accordance therewith shall each be conditions precedent to the Supplier's entitlement to payment and/or further payment under this Contract of any amounts (in aggregate) equal to five per cent (5%) of the amount payable by the Company to the Supplier under, pursuant to or arising out of this Contract.

17.4. The Supplier agrees to assign to the Company upon request the benefit of any warranty, guarantee or similar right which it has against any third-party manufacturer or supplier of the Goods or any part thereof.

#### 18. INTELLECTUAL PROPERTY

18.1. All any patents, design right, copyright, registered design, trade mark or any other intellectual property rights made, designed or developed by or on behalf of the Supplier in connection with the Contract shall be the sole property of the Company and the Supplier shall procure at no charge to the Company the execution of any and all papers necessary to perfect ownership by the Company.

18.2. All material, drawings, patterns, gauges, samples, specifications and other technical data prepared by the Company in connection with the contract shall be and shall at all times remain the property of the Company which shall be entitled to reproduce and use all such data at any time for any purpose whatsoever. The Supplier shall not use any such data except in connection with the Contract.

#### 19. RECORDS

19.1. When drawings, circuit diagrams, cable layouts and schedules, parts, lists and operating and maintenance instructions or like documentation are supplied by the Supplier, these may be used by the Company for the installation, operation and maintenance of plant, such right to include the production or purchase by the Company, for its use only, of any part or parts of the Goods for the purpose of repairing them or replacing parts.

19.2. All such drawings, information and documentation supplied by the Supplier shall be suitable for photocopying by the Company.

#### 20. PUBLICITY

20.1. Neither the Order nor the name of the Company shall be disclosed to any third party or used by the Supplier or any sub-Supplier for advertisement or publicity purposes without the Company's prior written consent.

20.2. The Supplier shall not either during the period of the Order or at any time thereafter disclose to any person, firm or company any manufacturing process or trade secret of the Company in connection therewith or any information relating thereto save as required by law or where already in the public domain.

#### 21. TERMINATION

21.1. Without prejudice to any other rights or remedies to which it may be entitled, the Company may terminate the Order forthwith and without liability in the event that:

21.1.1. the Supplier shall become bankrupt or, under Section 123 of the Insolvency Act 1986, be deemed to be unable to pay its debts or shall compound with its creditors or if a resolution shall be passed or proceedings commenced for the administration or liquidation of the Supplier (other than for a voluntary solvent winding up for the purpose of reconstruction or amalgamation) or if a receiver or manager shall be appointed of all or any part of its assets or undertaking; or

21.1.2. the Company's employment under the Main Contract has been terminated; and/or

21.1.3. the Supplier shall commit any breach of its obligations under the contract and fail to rectify such breach within seven days of receipt of written notice from the Company requiring it to be remedied.

#### 22. CANCELLATION

Without prejudice to any other specific provision of this contract or any other right available to it, the Company shall have the right to cancel the contract in whole or in part at any time by giving written notice to the Supplier whereupon all work under the Order (or the cancelled part) shall be discontinued and the Company shall pay to the Supplier such proportion of the Order price as may be fair and reasonable having regard to the value of work done, of the Goods previously delivered and of Services performed under the Order (including an element of profit to be calculated on a pro rata basis by reference to the net profit margin on the contract as a whole which the Supplier can evidence to the satisfaction of the Company it would have obtained had the contract proceeded to completion) and on such payment no further sum or sums shall be due by way of damages, loss of profits or otherwise from the Company to the Supplier by reason of such cancellation.



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## 23. PACKAGING

The Company shall be under no obligation to return cases or other durable packaging to the Supplier unless such responsibility is accepted by the Company in the Order.

## 24. FREE-ISSUE MATERIALS

- 24.1. Where the Company issues materials to the Supplier for use in connection with the Order such materials shall be and remain the property of the Company.
- 24.2. The Supplier shall maintain such materials in good order and condition and at its risk, subject in the case of tooling, patterns and the like to fair wear and tear, and shall use them only in connection with the Order.
- 24.3. Any surplus materials shall be disposed of in accordance with the Company's directions and any materials wasted as a result of the Supplier's bad workmanship or negligence shall be replaced at the Supplier's expense.
- 24.4. The Supplier shall at any time forthwith upon the Company's request deliver up to the Company all materials issued by the Company.

## 25. TOOLS ETC

- 25.1. All tools, patterns, materials, drawings, specifications and other data provided by the Company in connection with the Order will at all times remain the property of the Company and shall be delivered up to the Company forthwith on request and are to be used by the Supplier solely for the purpose of completing the Order.
- 25.2. Any tools (such as jigs, dies etc) which the Supplier may construct or acquire specifically in connection with the Goods and for which the Supplier makes any charges shall be and remain the Company's sole and unencumbered property and the Company may at any time call for possession.

## 26. INSURANCE

- 26.1. Without prejudice to the Supplier's obligation to indemnify the Company under Conditions 16.1, 4.3 and 33.1 (if applicable) the Supplier shall take out and maintain insurance (with insurers of repute) of such a type and in such amounts as may be stated in the Order.
- 26.2. As and when reasonably required to do so by the Company, the Supplier shall send to the Company documentary evidence that the insurances required by Condition 26.1 have been taken out and are being maintained and at any time the Company may require the relevant policy or policies and related premium receipts be provided to the Company.

## 27. NOTICES

- 27.1. All notices, orders or other forms of communication required to be given in writing ("Notices") shall be:
  - 27.1.1. given in writing;
  - 27.1.2. be authenticated by signature of such other method agreed between the parties;
  - 27.1.3. be marked for the attention of the appropriate department or person (which, for the avoidance of doubt, shall be the Company's Representative in connection with notices to the Company);
  - 27.1.4. be marked in a prominent position with the Order number.
- 27.2. Notices should be delivered by hand, by first class pre-paid post or by fax.

27.3. Notices shall be deemed to have been received:

- 27.3.1. If delivered by hand, on the day of delivery if it is before 4pm on a business day and otherwise at 9am on the business day immediately following the day of delivery;
- 27.3.2. If sent by first class pre-paid post, on the third business day after the day of posting;
- 27.3.3. If sent by facsimile on completion of receipt by the sender of verification of the transmission if sent before 4pm on a business day or at 9am on the next business day if sent after 4pm or on any day other than on a business day.

## 28. SEVERABILITY

If any provision of these conditions is or shall become void in whole or in part the other provisions of these conditions shall remain fully valid and enforceable and the void provisions shall, where appropriate, be replaced in accordance with the meaning and purpose of these conditions.

## 29. EUROPEAN MONETARY UNION

Unless otherwise agreed in writing the occurrence or non-occurrence of an event associated with European Monetary Union will not of itself discharge the contract or entitle one party unilaterally to vary it.

## 30. ENGLISH LAW

The parties agree that any disputes arising or in any way connected with the subject matter of this Agreement (whether of a contractual or tortious nature or otherwise) shall be subject to the laws of England and shall be subject to the jurisdiction of the English courts only except that the Company may seek injunctive relief outside such jurisdiction.

## 31. THIRD PARTY RIGHTS

A person who is not a party to this Agreement (a "third party") shall have no rights pursuant to the Contracts (Rights of Third Parties) Act 1999 (the "Act") to enforce any term of this Agreement. Any right or remedy of a third party which exists or is available apart from the Act is not affected.

## 32. PERFORMANCE OF CONSTRUCTION WORKS

If the Supplier is required to install, fix, test, balance and/or commission the Goods or carry out any other form of construction works at either the Company's premises or on a third party site as part of its Services then, in addition to the Order and Conditions 1 to 31 above, Conditions 32 to 35 shall also apply.

## 33. MAIN CONTRACT

- 33.1. The Supplier confirms it has had sight of the Main Contract and it agrees that it shall be deemed to have notice of and shall observe perform and comply with and be bound by all of the terms and conditions therein insofar as they relate to the supply of the Goods and performance of the Services (including, without limitation, those relating to provision of information and the giving of notices and permitting inspections and so forth) and the Supplier shall indemnify the Company for any and all losses, costs, damages, expenses and claims caused to and made against the Company caused by or contributed to by:
  - 33.1.1. any breach or non-observance by the Supplier or his subcontractors, suppliers or agents of the terms and conditions of the Main Contract insofar as they relate and apply to this Contract; and
  - 33.1.2. any act or omission of the Supplier or its sub-contractors, suppliers or agents which involves the Company in any



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liability under the Main Contract insofar as they relate and apply to this Contract; and

33.1.3. any negligence or breach of duty on the part of the Supplier or its sub-contractors, suppliers or agents.

#### **34. SUSPENSION**

34.1. Without prejudice to any other rights and remedies which the Supplier may possess, if the Company fails to pay the Supplier in full by the final date for payment and has not issued a written notice in accordance with Condition 10.5 and such failure continues for [twenty one] days after the Supplier has given to the Company written notice of its intention to suspend the performance of its obligations under the Contract and the grounds on which it is intended to suspend performance, then the Supplier may suspend the performance of its obligations under the Contract until such payment in full occurs.

#### **35. RETENTION**

35.1. The Company may deduct and retain a Retention from interim payments due to the Supplier. This Retention shall be a percentage of the total amount stated in the Invoice submitted by the Supplier in accordance with Conditions 5.1 and 5.2, subject to any deductions (other than the Retention) that the Company is entitled to make pursuant to Condition 10.5;

35.2. The amount of Retention to be withheld from interim payments shall be the percentage stated in the Order.

35.3. The Company will be under no obligation to set aside in a separate account any amount representing the Retention and will be under no fiduciary obligation with regard to it.

35.4. The Supplier shall make an application to the Company to release half of the Retention in the Supplier's first application for payment following the date of practical completion of the Services.

35.5. The Supplier shall make an application to the Company to release the remainder of the Retention in the Supplier's first application for payment following:

35.5.1. the date of the Supplier's rectification of any defects to the Company's reasonable satisfaction pursuant to Condition 8.4, or

35.5.2. twelve months from the date of completion of the Services; or

35.5.3. twelve months from the certification of practical completion of the Works (as defined in the Main Contract), whichever occurs the later.