

Please fill in the form by clicking in the box or print in capital letters.

Trading Name			
Trading Address			Postcode
Phone No.		Fax No.	
E-mail		Website	

Business Type	<input type="checkbox"/> Sole Trader	<input type="checkbox"/> Partnership	<input type="checkbox"/> Ltd Co	<input type="checkbox"/> Plc
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Credit Limit Required	£		
Invoice Name & Address (if different from trading address)			Postcode
Company Registration No.		VAT Registration No.	
Purchasing Contact		E-mail	
Finance Director		E-mail	
Accounts Contact		E-mail	
Accounts Phone No.			
Email Address to receive Tecto Invoices			
Do you raise Purchase Orders?	<input type="checkbox"/> Yes <input type="checkbox"/> No	For security purposes please detail any standard PO format	e.g. ABC/123456

Payment Method	<input type="checkbox"/> BACS (or equivalent direct bank transfer)	<input type="checkbox"/> Direct Debit
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Registered Office Name & Address		
	Postcode	

<b>Tecto Hire Ltd Bank Details</b> <b>Bank:</b> Barclays <b>Sort Code:</b> 20-61-55 <b>Account No.:</b> 33915980	It is important we receive a remittance advice for payments. Please email to: <a href="mailto:accounts@tectogroup.co.uk">accounts@tectogroup.co.uk</a>
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I confirm that I am authorised to sign this form and that I have read and agree to your General Conditions of Sale. ☐

Signed: ..... Print name: .....

Position: ..... Date: .....

## 1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

### 1.1 Definitions:

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

**Commencement Date:** has the meaning given in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 17.9.

**Contract:** the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

**Customer:** the person or firm who purchases the Goods and/or Services from the Supplier.

**Deliverables:** the deliverables (if any) set out in the Order to be delivered by the Supplier to the Customer.

**Delivery Location:** has the meaning given in clause 4.1.

**Force Majeure Event:** has the meaning given to it in clause 15.

**Goods:** the goods (or any part of them) set out in the Order.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), 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.

**Order:** the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, the Customer's written acceptance of the Supplier's quotation, or the Customer's online order, as the case may be.

**Services:** the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Service Specification.

**Service Specification:** the description or specification for the Services provided by the Supplier to the Customer.

**Supplier:** Tecto Ltd registered in England and Wales with company number 07923637.

**Supplier Materials:** has the meaning given in clause 8.1(h).

**Total Loss:** where the Goods hired to the Customer by the Supplier as part of hire Services are, in the Supplier's reasonable opinion or the opinion of its insurer(s), damaged beyond repair, lost, stolen, seized or confiscated.

## 1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (c) 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.
- (d) A reference to **writing** or **written** includes fax and email.
- (e) All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.
- (f) All of these Conditions shall apply to the supply of all the types of Services supplied by the Supplier except where application to one or another is specified.
- (g) By making an Order, the Customer acknowledges and agrees that it is a business customer by virtue of the Goods and/or Services (as the case may be) being received by it for its business purposes.

## 2. Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods or Services (which may include the hire of Goods) or Goods and Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order or otherwise commences supply at which point and on which date the Contract shall come into existence (**Commencement Date**).

- 2.3** Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained on/in the Supplier's website, catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract nor have any contractual force.
- 2.4** These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5** Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.
- 2.6** The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

### **3. Goods**

The Goods are described in the Supplier's website, catalogue or brochure.

### **4. Delivery of Goods**

- 4.1** The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.
- 4.2** Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.3** Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.4** If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

- 4.5** If the Customer fails to accept delivery of the Goods within 3 Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and
  - (b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.6** If 10 Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not accepted actual delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods (where they have been paid for by the Customer) or charge the Customer for any shortfall below the price of the Goods (where they have not been paid for by the Customer).
- 4.7** The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## **5. Quality of Goods**

- 5.1** The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (**warranty period**), the Goods shall:
- (a) conform in all material respects with their description;
  - (b) be free from material defects in design, material and workmanship;
  - (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
  - (d) be fit for any purpose held out by the Supplier.
- 5.2** Subject to clause 5.3, if:
- (a) the Customer gives notice in writing to the Supplier during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
  - (b) the Supplier is given a reasonable opportunity of examining such Goods; and
  - (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

**5.3** The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 (or any other warranty) if:

- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;
- (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (c) the Customer alters or repairs such Goods without the written consent of the Supplier;
- (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
- (e) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

**5.4** Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1 (or any other warranty).

**5.5** These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

**5.6** Insofar as the Goods comprise or contain equipment or components which were not manufactured or produced by the Supplier, the Customer shall be entitled only to such warranty or other benefit as the Supplier has received from the manufacturer.

## **6. Title and risk**

**6.1** The risk in the Goods shall pass to the Customer on completion of delivery.

**6.2** Title to the Goods (where they are sold to the Customer) shall not pass to the Customer until the earlier of:

- (a) the Supplier receives payment in full (in cash or cleared funds) for the Goods; and
- (b) the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 6.4.

**6.3** Until title to the Goods has passed to the Customer, the Customer shall:

- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 13.3(b) to clause 13.3(c); and
- (e) give the Supplier such information as the Supplier may reasonably require from time to time relating to:
  - (i) the Goods; and
  - (ii) the ongoing financial position of the Customer.

**6.4** Subject to clause 6.5, the Customer may resell or use the Goods which it has bought from the Supplier (as opposed to hired) in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:

- (a) it does so as principal and not as the Supplier's agent; and
- (b) title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.

**6.5** At any time before title to the Goods passes to the Customer, the Supplier may:

- (a) by notice in writing, terminate the Customer's right under clause 6.4 to resell the Goods or use them in the ordinary course of its business; and
- (b) require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## **7. Supply of Services**

**7.1** The Supplier shall supply the Services to the Customer in accordance with the Service Specification in all material respects.

**7.2** The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Service Specification or such other dates as the parties may agree in writing, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

**7.3** The Supplier reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

**7.4** The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

**8. Customer's obligations**

**8.1** The Customer shall:

- (a) ensure that the terms of the Order and any information it provides in respect of the Service Specification are complete and accurate;
- (b) co-operate with the Supplier in all matters relating to the Services;
- (c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
- (d) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) prepare the Customer's premises for the supply of the Services if so required;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (g) comply with all applicable laws, including health and safety laws;
- (h) keep all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation; and
- (i) comply with any additional obligations as set out in the Service Specification.

**8.2** If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the



Customer Default prevents or delays the Supplier's performance of any of its obligations;

- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 8.2; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

## **9. Charges and payment**

### **9.1 The price for Goods:**

- (a) shall be the price set out in the Order; and
- (b) shall, unless otherwise stated, be exclusive of all costs and charges of delivery, packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

### **9.2 The charges for Services:**

- (a) shall be the charges set out in the Order;
- (b) shall come with an entitlement for the Supplier to charge an overtime rate if set out in the Order; and
- (c) shall come with an entitlement for the Supplier to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services if set out in the Order and including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.

### **9.3 Where applicable, the Supplier reserves the right to increase the charges for the Services on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index in the preceding 12-month period and the first such increase shall take effect on the first anniversary of the Commencement Date and shall be based on the latest available figure for the percentage increase in the Retail Prices Index.**

### **9.4 In respect of Goods and Services, the Supplier shall invoice the Customer and require payment from the Customer as set out in the Order. Time for payment shall be of the essence of the Contract. In the event that the Customer disputes any invoice raised by the Supplier, whether in whole or in part, the Supplier must be notified in writing within 14 days from the date of the invoice, after which the Customer shall be deemed to have**

accepted the invoice and shall not be entitled to dispute the invoice and any charges under it.

- 9.5** All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**) unless otherwise stated. Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 9.6** If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 13, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.6 will accrue each day at 8% a year above the Bank of England's base rate from time to time, but at 8% a year for any period when that base rate is below 0%.
- 9.7** All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 9.8** Should the Supplier be required to enforce the provisions of these Conditions against the Customer to recover any charges or other amount then the Customer shall indemnify the Supplier against all costs and expenses (including professional and legal costs and expenses on a full indemnity basis) suffered or incurred by the Supplier arising out of or in connection with the Supplier enforcing the provisions of these Conditions.

## **10. Intellectual Property Rights**

- 10.1** All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.
- 10.2** The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy and modify the Deliverables (excluding materials provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business.
- 10.3** The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 10.2.

**10.4** The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.

**11. Data protection**

**11.1** The following definitions apply in this clause 11:

- (a) **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.
- (b) **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the United Kingdom including the retained European Union law version of the General Data Protection Regulation ((EU) 2016/679), the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
- (c) **Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.

**11.2** Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

**11.3** The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor. The scope, nature and purpose of processing by the Supplier shall be for the fulfilment of the Order, as shall the duration of the processing, with the types of personal data and categories of data subject being dictated by the Order.

**11.4** Without prejudice to the generality of clause 11.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier and/or lawful collection of the Personal Data by the Supplier on behalf of the Customer for the duration and purposes of the Contract.

**11.5** Without prejudice to the generality of clause 11.2, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:

- (a) process that Personal Data only on the documented written instructions of the Customer unless the Supplier is required by Domestic Law to otherwise process that Personal Data. Where the Supplier is relying on Domestic Law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of

this before performing the processing required by the Domestic Law unless the Domestic Law prohibits the Supplier from so notifying the Customer;

- (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer at the Customer's request, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
- (d) not transfer any Personal Data outside of the United Kingdom unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
  - (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
  - (ii) the Data Subject has enforceable rights and effective legal remedies;
  - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Customer without undue delay on becoming aware of a Personal Data Breach;
- (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination or expiry of the Contract unless required by Domestic Law to store the Personal Data; and

- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 11.

**11.6** The Customer consents to the Supplier appointing third-party processors of Personal Data under the Contract. The Supplier confirms that it has entered or (as the case may be) will enter with any such third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 11. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 11.6.

**11.7** Either party may, at any time on not less than 30 days' notice, revise this clause 11 by replacing it with any applicable controller to processor standard clauses or similar terms adopted by the Information Commissioner or forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

**12. Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**

**12.1** The limits and exclusions in this clause are reflected in the price and charges charged by the Supplier. The Customer is responsible for making its own arrangements for the insurance of any excess loss.

**12.2** The restrictions on liability in this clause 12 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

**12.3** Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and
- (d) defective products under the Consumer Protection Act 1987.

**12.4** Subject to clause 12.3, the Supplier's total liability to the Customer for all loss or damage shall not exceed 150% of the total charges paid by the Customer under the Order in respect of which the breach occurs.

**12.5** Subject to clause 12.3 and clause 12.4, this clause 12.5 sets out the types of loss that are wholly excluded:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

**12.6** The Supplier has given commitments as to compliance of the Goods and Services with relevant specifications in clause 5 and clause 7. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

**12.7** Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

**12.8** This clause 12 shall survive termination or expiry of the Contract.

### **13. Termination**

**13.1** The Contract shall commence on the Commencement Date and shall continue, unless terminated earlier in accordance with these Conditions or the Order, until the Order has been completed.

**13.2** Subject to any provisions in the Order regarding the term of the Contract, without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party 1 months' written notice.

**13.3** Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its

creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party'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.

**13.4** Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

**13.5** Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 13.3(b) to clause 13.3(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

#### **14. Consequences of termination**

**14.1** On termination or expiry of the Contract:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt; and
- (b) the Customer shall return all of the Supplier Materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

**14.2** Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.



- 14.3** Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

**15. Force majeure**

Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 4 weeks, the party not affected may terminate the Contract by giving 14 days' written notice to the affected party.

**16. Terms relating to specific types of Services**

**Terms applying where Goods are hired to the Customer by the Supplier as part of hire Services.**

- 16.1** The Supplier shall hire the Goods to the Customer subject to the terms set out in the Order and these Conditions.
- 16.2** The rental period and rental payments (being the Supplier's charges for the purposes of clause 9) shall be as set out in the Order.
- 16.3** The Goods shall at all times remain the property of the Supplier, and the Customer shall have no right, title or interest in or to the Goods (save the right to possession and use of the Goods subject to these Conditions).
- 16.4** The Customer shall procure that a duly authorised representative of the Customer shall be present at the delivery of the Goods. Acceptance of delivery by such representative shall constitute conclusive evidence that the Customer has examined the Goods and has found them to be in good condition, complete and fit in every way for the purpose for which they are intended. If required by the Supplier, the Customer's duly authorised representative shall sign a receipt confirming such acceptance.
- 16.5** The risk of loss, theft, damage or destruction of the Goods shall pass to the Customer on delivery (delivery being determined in accordance with clause 4). The Goods shall remain at the sole risk of the Customer during the rental period and any further term during which the Goods are in the possession, custody or control of the Customer (**Risk Period**) until such time as the Goods are redelivered to the Supplier. During the rental period and the Risk Period, the Customer shall, at its own expense, obtain and maintain the following insurances:



- (a) insurance of the Goods to a value not less than their full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as the Supplier may from time to time nominate in writing;
- (b) insurance for such amounts as a prudent owner or operator of the Goods would insure for, or such amount as the Supplier may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Goods; and
- (c) insurance against such other or further risks relating to the Goods as may be required by law, together with such other insurance as the Supplier may from time to time consider reasonably necessary and advise to the Customer.

- 16.6** The Customer shall give immediate written notice to the Supplier in the event of any loss, accident, damage, shock loading or overloading of/to the Goods or any other circumstance that may affect the future operation of the Goods arising out of or in connection with the Customer's possession or use of the Goods.
- 16.7** If the Customer fails to effect or maintain any of the insurances required under the Contract, the Supplier shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Customer.
- 16.8** The Customer shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to the Supplier and proof of premium payment to the Supplier to confirm the insurance arrangements.
- 16.9** The Customer shall during the term of the Contract ensure that the Goods are kept and operated in a suitable environment; used only for the purposes for which they were designed; and used, operated and maintained in a proper manner.
- 16.10** The Customer shall deliver up the Goods at the end of the rental period or on earlier termination of the Contract in a clean condition (which shall mean clean, safe and decontaminated) at such address as the Supplier requires, or if necessary allow the Supplier or its representatives access to any premises where the Goods are located for the purpose of removing them. Should the Goods require cleaning, making safe or decontaminated at the Supplier's cost the Supplier shall be entitled to recover the costs as a debt due from the Customer and the Customer shall indemnify the Supplier in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of, or in connection

with any failure by the Customer to comply with the terms of the Contract in this regard (including in respect of any personal injury suffered by the Supplier's staff).

- 16.11** The Customer acknowledges that the Supplier shall not be responsible for any loss of or damage to the Goods arising out of or in connection with any negligence, misuse, mishandling of the Goods or otherwise caused by the Customer or its officers, employees, agents and contractors, and the Customer shall indemnify the Supplier in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of, or in connection with any failure by the Customer to comply with the terms of the Contract in this regard.
- 16.12** The Contract shall automatically terminate if a Total Loss occurs in relation to the Goods.
- 16.13** On termination or expiry of the Contract, however caused, the Supplier's consent to the Customer's possession of the Goods shall terminate.
- 16.14** On termination of the Contract by the Supplier pursuant to clause 13.3 or clause 13.4, or under clause 16.12, without prejudice to any other rights or remedies of the Supplier, the Customer shall pay to the Supplier on demand a sum equal to the whole of the rental payments that would (but for the termination) have been payable if the Contract had continued from the date of such demand to the end of the rental period, less:
- (a) a discount for accelerated payment at the percentage rate determined by the Supplier acting reasonably and in good faith; and
  - (b) the Supplier's reasonable assessment of the market value of the Goods on sale.
- 16.15** The sums payable pursuant to clause 16.14 shall be agreed compensation for the Supplier's loss and shall be payable in addition to any other sums otherwise due to the Supplier from the Customer.

**Terms applying where Services relate to servicing, repairs or calibrations.**

- 16.16** The service period, service hours and payments (being the Supplier's charges for the purposes of clause 9) shall be as set out in the Order.
- 16.17** The Customer undertakes to comply with all safety regulations, statutory or otherwise, in force from time to time, and at all times observe, conform or comply with all statutory and other regulations applicable to the Goods so as to provide a safe working environment for the Supplier. This obligation shall include delivering up the Goods for servicing, repair or calibration in a clean condition (which shall mean clean, safe and decontaminated). The Customer shall indemnify the Supplier in full against all liabilities,

costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of, or in connection with any failure by the Customer to comply with the terms of the Contract in this regard (including in respect of any personal injury suffered by the Supplier's staff).

- 16.18** Where the Customer sends the Supplier Goods for the Supplier to undertake servicing, repair and/or calibration Services on, unless a corresponding Order is received by the Supplier from the Customer within 7 days of the Supplier requesting the same, the Supplier may deal with (including disposing of) such Goods as it sees fit unless they are either collected from it by or on behalf of the Customer within a further 7 days or unless the Customer requests that the Supplier returns them (and covers the costs to be incurred by the Supplier in doing so) within the same period.

**Terms applying where Services relate to training or installation.**

- 16.19** The service hours, cancellation terms and payments (being the Supplier's charges for the purposes of clause 9) shall be as set out in the Order.
- 16.20** The Customer does not have the right to take audio or video recordings or images during the provision of training Services by the Supplier.
- 16.21** The Supplier has the right to take photographs and recordings of the Customer's representatives and delegates when providing training Services and the Customer consents to this course of action and accepts that all rights whatsoever in connection therewith will be owned solely by the Supplier. The Customer further accepts and agrees that any such photographs and recordings may be used by the Supplier at its absolute discretion in any manner including, but not limited to, in respect of its website, promotional material and advertisements.
- 16.22** The Customer's representatives and delegates in respect of training Services must behave reasonably in respect of the Supplier (which shall include adhering to its safety briefings and health and safety guidance, as well as being courteous and respectful towards its staff). If they fail to act in this way, the Supplier reserves the right to not provide them with the training Services.
- 16.23** The content delivered by the Supplier will be relevant at the time of supply. The Supplier reserves the right to change content without notice if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services.

- 16.24** The Customer undertakes to comply with all safety regulations, statutory or otherwise, in force from time to time, and at all times observe, conform or comply with all statutory and other regulations applicable to the Goods so as to provide a safe working environment for the Supplier. The Customer shall indemnify the Supplier in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of, or in connection with any failure by the Customer to comply with the terms of the Contract in this regard.

**Terms applying where Services relate to gas sensor installation.**

- 16.25** Once the Customer has accepted the Supplier's suggested locations of gas sensors for installation or where the Customer suggests its own locations and the Supplier follows this suggestion, the Customer accepts responsibility for the design and shall indemnify the Supplier in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of, or in connection with the locations of the gas sensors.

**Terms applying where Services relate to fixed installations.**

- 16.26** Once the Customer has accepted the Supplier's suggested locations of fixed installations or where the Customer suggests its own locations and the Supplier follows this suggestion, the Customer accepts responsibility for the design and shall indemnify the Supplier in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of, or in connection with the locations of fixed installations.

**17. General**

**17.1 Assignment and other dealings.**

- (a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

**17.2 Confidentiality.**

- (a) Each party undertakes that it shall not at any time during the Contract, and for a period of 2 years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 17.2(b).
- (b) Each party may disclose the other party's confidential information:
  - (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 17.2; and
  - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

**17.3 Notices.**

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
  - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
  - (ii) sent by fax to its main fax number or sent by email to the address specified in the Order.
- (b) Any notice shall be deemed to have been received:
  - (i) if delivered by hand, at the time the notice is left at the proper address;
  - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
  - (iii) if sent by fax or email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 17.3(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

- 17.4 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 17.4 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.
- 17.5 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 or any other right or remedy.
- 17.6 No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 17.7 Entire agreement.**
- (a) 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.
  - (b) Each party acknowledges that in entering into the Contract it does not rely on, and 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 misrepresentation based on any statement in the Contract.
  - (c) Nothing in this clause shall limit or exclude any liability for fraud.
- 17.8 Third party rights.**
- (a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
  - (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 17.9 Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

- 17.10 Conflict.** If there is an inconsistency between any of the provisions of these Conditions and the Order, the provisions of the Order shall prevail.
- 17.11 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.
- 17.12 Jurisdiction.** 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.