

Terms and conditions of order

1. DEFINITIONS

In these Conditions, the following words shall have the following meaning:

“**Conditions**” means these terms and conditions of order.

“**Contract**” means the contract between the Purchaser and the Supplier for the supply of the Goods and/or Services comprising (1) the Purchase Order and any supplementary or special conditions detailed on the face of the Purchase Order (2) these Conditions (3) any specification of the Goods and/or Services detailed on the Purchase Order and (4) subject always to Clause 2 hereof, any correspondence, specifications, drawings or other documents expressly referred to in any of the foregoing.

“**Contract Price**” means the sum stated on the Purchase Order as the price payable to the Supplier for the supply of the Goods and/or provision of the Services and shall include costs of packaging, carriage, customs clearance, expenses and insurance unless otherwise expressly agreed, as may be varied under and in accordance with this Contract.

“**Purchaser**” means the entity purchasing the Goods and/or Services set out on the Purchase Order.

“**Defects Liability Period**” means 12 months (or such other period as may be specified on the face of the Purchase Order) from (1) the date of the delivery of the Goods or (2) from the date of incorporation or integration of the Goods into the equipment, machinery or plant owned, maintained or operated by the Purchaser or (3) the date of completion of the Services whichever shall occur last.

“**Delivery Point**” means the place of delivery of the Goods specified on the Purchase Order or, if no such place is specified, the place notified in writing by the Purchaser to the Supplier.

“**Force Majeure**” means industrial dispute (other than a dispute only affecting the Supplier), war (whether declared or undeclared), fire, accident, governmental action or any other cause beyond the relevant party's control.

“**Intellectual Property Rights**” means patents, trademarks, registered designs and all applications for registration of them, copyrights or design rights, any moral right, any know how, any trade or business name, any right to bring an action for passing off or any right, whether subsisting now or in the future, which is similar or analogous to any of these in any part of the world.

“**Goods**” means all goods, materials and equipment or things of any kind to be provided by the Supplier under the Contract including those set out on the face of the Purchase Order.

“**Purchase Order**” means the Purchaser's order for Goods and/or Services, detailed in the Purchaser's order. “**Relevant Requirements**” means applicable laws, statutes, regulations and codes relating to anti-bribery, anti-corruption and modern slavery including but not limited to the Bribery Act 2010 and the Modern Slavery Act 2015.

“**Services**” means the services and works including any deliverables, to be provided by the Supplier under the Contract including the services set out on the face of the Purchase Order.

“**Statutory Requirements**” means all applicable laws, orders, regulations or bylaws having the force of law including but not limited to those relating to data protection, health and safety at work, toxic and hazardous substances and the protection of the environment.

“**Supplier**” means the person, firm or company to whom the Purchase Order is addressed.

The headings in the Conditions shall not be deemed part thereof or be taken into consideration in the interpretation or construction of the Contract. A reference to a party includes its successors and permitted assigns. A reference to a statute or statutory provision is a reference to it as amended or re-enacted and shall include all subordinate legislation. 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 preceding words, description, phrase or terms.

2. CONDITIONS

If the Supplier has not previously accepted the Conditions, the Supplier shall be deemed to have accepted the Conditions on the date that the Supplier has commenced the supply of Goods and/or Services or carried out any activity consistent with fulfilling this Contract. Notwithstanding anything to the contrary in any quotation, tender, delivery note, invoice, order acknowledgement, correspondence or other document issued by the Supplier, these Conditions shall apply except insofar as expressly agreed otherwise in writing by a duly authorised representative of the Purchaser. No servant or agent of the Purchaser or the Supplier has the authority to vary the Conditions orally. Any conditions appearing on the Supplier's acknowledgement of order, delivery note(s) or invoice(s) or implied by trade, custom or practice are expressly excluded from the Contract and shall be deemed deleted. The order of precedence of documents comprising the Contract shall be that given in the definition of "Contract" in Clause 1 unless otherwise expressly agreed. The Supplier's obligations and liabilities under the Conditions are in addition to and not in substitution for the Supplier's liabilities at common law and under statute and the Purchaser's rights under the Contract are in addition to its rights and remedies implied by statute and common law. All of the Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

The Supplier shall ensure at all times it has and maintains the licences, permissions, authorisations and consents and permits that it needs to carry out its obligations under the Contract.

3. GOODS

The Goods shall be in accordance with the Contract and shall (1) be of first class quality and workmanship (2) be fit for purposes specified in or reasonably to be inferred from the Contract (3) correspond to their description and comply with any performance characteristics represented by the Supplier and specified and/or referred to on the face of the Purchase Order (4) comply with Statutory Requirements and (5) be free from defects in design, materials and workmanship and remain so for the Defects Liability Period.

4. DELIVERY OF GOODS

The Goods shall be delivered: (1) to the Delivery Point (2) at the date(s) specified in the Contract or such later date(s) as may reasonably be specified by the Purchaser, and (3) during the Purchaser's normal hours of business or as instructed by the Purchaser. The Purchaser shall have the right by written notice to vary the delivery arrangements, to include the place of delivery and quantities. Upon receipt of such notice of variation, the Supplier shall promptly give written notice to the Purchaser of the amount of any amendment to the price (if any) by applying the pricing methodology contained in the applicable tender or quotation. The Supplier shall ensure that the Goods: (a) are properly packaged and secured so as to prevent any loss of or damage to the Goods during transit to the Delivery Point and during the subsequent distribution

and/or storage of the Goods (whether by the Supplier, Purchaser or others)(b) are clearly labelled and addressed and shall be accompanied by delivery notes which detail (1) the Purchase Order number (2) the type and number of Goods supplied and (3) whether the delivery is a full or part delivery (4) any Goods which are hazardous or toxic in nature and (5) shall specify the precautions to be taken in relation to the safe use, handling, storage and disposal of the Goods. If so required by the Purchaser or requested by the Supplier, packaging will be returned to the Supplier at the Supplier's expense and risk, provided that full descriptions of such packaging (including identification marks, numbers and values) are included in the Supplier's advice notes and invoices. Risk of loss of or damage to the Goods shall remain with the Supplier until delivery of the Goods to the Delivery Point. Title in the Goods shall pass to the Purchaser upon delivery or payment, whichever is the earlier, without prejudice to any right of the Purchaser to reject the Goods.

5. SERVICES

All Services shall be performed at the dates and times set out in the Purchase Order (1) in a proper and workmanlike manner with reasonable skill, care and diligence, (2) consistent with best practice in the Seller's industry (3) using suitably qualified, skilled and experienced personnel, (4) in compliance with Statutory Requirements and (5) and the Supplier shall (a) co-operate with the Purchaser (b) comply with all instructions of the Purchaser (c) observe health and safety rules and regulations and any other security requirements that apply to the applicable site; and (d) provide all equipment, tools and vehicles and such other items as are required to provide the Services.

6. PAYMENT

The Supplier shall submit an invoice after the later of delivery of the Goods or completion of the Services in accordance with the Contract. The invoice shall set out the Purchase Order number, the sum invoiced (not to exceed the Contract Price) and any applicable VAT. If terms of payment are not specified on the Purchase Order, the due date for payment is the date of the valid VAT invoice and the final date for payment of undisputed invoices shall be 30 days after the end of the month in which a valid VAT invoice is submitted. Without prejudice to the Purchaser's other rights and remedies, the Purchaser shall be entitled to: (1) give notice not later than 7 days after the due date for payment stating the amount that it considers due at the due date and the basis on which it is calculated and in the absence of such notice the amount set out in the valid VAT invoice shall be the amount due, and/or (2) pay less than the amount stated in the valid VAT invoice or under the notice under clause 6(1), by giving the Supplier notice of that intention not later than 5 days prior to the final date for payment by stating the amount that it considers to be due at the date the pay less notice is given and the basis on which that sum has been calculated. No payment made by the Purchaser or absence of a pay less notice shall constitute an admission that the Supplier has complied with the Contract or prejudice the Purchaser's right

to reject Goods which are not in accordance with the Contract. Invoices should be sent to invoices@2ctc.co.uk

7. INTEREST

If the Purchaser fails to pay the Supplier the sums payable pursuant to this Contract, then any outstanding amount shall bear interest from the final date for payment until payment at 2% above Lloyds Bank plc base rate.

8. SET OFF

The Purchaser shall be entitled by way of written notice to set off sums payable by it to the Supplier under this Contract against any sums from time to time owed by the Supplier to the Purchaser under this Contract and any other contract between the Parties or between a group company of the Purchaser and the Supplier.

9. SUB-CONTRACTING

The Supplier shall not, without the prior written consent of the Purchaser, (1) sub-contract in whole or in part any obligations under the Contract or (2) wholly or partly assign or factor any benefit hereunder (including either absolutely or by way of charge any sum which is or may become due and payable). Any consent of the Purchaser under this Clause shall be at the absolute discretion of the Purchaser and shall not relieve the Supplier of its obligations under the Contract.

10. INSPECTION AND TESTING

The Purchaser shall be entitled at any time before delivery of the Goods upon giving not less than 24 hours notice to inspect and test, on the Supplier's premises, the materials, workmanship, performance and progress of all Goods. If any part of the Goods are being manufactured or stored at other premises the Supplier shall obtain permission for the Purchaser and/or its representatives to inspect and test the Goods as if the Goods were on the Supplier's premises. The Purchaser shall be entitled to inspect and test the delivery and completion of the Services at any time. The Supplier at its cost shall do and provide all things as may be necessary to carry out such test or inspection. The Supplier at its cost shall upon request provide all test certificates required by the Purchaser. Such inspection and testing or the failure to inspect or test shall not relieve the Supplier from any obligation under the Contract. If following such inspection or testing the Purchaser considers that the Goods and/or Services do not comply or are unlikely to comply with this Contract, the Purchaser shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

11. PURCHASER REMEDIES

If any Goods or any parts thereof supplied under the Contract are defective or not in accordance with the Contract, the Purchaser may (1) reject such Goods (2) recover from the Supplier any costs incurred by the Purchaser in obtaining substitute goods from a third party; (3) require the Supplier to promptly remove and make good or otherwise repair or

replace the rejected Goods and/or (4) to claim damages for any additional costs, loss or expenses incurred by the Purchaser which are in any way attributable to the defective Goods. All Goods which have been made good, repaired or replaced may be subject to further inspection and testing by the Purchaser at the cost of the Supplier. Upon rejection, the risk and title in all rejected Goods shall revert to the Supplier. If the Supplier fails to deliver the Goods to the Deliver Point and/or perform the Services by the applicable date or the Purchaser reasonably believes that the Supplier will not be able to, the Purchaser shall, without limiting or affecting its other rights or remedies available to it, have one or more of the following rights: (1) to terminate the Contract with immediate effect on notice to the Supplier; (2) refuse to accept subsequent performance of Services and/or delivery of Goods which the Supplier attempts to make; (3) recover from the Supplier any costs incurred by the Purchaser in obtaining substitute goods and/or services from a third party; (4) to require a refund from the Supplier of sums paid in advance for Goods not delivered or Services not provided; and (5) to claim damages for any additional costs, loss or expenses incurred by the Purchaser which are in any way attributable to the Supplier's failure to meet such dates.

12. INTELLECTUAL PROPERTY RIGHTS

All Intellectual Property Rights created by the Supplier specifically for the purposes of or under the Contract shall be transferred to the Purchaser and the Supplier hereby assigns absolutely to the Purchaser all such Intellectual Property Rights as are capable of legal assignment. The Supplier shall do all such things and execute all such documents as may be reasonably required by the Purchaser to ensure that all such Intellectual Property Rights are effectively assigned to the Purchaser. The Supplier shall indemnify the Purchaser against all actions, suits, claims, demands, damages, costs, charges, losses and expenses arising from or incurred by reason of any infringement or alleged infringement of Intellectual Property Rights as a result of the supply of the Services or use or possession by the Purchaser or others of any Goods.

13. LIABILITY AND INSURANCE

The Supplier shall be liable for and shall indemnify the Purchaser against all actions, suits, claims, demands, damages, costs, charges, losses and expenses arising out of or in any way caused by any defect in the Goods and/or Services or packaging or by the Supplier's negligence or breach of contract or statutory duty limited to the sum of ten million pounds (£10,000,000) or such higher limit as detailed on the face of the Purchase Order. Unless stated on the face of the Purchase Order that professional indemnity insurance is not required the Supplier shall maintain professional indemnity insurance with a well established insurance office or underwriter of repute for an insured sum of not less than 10 million pounds (£10,000,000) or such limit as detailed on the face of the Purchase Order for any one occurrence in respect of any negligence, omission or default on the Supplier's part in the performance of it's obligations and

maintain the insurance for a period of 12 years or such period as detailed on the face of the Purchase Order from the date of completion. Policies and receipts shall be made available to the Purchaser for inspection upon request. The Supplier shall comply with all conditions and obligations of such insurance and shall immediately inform the Purchaser if such insurance ceases to be maintained or ceases to be available generally in the market of the Supplier at commercially reasonable rates and on reasonable terms. The Purchaser and the Supplier shall discuss the best means of protecting the Purchaser's interests and the Supplier shall if requested by the Purchaser take out such insurance with such a limit of indemnity as is available generally in the market of the Supplier at commercially reasonable rates and on reasonable terms. The Purchaser's maximum total liability for all contractual and non-contractual claims arising out of this Contract shall be limited to the total sum paid by the Purchaser to the Supplier with respect to this Contract. The Purchaser shall not be liable to the Supplier for any indirect or consequential loss or loss of: revenue or profit, income, business or opportunities or anticipated savings. Nothing in this Contract shall exclude or limit the liability of either party in respect of (and no liability for the same shall be taken into account in determining whether any limits of liability have been reached or exceeded) death or injury caused by the parties negligence

14. NOVATION

When so requested by the Purchaser, the Supplier shall be obliged to consent to and implement a novation of the Contract from the Purchaser to any third party notified by the Purchaser (in a form provided by the Purchaser) and to provide such collateral or direct warranties as may be specified on the Purchase Order.

15. TERMINATION

The Purchaser shall be entitled to terminate the Contract at any time immediately by written notice to the Supplier: (1) for convenience; or (2) if the Supplier's financial position deteriorates to such an extent that in the Purchaser's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy. If the Purchaser so terminates the Contract, the Purchaser shall pay the Supplier the reasonable and proper costs of such Goods as are delivered or Services as are complete and, at the sole discretion of the Purchaser, deemed satisfactory as at the date of cancellation provided that if Contract is terminated under clause 15(2) then without prejudice to its other rights and remedies, recover all costs incurred as a result of such termination (including the cost of purchasing alternative equipment and services in substitution for the Goods and/or Services). Such payment shall be the Purchaser's sole and exclusive liability to the Supplier in respect of such cancellation and shall be without prejudice to the Purchaser's other rights and remedies.

16. DEFECTS LIABILITY PERIOD

Notwithstanding any other provision of this Contract, during the Defects Liability Period, the Supplier shall, at the Supplier's cost, make good, within 15 days of the Purchaser's request to do so, any defect in or damage to any part of the Goods and/or Services which may appear or occur during such period and which arises from any defective materials, workmanship or design or from any act or omission of the Supplier. The Supplier's obligations hereunder shall be without prejudice to the Purchaser's other rights and remedies and shall apply to all Goods repaired or replaced and/or Services re-performed hereunder.

17. DESIGN AND COLLATERAL WARRANTIES

(1) Where identified on the Purchase Order a beneficiary is entitled to a collateral warranty, then upon or within 14 days of the notice from the Purchaser given at any time in accordance with this clause 17, the Supplier shall execute a collateral warranty in the appropriate form in favor of the beneficiary and deliver it to the Purchaser as he shall direct. Any notice from the Purchaser under this clause shall be given in accordance with clause 23 and shall identify the beneficiary, the nature of his interest, in the main contract works and the form of warranty required. The collateral warranty will be executed as a deed. (2) If the Supplier is providing a design service, but it is not specifically listed on the Purchase Order the Supplier is still bound by all responsibilities as set out in this section 17 and the Purchaser will have full rights against the Supplier for any failures in the design. (3) The Supplier warrants and undertakes to the Purchaser that; it has carried out and will continue to carry out and complete the scope of the design works in a good and workmanlike manner; it has exercised and will continue to exercise all the reasonable skill, care and diligence in carrying out the scope of the design works to be expected of a competent supplier experienced in carrying out similar works for a project of the same size, scope and complexity as the this project, and that the scope of the design will on completion comply in all respects with the requirements of the purchase order (including all email communication supporting the placement of the purchase order as relevant) raised for the design or design & manufacture or design and supply of materials; they will provide a design in accordance with all of the project documentation and information as provided, including but not limited to, specifications, client drawings, meetings, site visits and other written or verbal communication; they will not accept any instruction from the Purchaser which would mean the design is not compliant with any aspect of the project, best practice, statutory requirements, UK law, material specification or otherwise, It remains the Sellers responsibility to ensure the design is fully compliant in all regards. (4) The Supplier further warrants to the Purchaser that it has not used or specified for use and will not use or specify for use in the project any materials known to be deleterious and that all materials used and to be used by the Supplier conform to any applicable British and

European Standards and codes of practice or good building practice. (5) Where the Supplier is providing a design as part of purchase order expected to have provided the design in accordance with the architects/clients requirements.

18. CONFIDENTIALITY

The Supplier shall treat the details of the Contract and any documents and information made available in relation to the Contract and/or the Goods and/or Services as private and confidential and shall not publish or disclose the same to any person (save insofar as may be necessary for the purposes of the Contract) without the prior written consent of the Purchaser. Upon termination for any reason the Supplier shall return all confidential information to the Purchaser.

19. FORCE MAJEURE

If either party's performance of its obligations is disrupted by Force Majeure they shall notify the other party in writing. If the Force Majeure: (1) affects the Purchaser and continues for a period in excess of 60 days; or (2) affects the Supplier and continues beyond a reasonable period (to be determined at the sole discretion of the Purchaser), the Purchaser shall be entitled to terminate the whole or any part of the Contract by written notice to the Supplier. If the Purchaser terminates the Contract under this clause 19, the Purchaser shall pay the Supplier the reasonable and proper costs of such Goods delivered or Services as are complete (to be determined at the sole discretion of the Purchaser) as at the date of termination. Such payment shall be the Purchaser's sole and exclusive liability to the Supplier in respect of such termination and shall be without prejudice to the Purchaser's other rights and remedies.

20. THIRD PARTY RIGHTS

Except to the extent set out on the face of the Purchase Order, nothing in the Contract shall confer or purport to confer any right to enforce any of its terms on any person who is not a party to it and the provisions of the Contracts (Rights of Third Parties) Act are hereby excluded.

21. SEVERABILITY

If any provision of this Contract shall be declared invalid, unenforceable or illegal, such provision shall be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of the Contract.

22. DISPUTE RESOLUTION

To the extent that the supply of Goods and/or Services by the Supplier shall constitute "construction operations" within the meaning of the Construction Act 1996, the Purchaser and Supplier shall have the right at any time to refer any dispute or difference arising under or in connection with such construction operations to adjudication in accordance with the then current version of the Technology and Construction Solicitors Association Adjudication Rules. With respect to any other disputes, the parties shall first seek to resolve such matters by referring the matter(s) in dispute to senior representatives within each party's organisation, and thereafter the parties may refer the matter to the courts.

23. NOTICES

Any notice given under this Contract shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant party at its registered office for the time being. Any such notice shall be deemed to have been received: (a) if delivered personally, at the time of delivery; (b) in the case of pre-paid recorded delivery or registered post, 48 hours from the date of posting. For the purposes of this clause, "writing" shall include e-mail. Copies of all notices issued in accordance with this clause shall be sent to the attention of the Purchaser by email (such copy not being effective notice for the purposes of this clause) at compliance@2ctc.co.uk

24. ENTIRE AGREEMENT

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 the subject matter.

25. GOVERNING LAW

The Contract shall be governed by the laws of England and the Supplier and Purchaser hereby submit to the exclusive jurisdiction of the Courts of England.

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Authorised by: Mark Nelson

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This document becomes
uncontrolled when printed.