

Brexons Ltd

STANDARD TERMS & CONDITIONS OF PURCHASE

(Goods & Services)

1. DEFINITIONS

1.1 In the Conditions the following words shall have the following meanings:

"Conditions" means these Standard Purchase Terms and Conditions (Goods and Services); **"Contractor's Confidential Information"** means any information, which has been designated as confidential by either Party in writing or that ought reasonably to be considered as confidential however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Contractor, including IPRs, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as **"confidential"**) or which ought reasonably to be considered to be confidential; **"Contract"** means the Conditions and the Order together;

"Goods" means any such goods as are to be supplied to the Purchaser by the Supplier (or by the Supplier's subcontractors) pursuant to or in connection with the Order;

"Intellectual Property Rights" means patents, inventions, trade-marks, service marks, logos, design rights, get-up, knowhow, copyright (including rights in computer software), database rights, domain names, trade or business names, moral rights or other similar rights or obligations whether registered or not including applications for registration and all similar forms of protection anywhere in the world;

"Key Staff" means the Staff identified as key staff in the Order;

"Order" means the purchase order in the form set out in Appendix 1 which the Purchaser may place from time to time with the Supplier detailing the Goods and/or Services to be provided under this Contract; **"Parties"** means the Purchaser and the Supplier when referred to together and each shall be referred to as a **"Party"**;

"Premises" means the Purchaser's premises, or such other premises as the Purchaser may designate, specified in the Order and to where Goods are to be delivered and/or Services are to be performed; **"Purchaser"** means Brexons Ltd;

"Services" means any such services as are to be performed by the Supplier (or by the Supplier's sub-contractors) pursuant to or in connection with the Order;

"Special Terms" means any special terms and conditions provided by the Purchaser and set out in the Order;

"Staff" means the persons used by the Supplier (including subcontractors) to provide and/or perform the Goods and or Services;

"Supplier" means the supplier named in the Order; and

"VAT" means value added tax in accordance with the provisions of the Value Added Tax Act 1994. The Conditions may be varied only with the written agreement of the Purchaser. No changes to Terms and Conditions of trade can be accepted through e-mail communication. All changes to Terms and Conditions must be in writing, evidenced by a director of the company and in hard copy format. No terms or conditions put forward at any time by the Supplier shall form any part of the Contract and the Conditions will override and take the place of

any terms and conditions contained in any document or communication used by the Supplier. [If an Order includes any Special Terms which conflict with any of the conditions set out below, the Special Terms will take precedence.]

“Customer” The end customer of the Purchaser to whom the goods and/or Services may be supplied from time to time.

2. ENTIRE AGREEMENT

2.1 The Contract constitutes the entire agreement between the Parties. The Contract supersedes all prior negotiations, representations and understandings, whether written or oral, between the Parties relating to its subject matter except that this Condition 2 shall not exclude liability in respect of fraudulent misrepresentation. The Parties acknowledge that they have not entered into the Contract in reliance upon any statement, representation, warranty or assurance that is not set out in the Contract.

3. CONTRACT DURATION

3.1 The duration of the Contract shall be as set out in the Order, provided always that the Contract shall continue in full effect until such time as the Supplier has completed the performance of the Services and/or delivered the Goods in accordance with the Contract and the Purchaser has paid all sums due under the Contract (the "Term"), unless the Contract is terminated in accordance with its terms or otherwise lawfully terminated.

4. THE GOODS AND SERVICES

4.1 The Supplier shall ensure that the Goods and/or Services provided and/or performed under the Contract shall:

- a) be of satisfactory quality or workmanship, in full accordance with any description and/or specification in the Order or which the Purchaser may specify from time to time;
- b) be fit for the purpose for which the Goods are ordinarily used and for any particular purpose communicated to the Supplier prior to or in the Order;
- c) be free from all defects in design, material and workmanship;
- d) correspond with any samples provided to the Purchaser;
- e) not infringe any Intellectual Property Rights or other rights of any third party anywhere in the world;
- f) be performed by appropriately qualified and trained personnel with all due skill, care and diligence and to such high standards of quality stated in the Order, to manufacturer installation standards or as it is reasonable for the Purchaser to expect;
- g) conform in all respects with the requirements of all applicable laws, standards, codes of practice (whether voluntary or mandatory), statutory requirements, orders or other regulations that may be in force from time to time.

4.2 The Supplier shall be deemed to have satisfied itself as regards to the nature and extent of the Goods and/or Services to be provided and/or performed pursuant to the Contract.

5. THE PRICE

5.1 The price of the Goods and/or Services shall be included in the Order and is fixed and exclusive of VAT but inclusive of all other levies, duties, taxes, charges and expenses (including packaging, carriage, insurance and other disbursements) and no increase will be accepted by the Purchaser unless agreed by it in writing before the execution of the Order.

5.2 The Purchaser shall pay the Supplier the VAT chargeable on the Goods and/or Services provided in accordance with the Contract.

5.3 Unless otherwise agreed in writing by the Purchaser, the Supplier shall render an original and a copy invoice to the Purchaser within 7 days of the satisfactory supply of goods and/or services. Each invoice shall contain all appropriate references to the Goods and/or Services to which it relates, the Purchase Order number and a detailed breakdown of what has been provided and the relevant price and shall be supported by such other documentation as the Purchaser may reasonably require.

5.4 Payment shall be made to the Supplier within 90 days of receipt by the Purchaser of a valid invoice in accordance with Condition 5.3 above.

5.5 Without prejudice to any other right or remedy the Purchaser may have, the Purchaser reserves the right to set off:

a) any amount payable to the Supplier under the Contract in respect of any Goods and/or Services that the Supplier has failed to provide or provided inadequately; and/or

b) any sums due from the Supplier to the Purchaser (including any sum that the Supplier is liable to pay in respect of breach of contract) whether under the Contract or in any other agreement which may exist between the Parties from time to time.

6 DELIVERY

6.1 Unless otherwise agreed in writing by the Purchaser, the Goods and/or Services shall be delivered and/or performed in the quantities, by the times and at the place specified in the Order and the Purchaser shall not be obliged to accept any incomplete delivery and/or performance of the Goods and/or Services or any Goods in excess of what is specified in the Order.

6.2 Any access to the Premises and any labour and equipment that may be provided by the Purchaser in connection with the delivery shall be provided without acceptance by the Purchaser of any liability whatsoever and the Supplier shall indemnify the Purchase in respect of any actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any damage or injury (whether fatal or otherwise) occurring in the course of delivery or installation of the Goods and/or Services to the extent that such damage or injury is attributable to any act or omission of the Supplier or any of its sub-contractors.

6.3 The time of delivery of the Goods and/or Services shall be of the essence and failure to deliver within the time promised or specified in the Order shall enable the Purchaser (at its option) to release itself from any obligation to accept and pay for the Goods and/or Services and/or to cancel all or part of the Order therefore, in either case without prejudice to its rights and remedies.

7 STAFF AND ACCESS TO THE PURCHASER'S PREMISES

7.1 Unless agreed otherwise in writing by the Purchaser, the Supplier shall make the Key Staff available for the Term, or for the period necessary for them to fulfil their part of the provision of the Goods and/or Services.

7.2 Where any access to, or use of, the Premises is necessary in connection with provision of the Goods and/or Services, the Supplier and its Staff shall have access to and use of the Premises without charge as a licensee and shall not impede the Purchaser's exercise of rights of possession and control of the Premises and shall vacate the Premises on the expiry or earlier termination of the Contract.

7.3 Whilst on the Premises the Supplier shall, and shall procure that its Staff, at all times comply with such rules, regulations and other requirements as may be in force from time to time in respect of persons attending the Premises, including the reasonable requirements of the Purchaser's Head of Security and shall, at the request of the Purchaser, provide evidence to verify that checks have been undertaken by the Supplier in order to satisfy the requirements.

7.4 If, in the opinion of the Purchaser, any member of the Staff is responsible for any misconduct on the Premises, or the Purchaser does not consider it to be in the public interest for a particular Staff member to be admitted to the Premises, the Purchaser may require the Supplier to ensure that that person is no longer deployed in the provision of Goods and/or Services on the Premises.

7.5 For the purposes of Condition 7.4, misconduct includes conduct which in any manner contravenes good order, discipline or security or adversely affects routine at the Premises.

8 TITLE AND RISK

8.1 Without prejudice to the rights and remedies of the Purchaser (including the Purchaser's rights and remedies under Condition 10 hereof) title and risk in any goods that form all or part of the Goods and/or Services shall pass to the Purchaser at the time of delivery in accordance with Condition 6.

9 DAMAGE IN TRANSIT

9.1 On dispatch of any consignment of the Goods the Supplier shall send to the Purchaser at the address for delivery of the Goods an advice note specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume. The Supplier shall free of charge and as quickly as possible either repair or replace (as the Purchaser shall select) such of the Goods as may either be damaged in transit or having been replaced in transit fail to be delivered to the Purchaser provided that:

a) in the case of damage to such Goods in transit, the Purchaser shall within 30 days of delivery give notice to the Supplier that the Goods have been damaged;

b) in the case of non - delivery the Purchaser shall (provided that the Purchaser has been advised of the dispatch of the Goods) within 10 days of the notified date of delivery give notice that the Goods have not been delivered.

10 INSPECTION, REJECTION AND GUARANTEE OF THEGOODS

10.1 The Supplier shall permit the Purchaser or its authorised representative to make any inspections or tests he may reasonably require and, where necessary, the Supplier shall afford all reasonable facilities and assistance free of charge at its premises. No failure to make a complaint at the time of such inspection or tests and no approval given during or after such tests or inspections shall constitute a waiver by the Purchaser of any rights or remedies in respect of the Goods and/or Services.

10.2 The Purchaser may by written notice to the Supplier reject any Goods and/or Services which fail to meet the requirements specified in the Contract. Such notice shall be given within a reasonable period after delivery of the Goods concerned to the Purchaser and/or the completion of the performance of the Services. If the Purchaser shall reject any of the Goods and/or Services pursuant to this Condition

10.3 the Purchaser shall be entitled (without prejudice to his other rights and remedies) to either:

a) have the Goods concerned as quickly as possible either repaired by the Supplier or (as the Purchaser shall elect) replaced by the Supplier with Goods which comply in all respects with the requirements specified in the Contract; and/or

b) have the Services, or any part of the Services, which have not been provided in accordance with the Contract, re-executed by the Supplier at the Supplier's expense within such reasonable time as the Purchaser may specify; or

c) obtain a refund from the Supplier in respect of the Goods and/or Services concerned.

10.3 The guarantee period applicable to the Goods and/or Services shall be 12 months from putting into service or 18 months from delivery whichever is shorter (subject to any alternative guarantee arrangements agreed in writing between the Purchaser and the Supplier). If the Purchaser shall within such guarantee period or within 30 days thereafter give notice in writing to the Supplier of any defect or failure in any of the Goods and/or Services as may have arisen during such guarantee period under proper and normal use the Supplier shall (without prejudice to any of the rights and remedies which the Purchaser may have) as quickly as possible remedy such defects (whether by repair or replacement as the Purchaser shall elect) without cost to the Purchaser.

10.4 Any Goods rejected or returned by the Purchaser as described in paragraphs 10.2 or 10.3 shall be returned to the Supplier at the Supplier's risk and expense

11 LABELLING AND PACKAGING OF THE GOODS

11.1 The Goods shall be packed and marked in the proper manner and in accordance with the Purchaser's instructions and any statutory requirements or the requirements of the carriers. In particular the Goods shall be marked with an order number, the net, the gross and tare weights, the name of the contents (and all documents relating thereto) shall bear prominent and adequate warnings. The Supplier shall indemnify the Purchaser against all actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any breach of this Condition 11.1.

11.2 All packaging materials will be considered non-returnable and will be destroyed unless the Supplier's advice note states that such materials will be charged for unless returned. The Purchaser accepts no liability in respect of the non-arrival at the Supplier's premises of empty packages returned by the Purchaser unless the Supplier shall within 10 days of receiving notice from the Purchaser that the packages have been dispatched notify the Purchaser of such non- arrival.

12 INTELLECTUAL PROPERTY RIGHTS

12.1 The Supplier hereby assigns to the Purchaser all Intellectual Property Rights owned by the Supplier in any material which is generated by the Supplier and delivered to the Purchaser in the performance of the Services and shall waive all moral rights (and other broadly equivalent rights) relating to such material. The Supplier shall not reproduce, publish or supply any such material to any person other than the Purchaser without the Purchaser's prior written consent. In performing the Services the Supplier shall obtain the Purchaser's approval before utilising any other material which is or may be subject to any Intellectual Property Rights.

12.2 It shall be a condition of the Contract that, except to the extent that the Goods and/or Services are made up in accordance with designs furnished by the Purchaser, none of the Goods will infringe any Intellectual Property Rights of any third party and, subject to Condition 12.4, the Supplier shall indemnify the Purchaser against all actions, proceedings, claims, demands, losses, damages, costs and expenses (including legal costs) and any other liabilities the Purchaser suffer or incur as a result of or in connection with any breach of this Condition 12.

12.3 All Intellectual Property Rights (including ownership of copyright) in any specifications, instructions, plans, drawings, patterns, models, designs or other material furnished to or made available to the Supplier by the Purchaser pursuant to this Contract shall remain vested solely with the Purchaser and the Supplier shall not (except to the extent necessary for the implementation of this Contract) without prior written consent of the Purchaser use or disclose any such specification, plans, drawings, patterns, models or designs or any information (whether or not relevant to this Contract) which the Supplier may obtain

pursuant to this Contract and in particular (but without prejudice to the generality to the foregoing) the Supplier shall not refer to the Purchaser or the Contract in any advertisement without the Purchaser's prior written agreement.

12.4 The provisions of Condition 12.2 shall not apply in respect of any material which the Purchaser has supplied to the Supplier or has specified for use by the Supplier or for delivery to the Purchaser.

12.5 The Purchaser shall indemnify the Supplier against all actions, proceedings, claims, demands, losses, damages, costs and expenses (including legal costs) and any other liabilities the Supplier may suffer or incur as a result of or in connection with the use of any material referred to in Condition 12.4 which involves any infringement of the Intellectual Property Rights of any third party.

12.6 Where any claim is made by a third party in respect of any material referred to in Condition 12.2 or 12.5, the Party which is required to provide an indemnity shall have the right to conduct the defence to the claim and to any proceedings brought by the third party.

12.7 The obligations imposed by this Condition 12 shall continue to apply after the expiry or termination of the Contract