

## 1. GENERAL TERMS AND CONDITIONS

- 1.1. These General Terms and Conditions, together with the Purchase Order constitute the Agreement whereby the Company agrees to purchase the Goods or Services from the Supplier.
- 1.2. In these General Terms and Conditions the following words shall have the following meanings, unless the context otherwise requires:
- 1.3. "the Agreement" means the Purchase Order and the Seller's acceptance of such order
- 1.4. "Associated Companies" means any company associated with the Company as defined by s179 Taxation of Chargeable Gains Act 1992;
- 1.5. "Company" means The BCS Consulting Group Limited (company registered number 11921311), whose registered office is at Old Barn House, Effingham Common Road, Effingham, Surrey KT24 5JG, or other associated company
- 1.6. "Goods" means the goods, work, materials and/or services specified in the Purchase Order
- 1.7. "Intellectual Property Rights" means intellectual property rights of whatsoever nature, including copyright, patents, inventions, rights in know-how, confidential information and other trade secrets, unregistered designs, registered designs, database rights, rights in data, trade marks and all registrations or applications to register any of the aforesaid in any part of the world;
- 1.8. "Purchase Order" means a properly numbered purchase order issued by the Company and signed by a duly authorised representative of the Company, incorporating these General Terms and Conditions
- 1.9. "Price" means the price of the Goods specified in the Purchase Order
- 1.10. "Services" means the work, consultancy or maintenance provided by the supplier as defined in the Purchase Order
- 1.11. "Supplier" means the person or company who accepts the Purchase Order, details of which shall be set out therein
- 1.12. A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.13. A reference to one gender includes a reference to the other gender and a reference to the singular shall include the plural and vice versa.
- 1.14. Headings do not affect the interpretation of these terms and conditions.

## 2. APPLICATION OF TERMS

- 2.1. Subject to any variation under Clause 2.4, these General Terms and Conditions are the only conditions upon which the Company is prepared to deal with the Supplier and they shall govern the Agreement to the entire exclusion of all other terms and conditions.
- 2.2. Each Purchase Order for Goods by the Company from the Supplier shall be deemed to be an offer by the Company to buy Goods subject to these General Terms and Conditions and no Purchase Order shall be accepted until the Supplier either expressly by giving notice of acceptance, or impliedly by fulfilling the Purchase Order, in whole or in part accepts the offer.
- 2.3. No terms or conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgement or acceptance of order, specification or similar document shall form part of the Agreement and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.
- 2.4. These General Terms and Conditions apply to all the Company's purchases and any variation to these General Terms and Conditions shall have no effect unless expressly agreed in writing and signed by an authorised representative of the Company
- 2.5. An acceptance of a Purchase Order shall not be binding on the Company unless made by the Supplier in writing within 14 days from the date of the Purchase Order.
- 2.6. The Company will not accept liability for any Goods delivered or services provided unless the Purchase Order has been placed or amended on the Company's behalf by the Company's duly authorised officer.

## 3. PRICE & PAYMENT

- 3.1. The Price shall remain as stated in the Purchase Order and shall not be subject to variation unless by prior agreement and confirmed in writing by the Company's duly authorised representative. The Price shall be exclusive of VAT, but shall be deemed to be inclusive of any other form of purchase tax and/or import duties applicable from time to time, unless the contrary is expressly stated or is clear from the face of the document on which the Price is stated. Where VAT is added and properly chargeable the Company shall only pay it on receipt of a valid VAT invoice.
- 3.2. The Supplier shall invoice the Goods and the Company shall pay the same on the dates stated in the Purchase Order. If no dates are specified in the Purchase Order the Supplier shall invoice the Goods on delivery and where services are to be provided, on completion of such services, and the Company shall pay the Price of the Goods within 30 days of the date of such invoices, but time for payment shall not be of the essence of the Agreement.
- 3.3. If the Agreement relates to the supply of equipment or services, a retention of part of the Price until commissioning is completed, will be required. This amount will be specified in the Purchase Order.
- 3.4. No additional charges will be accepted including without limitation those described as administration, handling, legal or otherwise purported as being incurred by the Supplier unless specified in the Purchase Order.
- 3.5. Without prejudice to any other right or remedy, the Company reserves the right to set off any amount owing at any time from the Supplier to the Company against any amount payable by the Company to the Supplier under the Agreement.
- 3.6. If any sum under the Agreement is not paid when due then, without prejudice to the parties' other rights under the Agreement, that sum shall bear interest from the due date until payment is made in full, both before and after any judgment at 2% per annum over Lloyds TSB base rate from time to time. The Supplier is not entitled to suspend deliveries of the Goods as a result of any sums being outstanding.

## 4. QUALITY

- 4.1. The Goods including any services shall be of the best available design, of the best quality, material and workmanship, be without fault and conform in all respects with the Purchase Order and specification and/or patterns supplied or advised by the Company to the Supplier.
- 4.2. The Supplier must operate an internal quality control system equal to or superior to that of the Company, in the performance of supply of Goods or services to the Company.
- 4.3. The Company's rights under these General Terms and Conditions are in addition to the statutory conditions implied in favour of the Company by the Sale of Goods Act 1979 and/or the Supply of Goods and Services Act 1982.
- 4.4. At any time prior to delivery of the Goods to the Company and its authorised representatives shall have the right to inspect and test the Goods at all times.
- 4.5. If the results of such inspection or testing cause the Company to be of the opinion that the Goods do not conform or are unlikely to conform with the Purchase Order or to any specifications and/or patterns supplied or advised by the Company to the Supplier, the Company shall inform the Supplier and the Supplier shall immediately take such action as is necessary to ensure conformity and in addition the Company shall have the right to require and witness further testing and inspection.
- 4.6. Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations under the Agreement.
- 4.7. If any of the Goods fail to comply with the provisions set out in Clause 4 the Company shall be entitled to avail itself of any one or more remedies listed in Clause 10.

## 5. DELIVERY

- 5.1. All Goods are to be delivered, carriage paid and at the Supplier's risk to the place of delivery specified on the Purchase Order or otherwise notified to the Supplier by the Company in writing. The time stipulated for delivery of the Goods shall be of the essence of the Agreement. The Supplier shall off load the Goods at its own risk as directed by the Company or its authorised representatives and ensure the Equipment is delivered in situ to the location at the place of delivery as directed by the Company or its authorised representatives. The Supplier's appropriately qualified and experienced personnel shall be present at delivery to undertake such tests to the Equipment as the Company or its authorised representatives may require (and in their presence) to show that the Equipment is fully operational and without defects, at delivery. The Equipment shall not be deemed delivered until such time as the Supplier and the Company (or their respective authorised representatives) have signed and dated a delivery note that confirms that the Equipment has been delivered without defects (save for defects that are not reasonably identifiable on inspection or testing).
- 5.2. The date for delivery shall be specified in the Purchase Order, or if no such date is specified then delivery shall take place within 14 days of the Purchase Order.
- 5.3. The Supplier shall ensure that each delivery is accompanied by a delivery note which shows, inter alia, the Purchase Order number, date of Purchase Order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.
- 5.4. Should the Supplier fail to deliver the Goods within the period specified, the Company reserves the right to:-
  - 5.4.1. cancel the Purchase Order or that part of the Purchase Order which is undelivered at the end of the specified period;
  - 5.4.2. refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
  - 5.4.3. charge to the Supplier any additional costs, losses or expenses (including without limit the reasonable costs incurred in obtaining subsequent goods from another supplier) which the Company may incur and are in any way attributable to the Supplier's failure to deliver the Goods at the stipulated time.
- 5.5. Goods delivered in excess of specified requirements may be returned to the Supplier at the Supplier's risk and expense.
- 5.6. Where the Company agrees in writing to accept delivery by instalments the Agreement shall be construed as a single contract in respect of each instalment. Nevertheless, failure by the Supplier to deliver any one instalment shall entitle the Company at its option to treat the whole Agreement as repudiated.
- 5.7. The Company shall not be deemed to have accepted the Goods until it has had 30 days to inspect them following delivery.
- 5.8. The Supplier may become aware of the details of the Company's customers in the performance of the Agreement and the Supplier undertakes not to solicit any such customer directly or indirectly for itself or on behalf of any other person in connection with the provision of the supply of goods or services the same as or similar to the Goods or in competition with the goods or services supplied by the Company from time to time. The provisions of this Clause 5.8 shall apply from the date of Purchase Order and continue until the date 12 months after the date of delivery of the Goods.

## 6. PACKING

- 6.1. The Supplier will package the Goods in a manner suitable for their transit and/or storage at no additional cost to the Company.
- 6.2. At the Supplier's request, risk and expense the Company shall return the Supplier's packaging materials, provided that such materials are marked with the Supplier's name and address together with an addressed reversible label and further provided that the Company hereby excludes all liability for any loss or damage to such material, however caused and whether or not arising out of the negligence of the Company, its employees, agents or contractors.

## 7. OWNERSHIP

- 7.1. Title to the Goods shall pass to the Company on payment in respect thereof. The Company shall be entitled to use and resell the Goods even though title has not passed to the Company.

## 8. LOSS OR DAMAGE IN TRANSIT

- 8.1. The Goods shall remain at the risk of the Supplier until delivery to the Company is complete including off loading, stacking, placing in situ and testing pursuant to Clause 5.1.
- 8.2. The Company shall advise the Supplier of any shortages within 28 days and a signature on the carrier's receipt will, in no way, be an acceptance of quantity and quality until a qualified inspection has been carried out by the Company or its authorised representatives pursuant to Clause 5.1 or otherwise. In the event of any shortage, the Company:
  - 8.2.1. will withhold payment until a credit is received against the Goods considered as short; and/or
  - 8.2.2. rescind the Agreement and reject the Goods delivered.
- 8.3. The Supplier shall make good or replace free of charge to the Company any loss or damage to, or defect in, the Goods where notice is given by the Company in writing.

## 9. THE COMPANY'S PROPERTY

- 9.1. Materials, equipment, tools, dies, moulds, copyright, design rights or any other forms of Intellectual Property Rights in all drawings, specifications and data supplied by the Company to the Supplier or not so supplied but used by the Supplier specifically in the supply and/or manufacture of the Goods shall at all times be and remain the exclusive property of the Company but shall be held by the Supplier in safe custody at its own risk and maintained and kept in good condition by the Supplier until returned to the Company and shall not be disposed of other than in accordance with the Company's written instructions, nor shall such items be used otherwise than as authorised by the Company in writing.
- 9.2. The Supplier shall protect, indemnify and hold harmless the Company and its Associated Companies, their servants, agents, and contractors against any and all liability, loss or expense by reason of any claim, action or litigation in respect of any alleged or actual infringement of any Intellectual Property Rights resulting from the possession, use or resale of the Goods, the subject matter of the Purchase Order or any part thereof. The provisions of this Clause 9.2 shall not apply to Goods manufactured to the Company's design or specification.
- 9.3. All drawings supplied by the Company and all Intellectual Property Rights therein shall remain the property of the Company. The Supplier is licensed to use such drawings for the purpose only of fulfilling contracts with the Company. The Supplier shall not disclose any such drawings or any data comprised therein to any third party unless expressly stated in the Purchase Order, or without the written authority of the Company.
- 9.4. The Supplier hereby assigns to the Company all Intellectual Property Rights in any drawings, specifications, services or other work created by the Supplier in connection with the Purchase Order.

## 10. REMEDIES

- 10.1. Without prejudice to any other right or remedy which the Company may have, if any Goods are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of the Agreement the Company shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods have been accepted by the Company:
  - 10.1.1. to rescind the Purchase Order;
  - 10.1.2. to reject the Goods (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods so returned shall be paid forthwith by the Supplier;
  - 10.1.3. at the Company's option to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Agreement are fulfilled;
  - 10.1.4. to refuse to accept any further deliveries of the Goods but without any liability to the Supplier;
  - 10.1.5. to carry out at the Supplier's expense any work necessary to make the Goods comply with the Agreement; and
  - 10.1.6. to claim such damages as may have been sustained in consequence of the Supplier's breach or breaches of the Agreement.

## 11. GUARANTEE AND WARRANTY

- 11.1. In addition to any warranties implied by law or statute, the Supplier shall, unless other provisions are specified in the Purchase Order, make good at the Supplier's own expense, all defects in materials and workmanship which may appear, or be discovered, within 18 months of the delivery of the Goods (or such longer period as may be specified in the manufacturer's warranty) and the Supplier shall, in any event, indemnify the Company from and against all loss and claims which may arise as a result of such defects whenever appearing.
- 11.2. Where equipment is supplied which does not perform to the Supplier's written performance data or in accordance with the Company's design criteria as supplied to the Supplier, the Supplier will be required to modify/repair/replace the said equipment to meet the required performance data entirely at the Supplier's own expense or at the Company's discretion the Supplier shall make a full refund of the Price paid, along with any expenses incurred by the Company.

## 12. ADVERTISING

- 12.1. The Supplier shall not, without the written consent of the Company, advertise or announce the supply of Goods to the Company.

## 13. CONFIDENTIALITY

- 13.1. The Supplier shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by the Company or its agents and any other confidential information concerning the Company's business or its products which the Supplier may obtain and the Supplier shall restrict disclosure of such confidential information to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Supplier's obligations to the Company and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Supplier.

## 14. TERMINATION

- 14.1. The Company shall have the right at any time and for any reason to terminate the Agreement in whole or in part by giving the Supplier written notice whereupon all work on the Agreement shall be discontinued and the Company shall pay to the Supplier fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss and be subject to the Supplier's obligation to mitigate loss.
- 14.2. The Company shall have the right at any time by giving notice in writing to the Supplier to terminate the Agreement forthwith if:
  - 14.2.1. the Supplier commits a material or persistent breach of any of the terms and conditions of the Agreement; or
  - 14.2.2. an order is made or a resolution is passed for the winding up of the Supplier, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the Supplier; or
  - 14.2.3. an order is made for the appointment of an administrator to manage the affairs, business and property of the Supplier, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the Supplier, or notice of intention to appoint an administrator is given by the Supplier or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
  - 14.2.4. a receiver is appointed of any of the Supplier's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Supplier, or if any other person takes possession of or sells the Supplier's assets; or
  - 14.2.5. the Supplier makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
  - 14.2.6. the Supplier takes or suffers any similar or analogous action to those referred to in Clauses 14.2.2 to 14.2.5 inclusive in any jurisdiction in consequence of debt; or
  - 14.2.7. the Supplier ceases or threatens to cease to carry on its business; or
  - 14.2.8. the financial position of the Supplier deteriorates to such an extent that in the opinion of the Company the capability of the Supplier adequately to fulfil its obligations under the Agreement has been placed in jeopardy.
- 14.3. The termination of the Agreement, however arising, shall be without prejudice to the rights and duties of the Company accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

## 15. ASSIGNMENT

- 15.1. The Supplier shall not be entitled to assign the Agreement or any part of it without the prior written consent of the Company.
- 15.2. The Company may assign the Agreement or any part of it to any person, firm or company.

## 16. FORCE MAJEURE

- 16.1. The Company shall not be liable to the Supplier for failure to accept delivery of the Goods or performance of the Company's obligations for any reason beyond the Company's reasonable control including without limit any breakdown of plant or apparatus, fire, explosion, accident, strike or lockout.
- 16.2. If the Supplier fails to perform any part of this Purchase Order by reason of any event or cause such as is specified in Clause 16.1 the Company may at its discretion suspend or cancel the delivery of the Goods and/or the performance of the Purchase Order without any liability to the Supplier for payment.

## 17. GENERAL

- 17.1. Each right or remedy of the Company under the Agreement is without prejudice to any other right or remedy of the Company whether under the Agreement or not.
- 17.2. If any provision of the Agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Agreement and the remainder of such provision shall continue in full force and effect.
- 17.3. Failure or delay by the Company in enforcing or partially enforcing any provision of the Agreement shall not be construed as a waiver of any of its rights under the Agreement.
- 17.4. Any waiver by the Company of any breach of, or any default under, any provision of the Agreement by the Supplier shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Agreement.
- 17.5. The formation, existence, construction, performance, validity and all aspects of the Agreement shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.