

HS1 Limited Terms and Conditions – Purchase Order for Goods and/or Services from Supplier

Registered Number: 03539665 and whose registered office is at 12th Floor, One Euston Square, 40 Melton Street, London, NW1 2FD

1. Definitions

For the purposes of these Conditions:

“**Agreement**” means the Order and these Conditions;

“**Conditions**” means these terms and conditions; “**Goods and Services**” means all or any of the items set out in the Order which are to be supplied to HS1 by the Supplier (including any part or parts of them);

“**Order**” means HS1’s written instruction for the Supplier to supply Goods and Services (which for the avoidance of doubt includes by email), incorporating these Conditions;

“**Parties**” means HS1 and the Supplier; “**HS1**” means HS1 Limited;

“**Intellectual Property Rights**” means all intellectual property rights whether or not registered or registrable and including all extensions, renewals and applications thereof and including without limitation all copyright, trademarks, trade names, patents, design rights, goodwill, database rights, confidential information, trade secrets or know-how;

“**Invoice Address**” means Accounts Payable, HS1 Limited, 12th Floor, One Euston Square, 40 Melton Street, London, NW1 2FD, United Kingdom;

“**Supplier**” means the person, firm, or company who accepts the Order (or its successors in title).

Any reference to a statute, statutory provision or any subordinate legislation shall be construed as including a reference to that statute, statutory provision or subordinate legislation as may be amended, consolidated or replaced from time to time.

2. Suppliers Conditions

In the absence of a signed agreement between HS1 and the Supplier for the purchase of particular Goods and/or Services, these Conditions shall apply to the purchase of such Goods and/or Services by HS1 from the Supplier to the exclusion of all other terms and conditions, including any terms and conditions which the Supplier may purport to apply under any sales offer or similar document.

The Order, including these Conditions, contains the entire agreement and understanding between the Supplier and HS1 and supersedes all prior discussion and negotiations between them in relation to the subject matter of the Agreement. Terms or

conditions endorsed upon, delivered with or otherwise contained or stated in the Supplier’s quotation, or in the Supplier’s acknowledgement or acceptance of the Order shall not be binding on HS1 if in conflict with or in addition to any of the provisions of the Agreement (including but not limited to delivery schedule, price, quantity and terms and conditions) unless expressly agreed to in writing by HS1. The Order and the Conditions may not be changed orally.

Despatch or delivery of the Goods and/or Services by the Supplier to HS1 shall be deemed conclusive evidence of the Supplier’s acceptance of these Conditions.

3. Deliveries

HS1’s planned use of the Goods and Services is based upon the agreement that the Goods and Services will be delivered to HS1 by the date specified in the Order, or, if a date is not specified, within 30 days of the date of the Order. Time is therefore of the essence of the Order. If the Supplier fails to make delivery of Goods and/or Services at the agreed time, HS1 reserves the right to cancel, purchase elsewhere and hold the Supplier accountable for any additional costs or damages incurred by HS1.

The Goods and Services shall be delivered, carriage paid, to HS1’s place of business or other such place of delivery as is agreed by HS1 in writing prior to delivery of the Goods and Services. The Supplier shall offload the Goods and Services at its own risk, as directed by HS1.

The Goods and/or Services shall remain at the risk of the Supplier until delivery to HS1 is complete (including but not limited to offloading and stacking of goods, downloading or other electronic transfer of data, repowers and/or other information) when title (with full title guarantee, free from all or any encumbrances and third party rights) of the Goods and Services shall pass to HS1.

The Supplier shall ensure that each delivery is accompanied by a delivery note which shows, inter alia, the Order Number, date of the Order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.

The Supplier shall deliver the Goods and Services as instructed in the Order and obtain a receipt for them. The Supplier shall comply

with special requirements as to the manner or quantities for delivery.

Unless otherwise stipulated by HS1, deliveries shall only be accepted by HS1 between 0930 and 1700 on weekdays other than public holidays in England. If the Goods and Services are not delivered on the due date then, without prejudice to any other rights which it may have, HS1 reserves the right to:

- cancel the Agreement in whole or in part;
- refuse to accept any subsequent delivery of the Goods and Services which the Supplier attempts to make;
- recover from the Supplier any expenditure reasonably incurred by HS1 in obtaining goods and services, including but not limited to any increased cost of goods and services, equivalent to the Goods and Services in substitution from another supplier; and
- claim damages for any additional costs, losses or expenses incurred by HS1 (whether direct or indirect), which are in any way attributable to the Supplier’s failure to deliver the Goods and Services on the due date.

Where HS1 agrees in writing to accept delivery by instalments, the Agreement shall be deemed to apply in respect of each instalment. Nevertheless failure by the Supplier to deliver any one instalment shall entitle HS1 at its option to treat the whole Agreement as repudiated.

HS1 shall not be deemed to have accepted the Goods and Services until it has had 45 days to inspect them following delivery. HS1 shall also have the right to reject the Goods and Services as though they had not been accepted for 45 days after any latent defect in the Goods and Services has become apparent.

4. Inspection

All Goods and/or Services shall be subject to HS1’s (and any of HS1’s clients if necessary) inspection and test at all times before, during or after manufacture. The Supplier shall furnish without additional charge, all reasonable facilities and assistance for the safe and convenient inspections and tests required by the inspectors. Final inspection and acceptance shall be on HS1’s premises unless otherwise specified.

HS1 shall have the right to reject and return at the Supplier’s expense and at HS1’s discretion, to require the correction or replacement of Goods and Services which are defective and/or do not conform to the requirements of the Order. All rejections or returns shall be held at the Supplier’s risk and expense, including all transportation and handling costs, until returned to the Supplier or corrected by the Supplier.

5. Quantities

Delivery of the Goods and Services must equal the exact amounts ordered, unless otherwise agreed by HS1. If the Goods and/or Services are delivered to HS1 in excess of the quantities ordered HS1 shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier’s risk and shall be returnable at the Supplier’s expense.

6. Prices

The price of the Goods and Services shall be stated in the Order and unless otherwise agreed in writing by HS1 (or otherwise stated in the Order) shall be exclusive of value added tax (which shall be payable by HS1 at the rate and in the manner prescribed by law from time to time, subject to prior delivery by the Supplier of a valid VAT invoice) but inclusive of all other charges, taxes and duties. No variation in the price or extra charges shall be accepted by HS1. In the event that the Supplier is subject by law to any withholding tax, HS1 shall make payment to the Supplier for the amount owing less a deduction for such withholding tax and shall account to the relevant tax authority for the withholding tax and payment of such net sum to the Supplier and of such withholding tax to the relevant tax authority shall, for the purposes of this Agreement, constitute full settlement of the amount owed.

7. Payment

HS1 shall pay the price of the Goods and Services that are delivered and accepted pursuant to the Conditions within 30 days of receipt of a valid and undisputed invoice as received from the Supplier

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but the time for payment shall not be of the essence of the Agreement. HS1 may withhold payment of any invoice which it validly disputes. Without prejudice to any other right or remedy, HS1 reserves the right to set off any amount owing at any time from the Supplier to HS1 against any amount payable by HS1 to the Supplier under the Agreement.

In the event that HS1 fails to make any payment due and payable to the Supplier in accordance with the Agreement, the Supplier shall be entitled (without prejudice to its other rights) upon receipt by HS1 of written notice from the Supplier, to charge interest at the rate of 3% per annum above the base rate of the Bank of England from time to time in force, from the date of such notice until the date of actual payment. The Parties agree that the right to claim interest under this clause is a substantial remedy for late payment and is in substitution for any statutory or other right to claim interest and/or other remedy for late payment under the Late Payment of Commercial Debts (Interest) Act 1998.

8. Warranty

The Supplier warrants that at all relevant times:

- it has the authority and right to enter into and carry out its obligations under this Agreement and to provide the Goods and Services;
- it shall perform its obligations under this Agreement with all reasonable diligence, skill and care, and in accordance with best industry practice and these Conditions;
- all the Goods and Services delivered hereunder shall be free from defect of materials or workmanship and shall conform strictly to the specifications, drawings or sample specified or furnished, be fit for the purpose for which they are procured by the HS1 and be capable of the required performance. This warranty shall survive any inspection, delivery or acceptance by HS1 of the Goods and Services or any payment by HS1 for the Goods and Services;
- it shall comply, and the Goods and Services shall comply, with all applicable statutory and regulatory requirements, including any applicable codes of practice, both in any part of the United Kingdom and in any member state from time to time of the European Union;

- neither the Goods and Services nor HS1's use of such Goods and Services shall infringe the Intellectual Property Rights or other rights of any third party.

9. Quality and Defects

The Goods and/or 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 Order and specification and /or pattern suppliers or advised by HS1 to the Supplier.

HS1's rights under these Conditions are in addition to any conditions implied in favour of HS1 by any applicable laws.

10. HS1's Property

All materials, including tools furnished or specifically paid for by HS1, shall be the property of HS1, shall be subject to removal at any time without additional cost upon demand by HS1, shall be used only for fulfilling orders from HS1, shall be kept separate from other materials or tools and shall be clearly identified as the property of HS1. The Supplier assumes all liability for loss or damage, with the exception of normal wear and tear and agrees to supply detailed statements of inventory upon request by HS1.

Materials, information, equipment and Intellectual Property Rights in all drawings, specifications and data or otherwise supplied by HS1 to the Supplier or not so supplied but used by the Supplier specifically in the manufacture of and/or provision of Goods and Services ("**HS1 Property**") shall at all times be and remain the exclusive property of HS1 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 and shall not be disposed of other than in accordance with HS1's written instructions, nor shall such items be used otherwise than as authorised by HS1 in writing. On termination of the Agreement for any reason, the Supplier shall immediately return to HS1 all HS1 Property.

11. Confidentiality and Intellectual Property Rights

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

HS1 or its agents and any other confidential information concerning HS1's business or its products which the Supplier may obtain in the course of providing the Goods and Services. The Supplier shall restrict disclosure of such confidential material 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 HS1 (in which case the Supplier shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Supplier) or to the extent that such disclosure is required by law (but the Supplier shall give HS1 prompt notice of any request received for such disclosure and provide such reasonable assistance as is required by HS1 to object to such a request).

Intellectual Property Rights and other rights in the Goods and Services shall vest in the party from whom the Goods and Services originate unless the Goods and Services are produced for HS1 as bespoke. If the latter applies such rights shall vest in HS1 upon their creation and the Supplier shall do all such things and execute all such documents as HS1 may require in order to perfect such vesting. The Supplier shall ensure that it includes corresponding provisions in its contracts with its own sub-contractors, suppliers, agents and employees.

Each party hereby grants to the other a non-exclusive, royalty free licence of its Intellectual Property Rights:

(a) in the case of the licence granted by HS1 to the Supplier, for the duration of this Agreement and to the extent required to provide the Goods and Services and otherwise comply with its obligations under this Agreement; and

(b) in the case of the licence granted by the Supplier to HS1, irrevocably and in perpetuity, to enable HS1 to receive, use and enjoy the Goods and Services for its business purposes including to make such Goods and Services available for the benefit of HS1's clients if applicable.

In the event of any breach of any of HS1's Intellectual Property Rights, or those of any third party, the Supplier shall indemnify HS1, unless HS1 is responsible for the breach in question (in which case the indemnity shall be reduced only to the extent that HS1 is directly responsible for such breach).

12. Anti-Bribery and Corruption

The Supplier shall not, and shall procure that its directors, employees, agents, representatives, contractors or sub-contractors shall not, engage in any activity, practice or conduct which would constitute an offence under any anti-bribery and anti-corruption laws, regulations and codes, including but not limited to the Bribery Act 2010.

The Supplier shall have in place adequate procedures designed to prevent any person working for or engaged by the Supplier or any other third party in any way connected to the Agreement, from engaging in any activity, practice or conduct which would infringe any anti-bribery and anti-corruption laws, regulations and codes, including but not limited to the Bribery Act 2010.

13. Assignment and Novation

The Supplier shall not be entitled to novate and/or assign the Agreement or any part of it without the prior written consent of HS1. HS1 may novate and/or assign the Agreement or any part of it to any other party without the prior written consent of the Supplier.

14. Supply Chain Transparency

The Supplier shall and shall procure (where relevant) that all persons who are providing Goods and Services in connection with, or which will or may be used in performing or to support the performance of the Agreement in any part of the world (collectively, its "**Supply Chain**") shall at all relevant times:

(a) comply with the provisions of the Modern Slavery Act 2015 ("**Act**") and all applicable laws, regulations, codes and guidance made under it or relating to it, and ensure that all of its relevant personnel have received appropriate training on the same;

(b) not engage in any activity, practice or conduct that would constitute an offence under the Act if such activity, practice or conduct were carried out in the UK;

(c) comply with any policy relating to Slavery and Human Trafficking as required by HS1; and

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(d) take all reasonable steps to ensure that Slavery and Human Trafficking are not taking place in its business or its Supply Chain.

The Supplier shall ensure that each of its sub-contractors shall be bound in writing by terms equivalent in all respects to those set out in this clause 14. The Supplier shall provide evidence in writing of the Supplier's compliance with this clause 14 promptly on HS1's request. For the purposes of this clause, the phrase "**Slavery and Human Trafficking**" shall have the meaning given to it in Section 54 (12) of the Act.

15. Changes to Orders

An Order may only be amended by written agreement between HS1 and the Supplier.

16. Supplementary Information

Any specification, drawings, notes, instructions, engineering notices, or technical data referred to in the Order shall be deemed to be incorporated in the Agreement by reference as if fully set forth, to the extent that they do not conflict with these Conditions or the Order.

17. Publicity, Promotion or Advertising

The Supplier shall not, without HS1 prior written consent, issue any news release, advertising, publicity or promotional material regarding the Order (including denial or confirmation).

18. Health and Safety

The Supplier is responsible for ensuring in accordance with best practice the safety of itself, its employees, sub-contractors, agents and equipment and the Goods and Services prior to delivery to HS1 and for complying with all applicable health and safety legislation. The Supplier shall and shall procure that its employees, sub-contractors and agents shall, in addition, comply with any site specific standards, rules, policies and procedures notified by HS1 or its agents when present on premises owned or operated by HS1 and further that any other person acting on the Supplier's behalf shall enter such site at their own risk.

19. Governing Law and Jurisdiction

The Agreement and any non contractual obligation arising out of or in connection with the Agreement shall be governed by, construed and interpreted according to

English law and shall be subject to the exclusive jurisdiction of the English courts.

20. Force Majeure

Neither party shall be in breach of the Agreement nor liable for delay in performing or failure to perform any of its obligations under it, and HS1 reserves the right to defer the date of delivery or to cancel the Agreement or reduce the volume of Goods and/or Services ordered if it is prevented from or delayed in the carrying on of its business, in each case due to circumstances beyond the reasonable control of the affected party including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protest, riot, civil commotion, fire, explosion, flood, epidemic (but excluding any strikes, lock-outs or industrial action, by the employees or agents of the Supplier or its sub-contractors) ("**Force Majeure Event**"). To the extent that the Supplier is prevented from providing Goods and Services as a result of a Force Majeure Event, HS1 shall not be required to pay for any suspended Goods and Services.

21. Termination

HS1 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 HS1 shall pay the Supplier fair and reasonable compensation for any work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss or any other direct or indirect losses.

HS1 shall have the right at any time by giving notice in writing to the Supplier to terminate the Agreement forthwith if:

- the Supplier commits a material breach of any of the terms and conditions of the Agreement; or
- the Supplier ceases any material part of its business or (being an individual) shall commit an act of bankruptcy or a receiving order is made against him or her, or the Supplier (being a company) shall enter into an arrangement or composition with its creditors; have an administrator appointed in relation to it; have a receiver, administrative receiver, manager or similar officer appointed by any person over all or any part of its property, assets or undertaking; have a petition for a winding-up order presented against it, or go into liquidation, whether voluntary or otherwise

except for the purpose of amalgamation or reconstruction; or the Supplier is otherwise unable to pay its debts for the purposes of section 123 of the Insolvency Act 1986; or any distress, execution or other process is levied upon the whole or any of its assets. For the avoidance of doubt, HS1's termination rights in relation to this section will apply where the Supplier is subject to any proposal or threat to do any of the above acts or things, or an event analogous to the aforesaid occurs in whatever jurisdiction.

The termination of the Agreement, however arising, shall be without prejudice to the rights and duties of HS1 and the Supplier accrued prior to termination. Those conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

22. Indemnity

The Supplier shall fully indemnify and keep fully indemnified HS1 and each member of the HS1 group for any claims, demands, cause of action, damage, loss, consequential loss, costs, expenses (including legal expenses) made against or suffered by HS1 or a member of the HS1 group arising out of any third party claim of infringement of Intellectual Property Rights or the Supplier's breach of the confidentiality, anti-bribery and corruption, Supply Chain transparency or data protection provisions under the Agreement, or in the circumstances set out in clause 25.

Neither party shall be liable to the other for any losses arising under and/or in connection with this Agreement that are indirect, special, punitive or consequential losses, save that nothing shall limit the liability of either party:

- for death or personal injury caused by its negligence or that of its directors, employees, agents or sub-contractors;
- for any fraud or fraudulent misrepresentation;
- for any losses for which the Supplier provides an indemnity; or
- to the extent that such limitation is not permitted by law.

23. Remedies

Without prejudice to any other right which HS1 may have, if any Goods and/or Services are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of the Agreement HS1 shall be entitled to avail itself of any one or more of the following

remedies at its absolute discretion, whether or not any part of the Goods and Services has been accepted by HS1:

- to rescind the Order;
- to reject the Goods and/or Services (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 and Services so returned shall be paid forthwith by the Supplier;
- at HS1's option to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods and Services or to supply replacement Goods and Services and carry out any necessary work to ensure that the terms of the Agreement are fulfilled;
- to refuse to accept any further deliveries of Goods and Services but without liability to the Supplier;
- to carry out at the Supplier's expense any work necessary to make the Goods and Services comply with the Agreement; and
- to claim such damages as may have been sustained in consequence of the Supplier's breach or breaches of the Agreement.

24. Data Protection

It is not anticipated that the Supplier will act as the Data Processor of any Personal Data in respect of which HS1 is the Data Controller (each as defined in the Data Protection Act 1998). To the extent that the Supplier is required by HS1 to act as a Data Processor at any stage, the Parties shall first agree in writing the ambit and terms of such a role. Any processing by the Supplier prior to or outside the terms of such written agreement is not authorised by HS1.

25. Employees

It is the understanding of the Parties that the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("**TUPE**") will not apply to the arrangements made under the Agreement, or upon the Supplier ceasing to provide the Goods and Services, or following the termination of the whole or part of the

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Agreement. Notwithstanding such a belief and on the basis that both Parties have agreed to be responsible for their own employees, the Supplier will indemnify, keep indemnified and hold harmless HS1 against all losses which arise out of or are connected with: the employment or the termination of employment of any Relevant Person, howsoever and whensoever arising (including, for the avoidance of doubt, any contractual or statutory termination or redundancy costs and salaries or wages, accrued holiday pay, expenses, pension benefits, life assurance, health or medical expenses insurance and all other emoluments and any PAYE tax deductions and national insurance contributions relating thereto); any act or omission by any employer of any Relevant Person (including, without limitation, in relation to negligence claims or unlawful discrimination); and any obligations which the Parties may have under TUPE in relation to any Relevant Person.

The Supplier will procure that the provision of the Goods and Services performed by the Supplier or any sub-contractor under the Agreement is managed in such a way as to avoid there being a relevant transfer within the meaning of TUPE and therefore:

- anticipates that upon termination of the Agreement there will be no employees wholly or mainly assigned to the performance of the services performed by the Supplier or any sub-contractor under the Agreement and, as a result, no employee will transfer to HS1 on the termination date (or any other date) by virtue of the termination (by whatever means) of the Agreement (or any part thereof); and
- the Supplier will take such steps as are necessary in advance of the termination of the Agreement (or any part thereof) to re-deploy (or offer alternative employment to) any Relevant Person within the Supplier's business (on substantially similar terms and conditions) who may otherwise be deemed to be wholly or mainly assigned to the performance of the services performed by the Supplier under the Agreement or who otherwise alleges that their employment should transfer under TUPE.

For the purposes of this clause, "**Relevant Person**" means any person who is or has been involved to any extent in the Goods and Services being provided in connection with the Agreement or who is or has been engaged from time to time in the provision of

such Goods and Services (whether employees, workers or consultants of the Supplier or any sub-contractor or agent of the Supplier) and whose employment or engagement and any liability in respect of such employment or engagement transfers or is alleged to have transferred, to HS1 or any new provider of such Goods and Services as a result of TUPE.

26. General

Each right or remedy of a party under the Agreement is without prejudice to any other right or remedy of that party whether under the Agreement or not.

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 shall continue in full force and effect.

Failure or delay by a party 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. Any waiver by a party of any breach of or any default under, any provision of the Agreement shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Agreement.

The Parties do not intend that any term of the Agreement shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it, save to the extent that a group company of HS1 wishes to enforce clause 22.

Where a framework agreement between HS1 and the Supplier exists specifically for the supply of the Goods and Services covered by this Order then the provisions within the framework agreement shall take precedence.

This Agreement does not create a partnership between HS1 and the Supplier neither does it make one of the Parties the agent of the other for any purpose.

Nothing in this Agreement grants the Supplier any exclusivity in relation to the supply of Goods and Services to HS1 and HS1 may itself manufacture and perform or procure the supply of Goods and Services or goods or services similar to the Goods and Services from any supplier at its sole discretion. There is no obligation under the Agreement for HS1 to purchase a minimum quantity of Goods and Services from the Supplier.

The Supplier shall maintain for such period as required under applicable law complete and accurate records of the time spent and materials used by the Supplier in providing the Goods and Services and shall allow HS1 to inspect such records on reasonable request.

During the term of the Agreement and for a period of six years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Agreement and shall, on HS1's request, provide evidence of the same.

Any notices to be given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first class recorded delivery post to a party's registered office from time to time, in the case of HS1, marked for the attention of the General Counsel and Company Secretary. Any such notice shall be deemed to have been served if delivered by hand, at the time of delivery, or if posted, at 0930 on the second business day after posting.