

**1.1** Interpretation

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

**1.2** Definitions:

**Background Intellectual Property:** all technical know-how and information known to a party at the date of the Contract of a confidential nature not in the public domain, together with all Intellectual Property Rights owned by or licensed to that party at the date of the Contract and, following the date of the Contract, all technical know-how and information of a confidential nature (prior to it coming into the public domain) and Intellectual Property Rights owned by or licensed to that party which is not Foreground

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

**Client:** is the customer of SubSea Craft Limited.

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

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 27.9.

**Contract:** the contract between the Customer and the Supplier for the supply of Goods and/or Services consisting of the Order and any other documentation referenced therein, Service Specification and these Conditions.

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be construed accordingly.

**Customer:** SubSea Craft Limited registered in England and Wales with Customer number 08930367.

**Customers Background IP:** Background IP known to, owned by or licensed to the Customer which is or has been provided by the Customer to the Supplier in relation to the Services, including the Customer Materials.

**Customer Materials:** has the meaning set out in clause 5.3(i).

**Data Protection Laws** means the General Data Protection Regulation (EU) 2016/679 and any associated regulations or instruments and any other data protection laws, regulations, regulatory requirements, guidance and codes of practice applicable to the Contract, including but not limited to the Data Protection Act 2018.

**Deliverables:** all documents, Goods and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

**Delivery Location:** has the meaning given in clause 4.2(b).

**Foreground IP:** the Deliverables and all Intellectual Property Rights in or arising out of or in connection with the Services. The phrase "arising out of or in connection with the Services" includes (without limitation) work done on the subject matter of the Services by anyone engaged in the provision of the Services whether or not carried out during office hours and wherever carried out and at whoever's initial expense.

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

**Goods Specification:** any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.

**Intellectual Property Rights:** all inventions (whether patentable or not), patents, utility models, petty patents, registered designs, design rights, database rights, copyright and related rights, moral rights, semiconductor topography rights, plant variety rights, trademarks, service marks, logos, get up, trade names, business names,

domain names, (in each case whether registered or unregistered) and including any applications for registration and any renewals or extensions of any of the foregoing, and, in each case, the goodwill attaching to any of the foregoing, rights to sue for passing off or for unfair competition, all know how, confidential information, trade secrets and other matter capable of being the subject of intellectual property rights and any rights or forms of protection of a similar nature or having equivalent or similar effect to any of them which subsist anywhere in the world .

**Mandatory Policies:** means the Customer's policies and procedures relating to ethics, anti-bribery and corruption, slavery and human trafficking, tax evasion and data privacy, as may be updated from time to time.

**Order:** the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form.

**Services:** the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

**Service Specification:** the description or specification for Services agreed in writing by the Customer and the Supplier.

**Software:** means any software which is comprised or included in or related to the Goods and/or Services.

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

**Supplier's Background IP:** Background IP known to, owned by or licensed to the Supplier which is or has been used by the Supplier or its subcontractors in the course of providing the Services.

### 1.3 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) A reference to **writing** or **written** includes fax and email.

## 2. Basis of contract

**2.1** The Order constitutes an offer by the Customer to purchase Goods and/or Services from the Supplier in accordance with these Conditions.

**2.2** The Order shall be deemed to be accepted on the earlier of:

- (a) the Supplier issuing written acceptance of the Order; or
- (b) any act by the Supplier consistent with fulfilling the Order,
- (c) or delivery of the Goods and/or Deliverables

at which point and on which date the Contract shall come into existence ("**Commencement Date**").

- 2.3** The Supplier's acceptance is expressly limited to acceptance of the Order, which incorporates these Conditions.
- 2.4** These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. No written or printed terms inconsistent or additional to these Conditions shall be binding upon the Customer unless agreed in writing by an authorised representative of the Customer.
- 2.5** All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.
- 2.6** The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

### **3. Supply of Goods**

#### **3.1** The Supplier shall ensure that the Goods shall:

- (a) be supplied exactly in accordance with the Contract and any Specification, drawing, process instruction or procedure defined therein. No variation to the Contract shall be permitted without the Customer's written authority.
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;
- (c) where they are manufactured Goods, be free from defects in design, materials and workmanship and remain so for 36 months after delivery; and
- (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and
- (e) No marking not authorised by the Customer shall appear on any part of the Goods except, for the Suppliers standard Goods, the manufacturer's name, address and reference number, the date of manufacture, safety information and any other information relating to the function of the Goods. usually incorporated by the manufacturer.

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

**3.3** The Customer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

**3.4** If following such inspection or testing the Customer considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately use best efforts to take such remedial action as is necessary to ensure compliance at its own cost.

**3.5** The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.

## **4. Delivery of Goods**

### **4.1** The Supplier shall ensure that:

- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
- (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- (c) it states clearly on the delivery note any requirement for the Customer to return any packaging material for the Goods to the Supplier. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.

### **4.2** The Supplier shall deliver the Goods:

- (a) on the date specified in the Order unless advised in writing by an authorised representative of the Customer;
- (b) to the location as is set out in the Order or as instructed in writing by an authorised representative of the Customer before delivery ("**Delivery Location**"); and
- (c) during the Customer's normal hours of business on a Business Day, or as instructed by the Customer.

### **4.3** Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

### **4.4** Any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.

### **4.5** The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 6.1.

### **4.6** Risk in the Goods shall pass to the Customer on completion of delivery. Title to the Goods shall pass to the Customer upon payment to the Supplier.

## **5. Supply of Services**

### **5.1** The Supplier shall from the Commencement Date for the duration of the Contract supply the Services to the Customer in accordance with the terms of the Contract.

### **5.2** The Supplier acknowledges that time is of the essence and shall meet any performance dates for the Services as specified in any Order or as the Customer notifies to the Supplier

### **5.3** In providing the Services, the Supplier shall:

- (a) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;

- (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- (d) ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
- (g) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- (h) observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;
- (i) hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier ("**Customer Materials**") in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
- (j) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;

## **6. Customer remedies**

**6.1** If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, or both, the Customer shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
- (c) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods and/or services from a third party;
- (d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
- (e) to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

**6.2** If the Goods are not delivered by the applicable date and/or the Services are not performed by the applicable date, the Customer may, at its option, claim or deduct 5% of the price of the Goods and/or Services for each week's delay in each case by way of liquidated damages, until the earlier of delivery of the Goods or performance of the Services, as applicable, or termination or abandonment of the Contract by the Customer, up to a

maximum of 20% of the total price of the Goods (in respect of late delivery of the Goods) and/or the Services (in respect of late performance of the Services).

**6.3** If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- (d) to refuse to accept any subsequent delivery of the Goods the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute Goods from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 3.1.

**6.4** If the Supplier has supplied Services that do not comply with the requirements of clause 5.3(d) then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to return the Deliverables to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
- (d) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute services or deliverables from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to comply with clause 5.3(d).

**6.5** These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

**6.6** The Customer's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

## **7. Customer's obligations**

**7.1** The Customer shall:

- (a) provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services; and
- (b) provide such necessary information for the provision of the Services as the Supplier may reasonably request.

## **8. Charges and payment**

### **8.1** The price for the Goods:

- (a) shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date; and
- (b) shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Customer.

**8.2** The charges for the Services shall be set out in the Order and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

**8.3** In respect of the Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant purchase order number.

**8.4** In consideration of the supply of Goods and/or Services by the Supplier, the Customer shall pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier. The invoice in duplicate must be forwarded to the Customer's Financial Accounts Department at the postal address on the Order, unless otherwise stated.

**8.5** All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time ("**VAT**"). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

**8.6** The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.

**8.7** The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Customer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Customer of its rights under this Condition shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

## **9. Software**

**9.1** If Goods and/or Services include Software, the Supplier acknowledges that the Customer may be selling the same on to Clients and warrants that it has good title to license the Software.

**9.2** The Supplier permits the Customer to market and resell the Software and any accompanying hardware either alone or as part of a package.

**9.3** The Supplier undertakes to supply the Customer with all updates of Software and to allow it to copy them to those of its Clients who hold an original copy version.

**9.4** The Supplier shall provide the Customer with such technical advice, assistance, data, and documentation, including source code where necessary, to enable the Customer to maintain the Software if it so wishes.

## **10. Intellectual Property Rights**

**10.1** Customer shall retain all right title and interest in and to the Customer's Background IP, other than as expressly provided for pursuant to clause 10.2 below.

**10.2** The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to use and copy any of the Customer's Background IP and materials provided by the Customer to the Supplier solely for the term of the Contract and solely to the extent required by the Supplier to provide the Goods and/or Services to the Customer (the "**Customer Background IP Licence**").

**10.3** Supplier shall retain all right title and interest in and to the Supplier's Background IP, other than as expressly provided for pursuant to clause 10.4 below.

**10.4** The Supplier grants to the Customer a fully paid-up, worldwide, sub-licensable, non-exclusive, royalty-free, perpetual and irrevocable licence of the Supplier's Background IP to the extent that the Supplier's Background IP is required in order for the Customer (or its sub-licensees) to use or otherwise exploit the Goods and/or Services and the Foreground IP including (without limitation) in using, selling, offering for sale, importing, owning or otherwise exploiting the Customer's own products from time to time.

**10.5** The Foreground IP shall be owned by the Customer. The Supplier hereby assigns to the Customer absolutely and with full title guarantee all of its right, title and interest in and to the Foreground IP. This assignment includes (without limitation) the right to bring, make, oppose, defend, appeal proceedings, claims or actions and obtain relief (and to retain any damages recovered) in respect of any infringement, or any other cause of action arising from ownership, of any of the Foreground IP whether occurring before, on, or after the date of the Contract.

**10.6** The Supplier grants to the Customer a fully paid-up, worldwide, sub-licensable, non-exclusive, royalty-free, perpetual and irrevocable licence to use and modify the Goods for purposes including (without limitation) the development, manufacture, use, sale, offer for sale, importation, ownership or other exploitation of Customer's products from time to time.

**10.7** The Supplier shall ensure that its subcontractors shall assign to the Customer all Foreground IP vested in the Suppliers subcontractors from time to time.

**10.8** The Supplier shall execute sign and do all such instruments, applications, documents, acts and things as may reasonably be required by the Customer in connection with the rights granted to it by this Condition 10.

**10.9** The Supplier warrants that the possession and use of the Goods and/or the Services will not infringe the Intellectual Property of any third party.



## **11. Indemnity**

**11.1** The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with:

- (a) any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding the Customer Materials);
- (b) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and
- (c) any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.

**11.2** This Condition 10 shall survive termination of the Contract.

## **12. Insurance**

During the term of the Contract and for a period of 7 years thereafter, the Supplier shall maintain in force, with a reputable insurance Customer, professional indemnity insurance, Goods liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

## **13. Confidentiality**

**13.1** Each party undertakes that it shall not at any time, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 13.2.

**13.2** Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

**13.3** Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

## **14. Compliance with relevant laws and policies**

**14.1** The Supplier shall comply and shall ensure that each of the Suppliers sub-contractors complies in all respects with all applicable laws, regulations, codes and Mandatory Policies and shall indemnify the Customer against all damages, costs, losses, charges, expenses or liabilities whatsoever caused by or arising out of any breach by the Supplier of such legislation or regulation.

**14.2** The Supplier shall comply with all of the Customers mandatory Client terms that the Customer is required to flow down to its suppliers.

**14.3** The Supplier shall not engage in any activity, practice or conduct which would constitute a tax evasion facilitation offence under applicable laws and regulations. The Supplier shall also maintain procedures to prevent the facilitation of tax evasion by another person (including employees) and to ensure compliance with regulatory guidance and this Condition. The Supplier shall promptly report to the Customer any request or demand from a third party to facilitate the evasion of tax in connection with the performance of the Contract.

**15. Export, Import And Regulatory Compliance**

**15.1** The Supplier shall obtain all export authorisations and/or licences necessary for the delivery of the Goods, Services, software or information to the Customer at the time specified in the Contract. The Supplier and Customer will support each other fully by providing promptly when request, any documentation or other written assurances, such as completing End User Undertakings, to allow for the application of necessary import and export authorisations, permits, and licences. The Customer and Supplier will share copies of all licences, permits, or other relevant authorisations when requested by the other party.

**15.2** The Supplier and Customer each agree to comply with all applicable governmental regulations as they relate to the import, export, transfer and re-export of information, software and/or Goods and/or the Customers or Suppliers property. Without limiting the foregoing, neither the Customer nor the Supplier shall disclose or deliver any information, software or Goods and/or property provided hereunder in any manner contrary to any applicable export or import laws and regulations. The Customer and the Supplier acknowledge that these laws and regulations impose restrictions on import, export, transfer and re-export to third countries of certain categories of information, Services, software and Goods, and that authorisations/licences from the applicable regulatory agency may be required before such information, Services, software and Goods and/or property can be disclosed or delivered hereunder, and that such authorisations/licences may impose further restrictions on use and further disclosure or delivery of such information, Services, software and Goods and/or property.

**15.3** In relation to both domestic and international transactions, the Supplier shall provide the Customer with export classification information for all Goods, Services, Supplier property, software and information delivered to us. Export classification information includes the applicable export control classification number (“ECCN”), the country of origin and the Harmonised Tariff Code. The Customer will supply the Supplier with similar export classification information for Customer relevant property and/or information for which the Customer has design authority. The Customer and Supplier will each promptly notify, in writing, the other upon a change in classification information.

**15.4** The Supplier shall promptly inform the Customer in writing if it becomes aware of any actual or suspected violation of applicable laws or regulations. This notification must include comprehensive detail on the nature and extent of the actual or suspected violation. In the event of an investigation performed by the Customer or by government authorities concerning export compliance, the Supplier agrees to fully cooperate and support the Customer in all investigative activities, including but not limited to sharing relevant information and documentation as may be required by the Customer or respective governmental agencies to support in demonstrating compliance. The Supplier shall cooperate fully with implementing any necessary remediation actions required due to any actual or suspected violation. This may include, but is not limited to, quarantining or returning Goods to the Customer or another third-party, ceasing further shipments, or deleting any associated information or data.

**15.5** If the Supplier is based in the United States and will manufacture or export defence Goods or Services for the Customer, the Supplier will first register pursuant to Section 122.1(a) of the International Traffic in Arms Regulations (ITAR) with the Directorate of Defence Trade Controls at the US Department of State. Proof of this registration must be provided by the Supplier upon request by the Customer.

**15.6** The Supplier shall indemnify and hold the Customer harmless to the fullest extent permitted by law in respect of any loss, damage or expense, excluding lost profits, for any failure by the Supplier to comply with such laws and regulations and/or the foregoing provisions of this Condition 15.

## **16. Data protection**

**16.1** Unless expressly agreed otherwise in writing between the Supplier and the Customer and subject to clause 16.2 below, when either Party collects and processes any Personal Data belonging to the other Party under or in connection with the Contract, the Party collecting and processing such Personal Data shall do so as Data Controller and shall comply with all the requirements of the Data Protection Laws applicable to Data Controllers in connection with the Contract. Where either Party supplies any Personal Data in connection with a Contract, such Party warrants that it has the consent of the Data Subjects to do so.

**16.2** Where, in performance of the Contract, the Supplier is required to act as Data Processor for Personal Data belonging to the Customer, the Supplier shall enter into a data processing agreement with the Customer in a form acceptable to the Customer.

**16.3** For the purposes of this Condition, “Data Controller”, “Data Processor”, “Data Subjects” and “Personal Data” shall have the meanings as per Data Protection Laws.

## **17. Termination**

**17.1** Without affecting any other right or remedy available to it, the Customer may terminate the Contract:

- (a) with immediate effect by giving written notice to the Supplier if:
  - (i) there is a change of Control of the Supplier; or
  - (ii) the Supplier commits a breach of clause 14 or clause 26.
- (b) for convenience by giving the Supplier 14 days written notice.

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

- (a) the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business or;

- (d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy.

## **18. Consequences of termination**

- 18.1** On termination of the Contract, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 18.2** Termination or expiry of the Contract shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 18.3** Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 18.4** If the Contract is terminated in accordance with Conditions 15.2, 17 or for any other reason whereby the Supplier can no longer or will no longer continue to supply the Goods and/or Services in accordance with the Contract, the Supplier will deliver to the Customer all information, processes, documentation and methods necessary, inclusive of all Intellectual Property Rights to enable the Customer to make or, have made by others, the Goods and/or Services furnished under the Contract to the extent necessary so that the Customer can meet its Client requirements.

## **19. Force majeure**

Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 2 months, the party not affected may terminate the Contract by giving 30 days' written notice to the affected party.

## **20. Safety And Environmental Regulation**

- 20.1** The Supplier shall comply in all respects with the applicable environmental and health and safety laws and regulations and shall indemnify and hold the Customer harmless from and against all damages costs, losses, charges, expenses or liabilities whatsoever caused by or arising out of any breach by the Supplier of such laws and regulations.

## **21. Hazardous Materials**

- 21.1** The Supplier must advise the Customer upon receipt of the Order if the Goods to be supplied contain any hazardous or harmful materials requiring special handling or treatment. The Supplier shall comply with all applicable requirements contained in laws, regulations and directives including but not limited to national, EU, United States, state/provincial and local environmental, health and safety laws, regulations and directives relating to the supply of goods and hazardous materials. All Goods and their component parts, substances and materials shall comply with the requirements set forth in the Montreal Protocol and European regulation (EC) No. 1005/2009 on ozone depleting substances. Upon delivery of Goods to the Customer, the Supplier shall notify the Customer in writing of all Substances of Very High Concern as identified on the "Candidate List", as

amended from time to time, published by the European Chemicals Agency. Unless the Supplier notifies the Customer in writing and obtains the Customer's prior written consent, no Goods shall contain any of the restricted substances referred to in the European directive 2001/65/EU. The Supplier shall be responsible for all costs and liabilities relating to the recycling of Goods pursuant to the most current version of the European Parliament Directive 2012/19/EU as such Directive is implemented in each country to which said Goods are supplied to the Customer. All Goods and hazardous materials supplied to the Customer shall comply with all applicable requirements under the Toxic Substance Control Act, 15 U.S.C. 2601 et seq., and implementing regulations thereunder.

## **22. Obsolescence**

**22.1** The Supplier is responsible for managing obsolescence throughout the Contract to ensure compliance with all Contract requirements.

**22.2** As soon as the Supplier becomes aware of any actual or suspected obsolescence issue with any of the Goods and in any event not less than 12 months before any of the Goods becoming obsolete the Supplier shall provide notification in writing to the Customer (the "Obsolescence Notification") and provide an obsolescence management plan (the "Obsolescence Management Plan").

**22.3** The Obsolescence Notification must include, as a minimum, the following information:

- (a) the number and description of the obsolete Goods and sources involved;
- (b) the anticipated production end date; and
- (c) the last time to buy date.

**22.4** The Obsolescence Management Plan shall include without limitation:

- (a) a plan for managing the loss, or impending loss, of manufacturers or suppliers of Goods, or components, assemblies, or materials used in the Goods; and
- (b) all technical terms, specifications, drawings and any other documents pertaining to the obsolete Goods, which may be required for the purposes of location and, if necessary, manufacturing of the replacement Goods.

**22.5** Following submission of an Obsolescence Notification, the Supplier shall use its best endeavours to reach a solution in respect of replacement Goods satisfactory to the Customer and the Supplier warrants that it shall not do anything which would prejudice any potential solution.

**22.6** The Supplier shall identify within the Obsolescence Management Plan a solution for the supply of replacement Goods which:

- (a) are of the same form, type and function as the obsolete Goods;
- (b) conform to:
  - (i) the technical terms and specification which the obsolete Goods conformed to; or
  - (ii) any applicable later version of or replacement for that specification; or
  - (iii) if 22.6 (b)(i) or 22.6 (b)(ii) is impossible, a specification which is no worse than the specification to which the obsolete Goods conformed to; and

- (iv) have no material adverse impact on price and delivery date, or if it is not possible to find replacement Goods which do not have a material adverse impact on price and/or delivery date, have the minimum adverse impact achievable.

**22.7** Upon receipt of the Obsolescence Notification from the Supplier, the Customer may in its sole discretion submit a single Order (the “Last Time Buy Order”) for Goods listed in the Obsolescence Notification, which Order may be for up to 1 year worth of stock based on the Customer’s purchasing volume of the obsolete Goods during one (1) calendar year immediately preceding the Last Time Buy Order. The option to submit a Last Time Buy Order constitutes a standing and valid offer on the part of the Supplier, and the Customer’s Last Time Buy Order shall constitute a binding acceptance of this offer. The Supplier must prioritise fulfilment of any Last Time Buy Order(s) submitted by the Customer before any order placed by the Supplier’s other customer(s). The Supplier shall use its best endeavours to supply the quantities of the Goods specified in the Last Time Buy Order, failing which it shall supply the Goods in quantities as close as possible to the quantities specified in the Last Time Buy Order.

**22.8** The Prices for the Last Time Buy Order Goods shall be in accordance with the Price specified in the Contract.

**22.9** Last Time Buy Order(s) submitted by the Customer must be scheduled for delivery within or no earlier than the time period or date specified in the Last Time Buy Order.

**22.10** Notwithstanding clause 22.6 (b)(iii). above, the Supplier shall be responsible for all costs associated with locating replacement Goods, vendor interface and engineering efforts.

## **23. Conflict Minerals Disclosure**

**23.1** The Supplier shall support the Customers compliance with sourcing obligations to certain customers subject to requirements to report sourcing of tin, tantalum, tungsten and gold (“**Conflict Minerals**”) from certain countries in the African subcontinent. The Supplier shall have due diligence processes in place to make reasonable enquiries, including with the Suppliers supply chain, into the country of origin of Conflict Minerals included in the Goods sold to the Customer.

**23.2** The Supplier shall disclose to the Customer in writing those Goods containing Conflict Minerals prior to acceptance of the Order. The Supplier shall report such data as may be required by the Customer to fulfil our obligations to our customers on sourcing of Conflict Minerals.

## **24. Counterfeit Goods**

**24.1** All Goods provided by the Supplier to the Customer, including any that are provided by the Suppliers sub-contractors, must be original and genuine, and in full compliance with the Contract requirements, specifications, certifications, and any supporting data representing Contract performance. The Supplier warrants that the Supplier has received from all of their sub-contractors and suppliers all data necessary to comply with this obligation and the Supplier has validated all such data. The Supplier will ensure that none of the Goods are counterfeit, inaccurately marked, or in any manner misrepresented.

**24.2** The Supplier shall operate a counterfeit control process for all Goods regardless of industry sector consistent with these provisions and reasonable commercial terms for applicable industry sectors. The Customer shall have the right to audit, inspect and/or approve the process at any time before or after delivery of the Goods.

**24.3** If any of the Goods delivered or to be delivered under the Contract are discovered to be a counterfeit item or suspected to be a counterfeit item, then the Customer shall have the right to impound the item for further investigation of its authenticity. The Customer's investigation may include the participation of third parties or governmental investigative agencies as required by law or regulations or by the Customer, or by the Customer, in our sole discretion. The Supplier shall cooperate in good faith with any investigation conducted by the Customer, including, but not limited to, cooperation by the Supplier with respect to the disclosure of all design, development, manufacturing and traceability records in respect of the item. Upon the Customer's request, the Supplier shall provide to the Customer certificates of conformance with respect to the item under investigation. The Customer shall not be required to return the item to the Supplier during the investigation process or thereafter. The Customer shall not be liable for payment to the Supplier of the price of any suspected counterfeit item under investigation.

## **25. Quality and Conformance**

**25.1** Goods delivered shall, as applicable, meet the requirements for release documentation as stated in the Contract.

**25.2** If any Goods and/or Services supplied or to be supplied under the Contract are not in full compliance with the Contract or any defined specification, requirement, drawing, process instruction or procedure, the Customer shall be entitled to recover from the Supplier, as liquidated damages for the Customer's assessment, inspection and internal administrative costs, a total of 3% of the price of the Goods and/or Services for non-compliances notified in writing to and permitted by the Customer before shipment; and a total of 5% of the price of the Goods and/or Services delivered for non-compliances first identified on or after delivery to the Customer. The Customer shall be entitled to deduct such damages from any moneys payable by the Customer under the terms of the Contract or otherwise. In addition, the Customer reserves the right to charge (i) any other costs, expenses and damages related to the Supplier's non-compliances, including but not limited to the Customer's or the Client's costs of removal, disassembly, failure analysis, fault isolation, reinstallation, reinspection and retrofit; and (ii) liquidated damages, penalties and claims payable by the Customer to the User(s) as a result of the non-compliances. These remedies do not affect any other legal rights which we may have in respect of such defective Goods and/or Services.

## **26. Anti-Corruption, Ethics And Policies**

**26.1** The Supplier warrants that their directors, employees, agents, representatives, contractors and sub-contractors, and any other person acting on their behalf will not: (i) offer, give or agree to give or receive, request or accept any financial, equivalent thereof or other advantage of any kind as an inducement or reward for doing or not doing any improper act or for the improper performance of any function associated with the Contract or the Goods; nor (ii) act in any way which would constitute an offence by the Supplier or would cause the Customer to commit an offence under any anti-bribery legislation; nor (iii) employ any workers under the age of 15 or, in the countries subject to the developing country exception of the ILO Convention 138, employ any workers under the age of 14; nor (iv) breach applicable anti-slavery legislation, nor any applicable anti-corruption legislation.

**26.2** If the Supplier breaches any of the above warranties, the Customer shall be entitled to terminate the Contract by written notice with immediate effect. Any termination shall be without prejudice to our accrued rights.

**26.3** The Supplier shall comply with the SubSea Craft Ethics and Anti-Corruption Policy or with the Customer's consent, equivalent policies adopted by the Supplier.

**26.4** The Supplier shall indemnify and hold the Customer harmless from any loss, damage and expense, including all legal fees, incurred or sustained by the Customer which is caused by or arises as a result of a breach of this Condition 26.

**27. Customer Flow-Down Requirements, Industrial Benefits And Offset**

**27.1** In order to meet the requirements of the Client, the Customer may have to accept terms which are to be flowed down to the Customers supply chain, and the Supplier shall accept the application of corresponding terms to the Contract. The Supplier shall promptly cooperate with the Customer and implement and carry out the procedures and requirements which the Customer adopt and disseminate to meet the Customer's own and the Customer's Client requirements.

**27.2** The Customer may use all or any part of the value of the Contract, including the value of any sub-contracts placed by the Supplier for the Contract, for satisfying the Customers international offset obligations, and/or the offset obligations of the Customers affiliates and/or any entity to which the Customer transfer such value. The Supplier may use the offset credit generated by the Contract or the sub-contracting of the Contract only with the Customers prior written consent.

**27.3** The Customer and the Customers assignees shall be entitled to all industrial benefits and/or offset credits that might result from the Contract. The Supplier shall provide all information and assistance to the Customer that we may reasonably request in support of the Customers efforts to secure industrial benefits and offset credits related to the Goods.

**28. General**

**28.1 Assignment and other dealings.**

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

**28.2 Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

**28.3 Notices.**

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a Customer) or its principal place of business (in any other case).
- (b) Any notice or communication shall be deemed to have been received:
  - (i) if delivered by hand, at the time the notice is left at the proper address; or
  - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.



- (c) This Condition does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

- 28.4 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision of the Contract is deemed deleted under this Condition 28.4, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 28.5 Waiver.** Except as set out in Condition 2.6, no failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 28.6 No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 28.7 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 its subject matter.
- 28.8 Third party rights.**
- (a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
  - (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 28.9 Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Customer and the Supplier.
- 28.10 Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. All disputes shall be referred to and resolved by binding arbitration under the Rules of the London Court of International Arbitration.
- 28.11** The United Nations Conventions on Contracts for the International Sale of Goods 1980 shall not apply to any aspect of this Contract.