

Terms and Conditions for The Supply of Goods and Services

1. INTERPRETATION

The following definitions and rules of interpretation apply in this agreement.

1.1 DEFINITIONS:

Business Day: a day other than a Saturday, Sunday or public holiday in England.

Buyer or Customer: means the person/s, partnerships or company purchasing Goods and/or Services from the Seller.

Commencement date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time.

Contract or Agreement: the contract between the Supplier and Customer for the supply of Goods and/or Services in accordance with these Conditions.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures: as defined in the Data Protection Legislation.

Data Protection Legislation: the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications; and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

Deliverables: the deliverables set out in the Order.

Delivery Location: has the meaning given to it in clause 4.2.

Force Majeure Event: has the meaning given to it in clause 15.

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

Goods Specification: any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Buyer and Supplier.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar

or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

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

Quotation: the proposal put forward by the Supplier specifying the basis upon which it will provide Goods and/or Services.

Services: the services, including the Deliverables, supplied by the Supplier to the Buyer as set out in the Service Specification.

Service Specification: the description or specification for the Services provided in writing by the Supplier to the Buyer.

Supplier or Seller: means CBAC Services Ltd, registered in England and Wales with company number 3315781, trading as CBAC Services Ltd and shall be construed where applicable to include employees, agents and subcontractors of that company.

Supplier Materials: has the meaning given in 9.1.

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive (2002/58/EC) (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

1.2 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 successors and permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory 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 Buyer to purchase Goods and/or Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issued written acceptance of the Order at which point and on which date the Contract shall come into existence ("**Commencement Date**").

- 2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any description of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or not have any contractual force.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.5 Any Quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 60 Business Days from its date of issue.
- 2.6 All of these Conditions shall apply to the supply of Goods and Services except where application to one or the other is specified.

3. GOODS

- 3.1 The Goods are described in the Order or Goods Specification.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Buyer, the Buyer shall indemnify the Supplier 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 reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Goods Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Supplier reserved the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Buyer in any such event.

4. DELIVERY OF GOODS

- 4.1 The Supplier shall ensure that:
- (a) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Buyer and Supplier reference numbers, the type and quality of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - (b) it states clearly on the delivery note any requirement for the Buyer to return any packaging material to the Supplier. The Buyer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request.

- 4.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (“**Delivery Location**”) within the agreed time frame.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Buyer’s failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.5 The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Buyer’s failure to provide the Supplier with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
- 4.6 The Supplier may deliver the Goods by separate shipments, which shall be invoiced and paid for separately. Any delay in delivery or defect in a shipment shall not entitle the Buyer to cancel any other shipment.
- 4.7 Failure by the Supplier to make delivery on any particular date shall not entitle the Buyer either to cancel the order or delivery or to repudiate this contract or to claim for any expenses, loss of profit, or any other consequential loss or damage.

5. DELIVERY OF SERVICES

- 5.1 In providing the Services, the Supplier shall:
- (a) co-operate with the Buyer in all matters relating to the Services, and comply with all reasonable instructions of the Buyer;
 - (b) perform the Services with the good care, skill and diligence in accordance with good practice in the Supplier’s industry, profession or trade;
 - (c) use personnel who are suitably skilled and experienced to deliver the Services, and in sufficient number to ensure that the Supplier’s obligations are fulfilled in accordance with these Conditions; and
 - (d) obtain and at all times maintain all necessary licences and consents necessary to operate its business.

6. TITLE AND RISK

- 6.1 The risk in the Goods shall pass to the Buyer on completion of delivery.
- 6.2 Title to the Goods shall not pass to the Buyer until the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Buyer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.

- 6.3 The Buyer shall permit the servants or agents of the Supplier to enter onto the Buyer's premises and to repossess the Goods at any time prior thereto in the event of a default in all or part of payment and sums due under the Order.
- 6.4 The Buyer shall examine any Goods upon delivery. If the Goods or any part thereof are received in a damaged condition or are not received, the Supplier will accept no responsibility for such damage and or loss unless the Buyer advises the Supplier in writing of the damage at the time of physical delivery of the Goods. The Buyer must then afford the Supplier a reasonable opportunity to inspect any damage or verify any loss and shall immediately return the damaged Goods to the Supplier.
- 6.5 The Supplier will not be liable for any claims resulting from loss or damage to the Goods occurring after delivery.

7. SUPPLY OF SERVICES

- 7.1 The Supplier shall supply the Services to the Buyer in accordance with the Service Specification.
- 7.2 The Supplier shall use commercially reasonable endeavours to meet any performance dates for the Services specified in the Service Specification, but any such dates shall be estimates only.
- 7.3 The Supplier reserves the right to amend the Service Specification if necessary, to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Buyer in any such event.

8. SUBCONTRACTORS

- 8.1 The Supplier reserves the right to appoint subcontractors to deliver the Services under this Contract where the Supplier considers it appropriate.

9. BUYER'S OBLIGATIONS

- 9.1 The Buyer shall:
- (a) ensure that the terms of the Order and any information it provides in the Service Specification and the Goods Specification are complete and accurate;
 - (b) co-operate with the Supplier in all matters relating to the Services;
 - (c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Buyer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
 - (d) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
 - (e) prepare the Buyer's premises for the supply of the Services;
 - (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

- (g) comply with all applicable laws, including health and safety laws;
 - (h) keep all materials, equipment, documents and other property of the Supplier ("**Supplier Materials**") at the Buyer's premises in safe custody; and
 - (i) comply with any additional obligations as set out in the Service Specification and the Goods Specification.
- 9.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Buyer or failure by the Buyer to perform any relevant obligation ("**Buyer Default**"):
 - (a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Buyer remedies the Buyer Default, and to rely on the Buyer Default to relieve it from the performance of any of its obligations in each case to the extent the Buyer Default prevents or delays the Supplier's performance of any of its obligations;
 - (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Buyer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 9.2; and
 - (c) the Buyer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Buyer Default.

10. CHARGES AND PAYMENT

- 10.1 The price for Goods shall be the price set out in the Order and/or Quotation or, if no price is quoted, the price set out in the Supplier's published lists as at the date of the order.
- 10.2 The charges for Services shall be calculated on a time and material basis in accordance with the Supplier's daily fee rates, as set out in the Order and/or Quotation.
- 10.3 The Supplier reserves the right to:
 - (a) increase the price of the Goods, by giving notice to the Buyer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:
 - (i) any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
 - (ii) any delay caused by any instructions of the Buyer in respect of the Goods or failure of the Buyer to give the Supplier adequate or accurate information or instructions in respect of the Goods.
- 10.4 The Buyer shall pay each invoice submitted by the Supplier:
 - (a) Within 30 days of the date of the invoice unless otherwise agreed in writing between the parties; and
 - (b) time for payment shall be of the essence of the Contract.

- 10.5 All amounts payable by the Buyer under the Contract are exclusive of amounts in respect of value 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 Buyer, the Buyer 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 Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 10.6 If the Buyer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier’s remedies under clause 12 (Termination), the Buyer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 10.6 will accrue each day at 8% a year above the base rate of Barclays Bank PLC.
- 10.7 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

11. WARRANTY

- 11.1 The Supplier will pass any guarantee or warranties as extended by the relevant manufacturer or in the case of Service by the Supplier to the Buyer providing the terms of the Contract have been met.
- 11.2 Where a 5 year enhanced warranty is offered, this is solely at the Supplier’s discretion and is subject to qualifying criteria. The equipment must be maintained by CBAC Services Ltd or a company nominated by the Supplier on our behalf. The equipment must be serviced/maintained at the manufacturers recommended intervals. The Contract must be fulfilled in full with no outstanding invoices or payments.
- 11.3 The Supplier and Buyer hereby represents, warrants and covenants to the other that:
- (a) the Supplier and Buyer have, and will continue to have throughout the term of the Contract, full right, title and authority to enter into this Contract and to accept and perform the obligations imposed on it under this Contract;
 - (b) the Buyer has obtained all necessary approvals, consents, authorisations and licenses from any third party in relation to the provision of the Services;
 - (c) the Buyer shall immediately notify the Supplier of any material alteration, termination or withdrawal of any permits, licenses, certifications, permissions, authorisations, consents, approvals and credentials obtained and required under the terms of this Contract;
 - (d) this Contract, when executed by the Buyer and Supplier, shall be its legal, valid and binding obligation enforceable in accordance with its terms’
 - (e) the execution, delivery and performance of this Contract by the Buyer or Supplier does not and shall not violate or cause a breach of any other agreements or obligations to which it is a part or by which it is bound, and the Buyer and Supplier shall obtain any approval or other action by any government authority or agency as is required in connection herewith;

- (f) both parties shall comply with their obligations under applicable anti-bribery legislation; and
- (g) the Buyer's or Supplier's breach of aforesaid representations, warranties or undertakings shall be deemed to be a material breach of this Contract and shall entitle the Buyer or Supplier to summarily terminate this Contract for cause.

12. TERMINATION

- 12.1 Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party not less than 3 months' written notice.
- 12.2 If the Contract should be terminated by the Buyer before the closing date, the Supplier shall be entitled to retain the full amount pre-paid for that year by the Buyer.
- 12.3 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 upon the occurrence of any one or more of the following:
 - (a) the other party commits a material breach, including failure to make payment when due, of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 10 calendar days following written notice of such default to the defaulting party;
 - (b) the appointment of a trustee, receiver or similar officer of any court for the other party or for a substantial part of the property of the other party, whether with or without its consent;
 - (c) the making by the other party of an assignment for the benefit of creditors;
 - (d) the institution of bankruptcy, composition, reorganisation, insolvency or liquidation proceedings by or against the other party without such proceedings being dismissed within 30 calendar days from the date of the institution thereof; or
 - (e) 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.
- 12.4 The parties agree that it is not intended that the commencement, continuation, expiry or termination of this Contract (in whole or in part) will give rise to a relevant transfer for the purposes of Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") and that TUPE shall not apply on the commencement, expiry or termination or during the continuation of this Contract (in whole or in part).
- 12.5 On termination of this Contract (however arising) the accrued rights and liabilities of the parties as at termination, and any provision of this Contract that expressly or by implication is intended to come into or continue in force on or after termination shall survive and continue in full force and effect.
- 12.6 If this clause applies then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to cancel any Contract made pursuant to these Terms

or suspend any further deliveries of the Goods without any liability on its part, and if the Goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement to the contrary.

13. DATA PROTECTION

- 13.1 Both parties will comply with all applicable requirements of the Data Protection Legislation.
- 13.2 The parties agree that where such processing of personal data takes place, the Buyer shall be the 'data controller' and the Supplier shall be the 'data processor' as defined in the Data Protection Legislation.
- 13.3 The Buyer will ensure that it has all the necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of the Contract.
- 13.4 The Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:
- (a) process that personal data only on the documented written instructions of the Buyer unless the Supplier is required by law to otherwise process that personal data'
 - (b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
 - (d) not transfer any personal data outside of the European Economic Area;
 - (e) assist the Buyer, at the Buyer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with the supervisory authorities or regulators;
 - (f) notify the Buyer without undue delay on becoming aware of a personal data breach;
 - (g) at the written direction of the Buyer, delete or return personal data and copies thereof to the Buyer on termination of the Contract unless required by law to store the personal data; and
 - (h) maintain complete and accurate records and information to demonstrate compliance with this clause and immediately inform the Buyer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

14. LIMITATION OF LIABILITY (THE BUYER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE)

14.1 The Supplier's total liability to the Buyer under this agreement is limited to the greater of £100,000 or the amount payable by Customer to Supplier for the relevant Order.

14.2 The restrictions of liability in this clause 14 apply to every liability arising under or in connection with this agreement including, but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

14.3 Nothing in this Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979.

14.4 The Supplier will not be liable (whether caused by the Supplier's employees, agents or otherwise) for:

- (a) any indirect, special or consequential loss, damage, costs, or expenses;
- (b) any loss of revenue, loss of profits, loss of anticipated profits, loss of business, loss of data, loss of reputation or goodwill, business interruption, or other third party claims;
- (c) any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control;
- (d) any losses caused directly or indirectly by any failure or breach by the Buyer in relation to their obligations; or
- (e) any loss relating to the choice of the Goods and how they will meet your purpose or the use by you of the Goods supplied.

14.5 This clause 14 shall survive termination of the Contract.

15. FORCE MAJEURE

15.1 Neither party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that party (a "**Force Majeure Event**"). Such causes include, but are not limited to: industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the reasonable control of the party in question.

16. ASSIGNMENT AND OTHER DEALINGS

16.1 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the contract.

16.2 The Buyer shall not assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the contract.

17. NOTICES

- 17.1 All notices under this Contract must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).
- 17.2 Notices will be deemed to have been duly given:
- (a) When delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient;
 - (b) When sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;
 - (c) On the fifth business day following mailing, if mailed by national ordinary mail; or
 - (d) On the tenth business day following mailing, is mailed by airmail.
- 17.3 All notices under these Terms must be addressed to the most recent address, email address or fax number notified to the other party.

18. WAIVER

- 18.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

19. SEVERANCE

- 19.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

20. NO PARTNERSHIP OR AGENCY

- 20.1 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.

21. ENTIRE AGREEMENT

- 21.1 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.

- 21.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

22. THIRD PARTIES RIGHTS

- 22.1 This Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

23. VARIATION

- 23.1 Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

24. GOVERNING LAW AND JURISDICTION

- 24.1 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.
- 24.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.