

**1. Definitions**

- 1.1 **'Delivery Date'** means the date specified by Trolex when the Goods or Services are to be delivered;
- 1.2 **'Goods'** means the articles that Trolex agrees to buy from the Supplier, as set out in the Purchase Order;
- 1.3 **'Invoice Address'** means Accounts Payable, Trolex Ltd, Newby Road, Hazel Grove, Stockport, Cheshire, SK7 5DY, UK.
- 1.4 **'Purchase Order'** means Trolex's Purchase Order for the Goods or Services;
- 1.5 **'Price'** means the price for the Goods or Services stated on the Purchase Order exclusive of VAT, but inclusive (if applicable) of any analogous sales tax, carriage, freight, postage, insurance and other costs;
- 1.6 **'Supplier'** means the person or organisation to whom a Purchase Order is sent by Trolex;
- 1.7 **'Services'** means all services and/or performance of works or professional services that Trolex agrees to buy from the Supplier, as set out in the Purchase Order.
- 1.8 **'Trolex'** means Trolex Ltd, Newby Road, Hazel Grove, Stockport, Cheshire, SK7 5DY, UK.
- 1.9 **'Terms and Conditions'** means these terms and conditions and any special terms and conditions agreed in writing by Trolex and set out in the Purchase Order;

**2. Terms and Conditions**

- 2.1 In the absence of a signed agreement between Trolex and the Supplier for the purchase of particular Goods and/or Services, these Terms and Conditions shall apply to all the purchase of such Goods and/or Services by Trolex 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.
- 2.2 In the event Supplier form(s) or part(s) of forms are included in, or as an attachment to, any bid, proposal, offer, acknowledgement or otherwise, Supplier agrees that, in the event of inconsistencies or contradictions, the terms and conditions of the solicitation document and these Terms and Conditions shall supersede and control over those contained in the Supplier's form(s) regardless of any statement to the contrary in a Supplier form(s). Unless Trolex specifically agrees in writing through overt reference or other express written indication of assent, terms and conditions on Supplier forms regarding choice of law, venue, warranty disclaimer or exclusion, indemnification or limitation of liability shall be of no effect.
- 2.3 Despatch or delivery of the Goods or Services by the Supplier to Trolex shall be deemed conclusive evidence of the Supplier's acceptance of these Terms and Conditions.
- 2.4 Any variation to these Terms and Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by Trolex. The Purchase Order, these Terms and Conditions and any special terms and conditions shall form the entire agreement Trolex and the Supplier in relation to the purchase of the Goods and/or Services.

**3. Price and Payment**

- 3.1 Unless otherwise agreed, the Price is:
- 3.1.1 that stated in the Purchase Order;
  - 3.1.2 exclusive of UK VAT;
  - 3.1.3 inclusive of any other taxes payable;
  - 3.1.4 inclusive of cost of delivery to the delivery address specified by Trolex and of standard packaging suitable for the means of delivery and any customs or import/export duties;
  - 3.1.5 fixed; and
  - 3.1.6 in the currency agreed between Trolex and the Supplier, and if no currency has been agreed, in GB Pound Sterling.
- 3.2 A valid VAT invoice in respect of the Price shall be produced to Trolex by the Supplier. Unless otherwise agreed in writing by Trolex, the invoice may only be submitted and dated after completed delivery of the relevant Goods or completed performance of the relevant Services. The invoice shall not be valid unless it states the Invoice Address, the Trolex Purchase Order number (a six digit number beginning with POR), the Supplier's VAT number, the net amount due, and the Supplier's full banking details (including account number, sort code and, where applicable, SWIFT code).
- 3.3 Trolex shall pay the Price within 45 days from the end of the month of receipt of the invoice unless otherwise stated in writing by Trolex at the time of order placement.
- 3.4 The Supplier shall not be entitled to vary the Price without the prior written consent of Trolex.

**4. Warranty**

- 4.1 Unless otherwise agreed, the Supplier warrants to Trolex and it is a condition of the agreement between the Supplier and Trolex that the Goods themselves shall and the sale/performance of the Goods and Services shall:
- 4.1.1 comply with any specification and any drawings, descriptions or samples supplied prior to the Purchase Order and any requirements made by Trolex;
  - 4.1.2 be of satisfactory quality, safe and fit for their purpose and any Services shall be supplied with due care and skill;
  - 4.1.3 comply with all laws and industry standards applicable to the nature of the Goods and Services supplied.
- 4.2 Without prejudice to clause 4.1 and any other rights of Trolex, the Supplier warrants that the Goods and Services shall continue to comply with clauses 4.1.1 and 4.1.2 until (i) 12 (twelve) months from the date of completed delivery of the Goods and Services or (ii) 12 (twelve) months after they are put into use (whichever is the sooner) and if they do not so comply, the Supplier shall, at its cost, within 14 days remedy the defect in the Goods and/or Services or replace the Goods.
- 4.3 Trolex may without prejudice to its other remedies, within 3 (three) months of completed delivery at the Supplier's cost (including freight) reject, in whole or in part, Goods which do not comply with these Terms and Conditions. Trolex shall not be deemed to have accepted the Goods on receipt. The signature of a Trolex representative on delivery is only evidence of the number of packages and/or Services received and not that they comply with these Terms and Conditions.
- 4.4 Where the Goods are repaired or replaced in terms of clause 4.2 the Supplier warrants those repaired or replaced Goods for a further period of 12 (twelve) months from the date of repair or replacement.

## 5. Delivery of Goods and/or Performance of Services

- 5.1 Delivery of the Goods and/or Services shall be made to Trolex's address on the date specified in the Purchase Order during normal business hours, unless previously arranged otherwise. Time shall be of the essence in this respect and Trolex is entitled to cancel, without notice, the whole or any part of the Purchase Order if this Clause is not complied with by the Supplier.
- 5.2 The Services (if applicable) shall be performed in a professional manner to the satisfaction of Trolex. If any part of the Service is found to be inadequate or in any way differing from the Contract, other than as a result of default or negligence on the part of Trolex, the Supplier shall at its own expense reschedule and perform the work correctly within such reasonable time as may be specified.
- 5.3 Where the Service refers to design of product, software or any related component, then it is an implicit condition that the price paid shall include:
- 5.3.1 Prototypes;
  - 5.3.2 Final working pre-production products;
  - 5.3.3 All drawings, software code listings;
  - 5.3.4 Production packages;
  - 5.3.5 Manufacturing and testing specifications;
  - 5.3.6 Tools, jigs and all test equipment.
- 5.4 Where applicable, the Supplier grants to Trolex and its associated companies the right to use any product certification and approvals, both in the UK and worldwide and included in the price at 3.1.
- 5.5 Where Trolex cancels the whole or part of the Purchase Order in accordance with 5.1:
- 5.5.1 all sums payable by Trolex in relation to the whole or part of the Purchase Order cancelled shall cease to become payable;
  - 5.5.2 all sums paid by Trolex in relation to the whole or part of the Purchase Order cancelled shall be repaid by the Supplier; Trolex shall, if applicable, have the right of set-off in part or whole; Failure to make payment within 7 days of such a request by Trolex on the Supplier shall result in interest being applied to any outstanding balance at Natwest base rate, plus 4% until cleared funds are received;
  - 5.5.3 Trolex shall be entitled to recover damages from the Supplier for any loss caused to Trolex where Trolex cancels the whole or part of the Purchase Order in accordance with clause 5.1.
- 5.6 Without prejudice to its other rights, Trolex may cancel a Purchase Order in whole or part (i) immediately if there is a material breach of these Terms and Conditions (these shall include any breach of clause 4) (and if the breach is remediable if it is not remedied within 14 days of Trolex sending notice to the Supplier) or if the Supplier becomes bankrupt and (ii) on 1 (one) months notice at any time prior to complete delivery of the Goods and Services.
- 5.7 The Supplier shall not without Trolex's written consent subcontract the supply of Goods and/or performance of the Services under these Terms and Conditions.

## 6. Trolex's Remedies

- 6.1 Trolex shall inspect the Goods and/or Services upon delivery in accordance with this clause 6.
- 6.2 Where Goods and/or Services are damaged Trolex shall notify the Supplier. Trolex may reject the damaged Goods and/or Services and the following provisions shall apply:
- 6.2.1 the Supplier shall collect the damaged Goods from Trolex at the Suppliers expense;
  - 6.2.2 during the period between delivery of the Goods and collection by the Supplier, Trolex shall not be liable for any loss or further damage caused to the damaged Goods;
  - 6.2.3 all sums payable by Trolex in relation to the damaged Goods and/or Services shall cease to become payable;

- 6.2.4 all sums paid by Trolex in relation to the damaged Goods and/or Services shall be repaid by the Supplier. Right of set-off is in part or whole applicable, including interest as defined in 5.5.2.
- 6.2.5 Trolex shall be entitled to claim damages from the Supplier for any losses caused to Trolex as a result of the Goods and/or Services being damaged.
- 6.3 Where there are shortages in the Purchase Order Trolex shall notify the Supplier and the following provisions shall apply:
  - 6.3.1 all sums payable by Trolex in relation to the missing Goods shall cease to become payable;
  - 6.3.2 all sums paid by Trolex in relation to the missing Goods shall be repaid by the Supplier immediately;
  - 6.3.3 Trolex shall be entitled to claim damages from the Supplier for any losses caused to Trolex as a result of the shortages.
- 6.4 If Trolex so requests, the Supplier shall immediately replace damaged Goods and/or Services which are missing at the Supplier's expense and/or Trolex shall be entitled to cancel, without notice, the whole or any unexecuted part of the Purchase Order and the rights referred to in Clause 6.2 shall apply.
- 6.5 Where there is an excess of Goods in relation to the Purchase Order, Trolex may reject the excess Goods by notice in writing to the Supplier and the following provisions shall apply:
  - 6.5.1 the Supplier shall collect the excess Goods from Trolex at the Supplier's expense;
  - 6.5.2 during the period between delivery of the Goods and collection by the Supplier, Trolex shall not be liable for any loss or damage caused to the excess Goods;
  - 6.5.3 no sum shall be due to the Supplier for the excess Goods and in the event that sums are paid to the Supplier for the excess Goods, the Supplier shall repay such sums to Trolex immediately. Clause 5.5.2 applies in case of late repayment.
- 6.6 Trolex may accept excess Goods by notifying the Supplier of such acceptance and the price of the excess Goods shall be payable by Trolex in accordance with Clause 3.
- 6.7 The Supplier shall repair or replace free of charge, Goods damaged or lost in transit upon receiving notice to that effect from Trolex.

## 7. Title and Risk

- 7.1 The title and risk in the Goods and/or Services shall remain with the Supplier until they are delivered at the point specified by Trolex in the Purchase Order or any other relevant document and transferred to Trolex's possession, at which time title and risk in the Goods and/or Services shall transfer to Trolex.

## 8. Indemnity

- 8.1 The Supplier shall fully indemnify Trolex and keep Trolex fully indemnified for any claims, demands, cause of action, damage, loss, consequential loss, costs, expenses (including legal expenses) made against or suffered by Trolex arising out of loss or damage to any Trolex property, negligence or a breach by the Supplier of any of the Terms and Conditions set out here.

## 9. Intellectual Property Rights

- 9.1 All patents, copyright, design rights and other intellectual property rights ('IPR') in any materials prepared or supplied by Trolex to the Supplier shall remain the property of Trolex.
- 9.2 All IPR in materials prepared, products designed or developed by the Supplier in connection with the provision of Services, shall vest in Trolex, unless specifically agreed otherwise in writing between Trolex and the Supplier.
- 9.3 The Supplier shall disclose to Trolex all inventions which the Supplier or its staff may make in performing the Services and which are wholly or substantially based on concepts or data developed or supplied by Trolex. All IPR to such inventions shall vest in Trolex.
- 9.4 The Supplier shall execute all documents and perform such acts as may be reasonably necessary to enable Trolex to obtain and/or maintain its IPR.
- 9.5 In respect of IPR vested in a third party, the Supplier shall obtain from such third party (at no cost to Trolex) such permission, waiver or licence as may be necessary for the performance of the Services and/or for the data to be used, copied or modified by Trolex or by any third party authorised by the Supplier.
- 9.6 The Supplier waives, and shall procure from any third party the waiver of, the exercise against Trolex of all moral rights in materials that are or become vested in the Supplier and/or any third party.

## 10. Software

- 10.1 Unless otherwise agreed, where the Goods or Services include the supply of software, then:
- 10.2 if the Software is bespoke or has been specially commissioned by and developed for Trolex, then the Supplier hereby assigns all intellectual property rights (and waives all moral rights) in such Software and related documentation to Trolex and the Supplier shall request without further payment sign or execute further documentation to formalise or perfect the assignment.
- 10.3 pending any necessary formalisation of the assignment and in any other case than under clause 10.2, the Supplier hereby grants to Trolex and Trolex's affiliates exclusive, irrevocable, perpetual, worldwide licence to use the software for all reasonable purposes.
- 10.4 the Supplier shall supply Trolex with all necessary manuals and with one copy in machine-readable object code of the software and each new release of the software which modified or enhances the software and in the case of software under clause 10.2 it shall on Trolex's request supply the source code.
- 10.5 without prejudice to clause 4, all hardware and software shall be capable of full use for their intended purpose and of maintenance and amendment by a software engineer external to the Supplier and reasonably qualified in the relevant sector without external costs to Trolex and without recourse to any additional codes or materials other than those supplied as part of the Goods or Services.

## 11. Severance

- 11.1 If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

## 12. Confidentiality

- 12.1 Supplier shall keep all work and services carried out hereunder for Trolex entirely confidential and not use, publish or make known without Trolex's written approval, any information developed by the Supplier or furnished by Trolex to any persons other than personnel of the parties to these Terms and Conditions. Any public representation regarding Trolex shall be made by Trolex and any requests for information made to the Supplier by the news media, or others, shall be referred to Trolex. Additionally, the Supplier shall not reference Trolex nor the work performed for Trolex without prior written approval. Information Supplier considers as proprietary or confidential and has indicated/marked as proprietary or confidential will be treated by Trolex in the same manner as Trolex treats its own proprietary or confidential information. Supplier further agrees to place under a confidentiality obligation, any subcontracts and/or consults the Supplier enters into agreements with for the performance of work under these Terms and Conditions. Such confidentiality obligations shall be on terms no less stringent than the Supplier's confidentiality obligations under this clause 12.1.
- 12.2 "Confidential Information" shall mean all information that is disclosed in written, oral, electronic, visual or other form by either party (each, as a "Disclosing Party") to the other party (each, as a "Receiving Party"). Confidential Information may include, without limitation, computer programs, software or hardware products, product development plans, code, documentation, algorithms, know-how, trade secrets, formulas, processes, procedures, ideas, research, inventions (whether patentable or not), copyrights, schematics and other technical, business, financial and marketing information, forecasts, strategies, names and expertise of employees and consultants and customer or partner information.
- 12.3 Under no circumstances shall the Supplier make contact, either in person, verbally, in writing or by electronic means, with any person or persons, individual or corporate to whom Trolex is a supplier, directly or indirectly.
- 12.4 The Supplier's obligations regarding use and disclosure of any confidential information belonging to Trolex hereunder shall continue indefinitely. For the avoidance of any doubt, in the event that pursuant to legislation or court order this provision cannot be upheld due to the indefinite duration of the confidentiality obligation, this provision shall be construed so as to have imposed the confidentiality obligation for a period of 5 years after the expiry or termination of the contractual relationship between the parties hereunder, or where such 5-year period exceeds the legally stipulated permissible maximum period, such other permissible maximum period.
- 12.5 Confidential Information shall not include Confidential Information that the Receiving Party can demonstrate: (i) is from and after the date of disclosure or becomes a matter of public knowledge through no fault of the Receiving Party; or (ii) was rightfully in the Receiving Party's possession prior to receipt from the Disclosing Party free of any obligation of confidence; or (iii) was rightfully disclosed to the Receiving Party by another person without restriction as to use or disclosure; or (iv) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.

## 13. Cancellation

- 13.1 Without prejudice to its other rights Trolex may cancel a Purchase Order in whole or in part (i) immediately if there is a material breach of these Terms and Conditions (this shall include any breach of clause 4) (and if the breach is remediable, if it is not remedied within 14 days of Trolex sending notice of it to the Supplier) or if the Supplier is in financial difficulties and (ii) at any time prior to the completed delivery of the Goods or performance of the Services in accordance with these Terms and Conditions on 1 months notice. Terminating the Purchase Order shall not affect those Terms and Conditions which are capable of subsisting.

**14. Assignment**

- 14.1 The Supplier may not assign or otherwise transfer its right or obligations under these Terms and Conditions without Trolex's prior written consent.

**15. Notices**

- 15.1 Unless otherwise agreed, notices to Trolex shall be addressed to Trolex Ltd, Newby Road, Hazel Grove, Stockport, Cheshire, SK7 5DY, UK and to the Supplier at its address as given on invoices, the Purchase Order or other official document.

**16. Governing Law & Jurisdiction**

- 16.1 These Terms and Conditions shall be governed by and construed in accordance with the Law of England and Wales and the parties hereby submit to the non-exclusive jurisdiction of the Courts of England and Wales.