

## **1. DEFINITIONS AND INTERPRETATION**

- 1.1 “Purchaser” means the company whose details are set out on the purchase order.
- 1.2 “Contract” means the purchase order, any special conditions set out in it, the Purchaser’s Specification and general conditions of purchase available at <https://www.getlinkgroup.com/uk/home/> - on the suppliers’ page.
- 1.3 “Intellectual Property Rights” means any trademark, copyright or patent or any other intellectual property right attached to the Deliverables and all components of the Deliverables, made in connection with this Contract.
- 1.4 “Supplier” means the person or organisation whose details are set out on the purchase order.
- 1.5 “Confidential Information” means this Contract and any documents generated under it such as the Specification, plans, drawings or designs, any technical or commercial know-how, specifications, inventions, processes or initiatives, any financial or commercial information or information relating to safety or security or any other information concerning a party’s business, products or services, staff, whatever their nature, form and medium, with the exception of documents the parties have agreed to disclose to third parties.
- 1.6 “Deliverables” means any good and/or service to be provided by the Supplier to the Purchaser in connection with the Contract.
- 1.7 “Results” means all goods, services, end products, Deliverables, processes, products, inventions, materials, samples, studies, processes, prototypes, software, their source code and documentation, IT developments, specifications, databases, drawings, plans, brochures, logos, whatever their nature, form and medium, made in connection with this Contract.
- 1.8 “Specification” means the Purchaser’s specification for the Deliverables.
- 1.9 In the event of any conflict between any provisions of the purchase order and these general conditions then the purchase order shall prevail.

## **2. FORMATION OF CONTRACT**

- 2.1 The Contract is between the Purchaser and the Supplier.
- 2.2 The Contract is made for the supply of Deliverables as defined in the purchase order, in compliance with the requirements set out in the Contract.
- 2.3 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.
- 2.4 The Supplier shall return the attached “acknowledgement of purchase order” to the Purchaser within 7 days of receipt, duly dated and signed by the Supplier and endorsed with the word “agreed”. The Supplier retains a copy of the Contract. The Supplier shall download and retain a copy of the Purchaser’s general conditions of purchase available at <https://www.getlinkgroup.com/uk/home/> - on the suppliers’ page.
- 2.5 The Contract will be effective and enforceable between the parties from the earlier of: (a) the date of receipt by the Purchaser of the signed, dated and endorsed acknowledgement of purchase order; (b) the date on which the Supplier starts to perform its contractual obligations.
- 2.6 If the Supplier fails to sign the acknowledgement of purchase order but subsequently delivers the Deliverables (in whole or in part) then such delivery and/or performance shall be deemed to constitute knowledge and acceptance of this Contract.

## **3. ASSIGNMENT OF CONTRACT AND SUB-CONTRACTING**

- 3.1 The Supplier shall not assign or sub-contract any rights or obligations under this Contract without the prior written consent of the Purchaser.
- 3.2 Subcontractors and their terms of payment must be approved in writing by the Purchaser prior to subcontracting.
- 3.3 The Supplier is solely responsible to the Purchaser for the entire delivery of Deliverables under this Contract. The Purchaser shall not be responsible or liable for any commitments of whatsoever kind that the Supplier might have entered into with any third party, even if that party has a contractual relationship with the Purchaser.
- 3.4 The Supplier shall indemnify the Purchaser against any claim brought in this respect.

## **4. AMENDMENTS TO THE CONTRACT**

- 4.1 Any variation to the Contract shall be made in writing and signed by the parties.
- 4.2 Neither the Purchaser nor the Supplier may rely on any oral stipulation and only the Contract shall be binding on the parties. For the avoidance of doubt no payment shall be made by the Purchaser for any Deliverables delivered by the Supplier in breach of this Contract and any goods so delivered shall be collected by the Supplier at its own expense.
- 4.3 The Supplier undertakes not to amend the Specification of Deliverables without the prior

written consent of the Purchaser.

- 4.4 The Purchaser may vary the Specification by notifying the Supplier of its proposed variation in writing.
- 4.5 The Supplier shall, within 7 days of receipt of the written request, either (a) advise the Purchaser of the impact of the proposed variation on delivery times and price, (b) propose an alternative solution or (c) inform the Purchaser that it cannot perform the variation.
- 4.6 The Purchaser shall inform the Supplier within a reasonable time of its decision either: (a) to proceed with the variation in which case the parties will sign a Contract variation; or (b) to reject the alternative solution in which case the parties will continue to perform the Contract in accordance with its terms and conditions; or (c) to terminate the Contract, on reasonable notice and payment to the Supplier of the price of the Deliverables actually performed at the date of termination.

## **5. AUDIT**

- 5.1 The Supplier shall provide Deliverables in accordance with the Purchaser’s requirements, standard and quality levels to be reasonably expected of a supplier experienced and expert in the area of performance of the Contract.
- 5.2 The Purchaser shall be entitled to audit the Supplier at any time on reasonable notice. The Supplier shall supply on demand such proof as the Purchaser may reasonably require that the standard and quality of Deliverables provided/to be provided conform with this clause 5. If following such audit, the Purchaser considers that the Deliverables do not conform or are unlikely to conform with this clause 5, the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 5.3 The quality of the services provided by the Purchaser to its customers shall not be affected by the level of quality of the Deliverables provided by the Supplier.

## **6. DELIVERY TIME**

- 6.1 The delivery time stipulated on the purchase order (“Delivery Time”) is a fundamental term of the Contract without which the Purchaser would have not entered into this Contract with the Supplier.
- 6.2 Failure by the Supplier to deliver the Deliverables at the Delivery Time shall constitute a material breach of this Contract which entitles the Purchaser to reject the Deliverables delivered late and at its sole discretion terminate the Contract immediately without notice. The Supplier shall not be entitled to recover any loss, expense or damages of any kind arising from the termination and shall indemnify the Purchaser against any loss or damage the Purchaser may incur resulting from the breach and the termination without prejudice to any other right or remedy available to it.
- 6.3 Without prejudice to clause 6.2, the parties agree that in the event that the Supplier fails to meet the Delivery Time the Purchaser is entitled to apply delay damages if provided in the special conditions.

## **7. DELIVERY, ACCEPTANCE, TRANSFER OF RISK AND TITLE**

### **Delivery**

- 7.1 The Supplier shall bear all risks associated with transport operations including loading, transport and unloading.
- 7.2 Goods shall be delivered to the address shown on the purchase order during normal business hours.
- 7.3 If the Deliverables are delivered in instalments, then the Contract shall be treated as a single contract and not severable.
- 7.4 On delivery of goods the Supplier shall provide to the Purchaser two copies of the delivery note. All delivery notes must contain the purchase order number and full details of the goods delivered. Delivery notes must be dated and signed by the Purchaser and the Supplier (or its nominated carrier) who shall issue one signed copy to the Supplier.
- 7.5 Any goods delivered in excess of the quantities ordered shall be returned to the Supplier at the Supplier’s expense.
- 7.6 The Supplier shall take full responsibility for the care of any goods from the date the Contract becomes effective and enforceable (as determined by clause 2.5) until the date of their final acceptance (as determined by clause 7.8). If the goods delivered are damaged or do not comply with the Contract, the Supplier shall bear the cost of repair or replacement.

### **Acceptance**

- 7.7 Provisional acceptance shall occur on signature of the delivery note(s). The Purchaser reserves the right to reject the Deliverables and (a) not pay for them (b) deduct the cost of repair or replacement, from any sums due to the Supplier or (c) recover such costs as a debt due, if it appears to the Purchaser (acting reasonably), after a thorough examination of the goods delivered, that they are not in conformity with the Contract.
- 7.8 Final acceptance shall occur (a) if the Purchaser has (within 15 days of delivery) notified the Supplier of any defects in the goods, at the date of complete rectification by the Supplier of all

such defects or (b) if no defect has been notified to the Supplier, fifteen days after delivery.

7.9 If the Deliverables fail to comply with the Specification or are in any way unfit for their intended purpose then, without prejudice to any of the Purchaser’s rights (including its right to reject the same), the Supplier shall, at its sole responsibility and expense, take all necessary steps to render the Deliverables compliant or shall replace them with Deliverables that comply with the Contract’s requirements.

7.10 Payment by the Purchaser does not imply final acceptance of the Deliverables.

### **Transfer of risk and title**

- 7.11 Risk in the goods shall transfer to the Purchaser on final acceptance of the goods.
- 7.12 Title in the goods, free from liens and other encumbrances, shall transfer to the Purchaser from the earlier of: (a) at the time of delivery to the Purchaser’s site; (b) if payable in instalments, at the time the payment for that instalment is made according to the time for payment agreed between the parties. All goods shall be clearly and immediately marked as the property of the Purchaser.
- 7.13 The passing of title shall not constitute acceptance of the goods or any part of them.
- 7.14 The Supplier expressly waives the application of any retention of title or other clause, in any document (including a delivery note or invoice), with the object or effect of delaying the transfer of ownership to the Purchaser at a time other than as provided in clause 7.12.

## **8. INTELLECTUAL PROPERTY**

### **8.1 Creations made under this Contract**

- 8.1.1 The parties have agreed that the Purchaser shall have full, exclusive, and final ownership of all Intellectual Property Rights in the Results.
- 8.1.2 The Purchaser shall be entitled to register and file any intellectual property title in its name in any registry it decides.
- 8.1.3 When the Results are protected in whole or part by copyright, the rights transferred shall include the right to directly or indirectly make any use of and exploit the Results, for any reason whatsoever, including the right to (a) reproduce or manufacture the Results or have them reproduced or manufactured, without in either case limiting the number of reproductions; (b) to present the Results or have them presented, by any means of advertising through any communications network, without any limitation on the number of presentations; (c) to disseminate the Results to any third party for any reason including as part of calls for tenders; (d) to modify or develop the Results in whole or in part, (e) to have the Results translated into any language; (f) to sell, lease or hire the Results for payment or free of charge.
- 8.1.4 The Supplier shall not use all or any part of the Results for profit or transfer them to any third party.

### **8.2 Pre-existing creations**

The Supplier grants to the Purchaser a licence to use, on a non-exclusive basis, all components to which are attached Intellectual Property Rights pre-existing at the commencement of this Contract and belonging to the Supplier, which are necessary for the implementation and performance of this Contract, and to enable the Purchaser to enjoy the full benefit of it (including for the purposes set out in clause 8.1.3).

### **8.3 Provisions common to clauses 8.1 and 8.2**

- 8.3.1 The licensing or transfer of Intellectual Property Rights under this clause 8 is granted for the benefit of the Purchaser’s business, by any process whatsoever, known or unknown, by all communications networks, current and future, and on any media, in any format without limitation as to the number. The Supplier grants this licence or transfer of Intellectual Property Rights to the Purchaser to apply worldwide and for the lifetime of the Deliverables or the entire legal duration of protection of intellectual property rights, whichever is longer.
- 8.3.2 The Intellectual Property Rights being the subject matter of this clause 8 shall be licensed or transferred by the Supplier to the Purchaser automatically on creation of such rights.
- 8.3.3 The cost of any licence or transfer of Intellectual Property Rights is included in the payment due to the Supplier.
- 8.3.4 The Supplier warrants that it holds all the Intellectual Property Rights necessary to comply with this clause 8 and warrants peaceful enjoyment of these rights.
- 8.3.5 If the transferred or licensed elements incorporate third-party rights, the Supplier shall be responsible for the acquisition of such rights or of any other authorisation necessary for the peaceful exploitation of the Results by the Purchaser, in compliance with this clause 8.
- 8.3.6 Consequently, the Supplier warrants and holds the Purchaser harmless against any infringement of the transferred or licensed Intellectual Property Rights, without prejudice to any loss or damage the Purchaser may be entitled to claim from the Supplier.
- 8.3.7 In the event that the Purchaser is prevented from using the Results, the Supplier shall, at its sole expense, either (a) obtain the right for the Purchaser to continue to use Results or (b) replace promptly the disputed Result with an equivalent, ensuring the replacement does not affect the functionality or performance of the Results.

8.3.8 The Supplier shall promptly inform the Purchaser of any claim for infringement of transferred or licensed Intellectual Property Rights. The Supplier shall be solely responsible for resolving any such claim and ensuring that the Purchaser's activities are not restricted or disrupted. The Supplier shall indemnify the Purchaser against any liability, costs, loss, damages or expense incurred by the Purchaser or claimed from the Purchaser in connection with such claim.

8.3.9 Neither party shall use the other party's trademark, sign, name, logo or any other device, slogan or mascot, whether registered or unregistered, without the prior written agreement of the other party.

#### **9. DANGEROUS MATERIALS AND PRODUCTS**

9.1 If the Contract involves the supply of dangerous materials or products (including those that may be hazardous, toxic or harmful to life or property), the Supplier shall, prior to delivery, provide the Purchaser in writing with all relevant safety instructions for the handling, storage and use of such materials and/or products.

9.2 Instructions shall be in French and English and clearly displayed on the packaging of the materials or products.

9.3 The Supplier shall be liable for any loss or damage suffered by the Purchaser, its servants or agents, third parties, or to individuals and property, caused by dangerous materials or products or their handling, which does not comply with this clause 9.

#### **10. INVOICING AND PAYMENT**

10.1 Invoices must be sent to the Purchaser via the ESKER platform or the ESKER website within 30 days of delivery of the Deliverables. The Purchaser will provide the Supplier with login details for submission of invoices via ESKER. The payment of invoices may be delayed if invoices are not submitted via ESKER. The Purchaser has no liability to the Supplier for, and the Supplier fully indemnifies the Purchaser against, any loss suffered by the Supplier arising from the incorrect submission of invoices.

10.2 Invoices must contain the purchase order number, the type and quantity of goods supplied or the description, nature and duration of the service performed. Any discount, taxes or duties must be shown separately on the invoice.

10.3 Any error or omission in invoicing by the Supplier may lead to the date for payment being extended. Under no circumstances shall the Purchaser be liable for any costs, loss, damage or expense suffered by the Supplier for such error or omission.

10.4 Provided the Supplier has discharged its contractual obligations in compliance with the Contract, undisputed invoices will be paid within 30 days of the date of invoice.

10.5 For the avoidance of doubt no payment shall be made by the Purchaser for any Deliverables delivered by the Supplier which is not in accordance with this Contract.

10.6 In the case of late payment, the Supplier shall be entitled to be paid a recovery cost fixed at €40/40€ minimum. Interest on any late payments shall accrue at 2% above base rate of HSBC Bank plc.

10.7 The Purchaser shall be entitled to set off against the Supplier's invoice any or all sums due to the Purchaser by the Supplier.

#### **11. WARRANTIES**

11.1 The Supplier warrants and represents: The Deliverables supplied under this Contract shall: (a) conform to the Specification; (b) be of satisfactory quality; (c) fit for the Purchaser's purpose; (d) be free from defects in design, material and workmanship; (e) remain free from defects for 12 months after final acceptance, provided such Deliverables have been used in accordance with the Supplier's instructions or, without instructions, under normal conditions of use; (f) comply with all applicable statutory and regulatory requirements, (g) be performed in a timely manner; and (h) performed by properly qualified personnel.

11.2 The warranties cover the Deliverables and the consequences of the Purchaser being deprived of the use or enjoyment of such Deliverables for the time required to remedy any defects.

11.3 Any Deliverables repaired or replaced shall be warranted for further 12 months.

11.4 The Purchaser's rights under this clause 11 shall be without prejudice to its other rights under this Contract or any other remedies available to it at law.

#### **12. LIABILITY, INDEMNITY AND INSURANCE**

12.1 The Supplier shall be liable for and fully indemnifies the Purchaser against any loss or damage caused by the Supplier's negligence or breach of the Contract (including but not limited to 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 Purchaser.

12.2 If provided as special conditions, the Supplier shall be liable for liquidated damages.

12.3 The Supplier must take out and maintain, throughout the duration of this Contract, insurance with a reputable insurer sufficient to cover its liabilities under this Contract including as appropriate Employers Liability, Professional Indemnity, Product Liability and Public Liability

insurance cover. The Supplier's insurance must cover any loss or damage suffered by the Purchaser, its servants or agents and any third parties, individuals and its properties, arising from the Supplier's total or partial non-performance, breach of the Contract, or fault or negligence of the Supplier and/or its servants or agents.

12.4 The Supplier shall provide the Purchaser with a copy of its certificate of insurance or a broker's letter confirming that the insurance is in place and effective.

12.5 Failure by the Supplier to take out and maintain insurance as required by this clause shall constitute grounds for the immediate termination of this Contract without compensation to the Supplier, and without prejudice to the Purchaser's right to claim compensation for any loss or damage.

#### **13. CONFIDENTIALITY**

13.1 The parties shall ensure that they (and their servants and agents and subcontractors) shall keep confidential any Confidential Information. The parties shall restrict the disclosure of Confidential Information only to those who need to know it.

13.2 A party shall be entitled to disclose Confidential Information if required by law, any governmental or regulatory authority or by a court of competent jurisdiction.

13.3 In any other case, a party intending to disclose Confidential Information shall only do so after receiving the other party's written agreement to the disclosure.

13.4 Any breach of this clause shall constitute grounds for the immediate termination of the Contract.

#### **14. TERMINATION AND END OF CONTRACT**

14.1 In addition to the rights of termination laid down by law and in this Contract, if one of the parties breaches any of its obligations under this Contract the other party may terminate the Contract on the grounds of the party's default, after giving reasonable time for the breach to be remedied.

14.2 The Purchaser shall be entitled to terminate this Contract by written notice if the Supplier ceases or threatens to cease to carry on its business, enters liquidation, becomes insolvent, makes a voluntary arrangement with its creditors or becomes subject to an administration order.

14.3 The Contract may be terminated at any time by either party subject to the following conditions: (a) by giving the other party a reasonable notice; and (b) by prior agreement between the parties on the exit price. The Supplier undertakes to perform the Contract until the effective date of termination.

14.4 Following termination the Supplier shall immediately: (a) return to the Purchaser all property of the Purchaser including, without limitation, Confidential Information, all documents, passes, permits and records or other documents supplied by the Purchaser; (b) credit to the Purchaser the value of any advance payments or payments on account made by the Purchaser; (c) formalise the transfer or licence of any Intellectual Property Rights.

14.5 Notice of termination shall be given by registered letter with an acknowledgment of receipt. Termination will take effect from the date of termination specified in the notice or if termination is immediate on the second business day after posting (where business day means other than a Saturday, Sunday or public holiday when banks in London are open for business).

14.6 Survival: the provisions of this Contract relating to warranties, liability, indemnity, insurance, intellectual property and confidentiality shall survive termination and shall continue to apply after the date on which this Contract ends.

#### **15. SECURITY, SAFETY AND HEALTH**

15.1 The Supplier expressly undertakes that its employees, agents, subcontractors and any person working on its behalf shall abide by and comply with all security and health and safety rules applicable to the Purchaser's sites and activities set out in all applicable laws and legislation, bylaws, rules, regulations and procedures. The Supplier must familiarise itself with all such rules prior to commencing performance of the Contract.

15.2 Any failure to comply with clause 15.1 shall entitle the Purchaser to eject the Supplier or any individual from the Purchaser's sites and prohibit access to the sites, and, in the event of a serious breach which is (in the reasonable opinion of the Purchaser) incapable of remedy, terminate the Contract.

#### **16. ILLEGAL WORKING**

16.1 If the Contract is performed in France the Supplier must comply with French law requirements relating to illegal working by completing the required documentation available at <https://www.getlinkgroup.com/uk/home/> - on the suppliers' page.

16.1.1 The Supplier must submit these documents via <https://declarants.e-attestations.com/EAttestationsFO/fo/E-Attestations.html> which is mandated by the Purchaser, prior to the formation of the Contract, and every six months, or before if the document has a

validity date, until the Contract ends, and each time a change of organisation leads to a modification of the aforementioned documents.

16.1.2 The Purchaser shall be entitled to terminate the Contract immediately, without compensation to the Supplier, and without prejudice to the Purchaser's right to claim compensation for any loss or damage, if:

(a) the Supplier fails to complete and return the required documentation on time or returns incomplete or incorrect documentation;

(b) the Supplier's subcontractors fail to comply with the law and legislation relating to illegal working.

16.2 If the Contract is performed outside France the Supplier undertakes to comply with the legislation relating to illegal working applicable in that country and ensure its subcontractors undertake to do the same. Any failure to do so shall constitute grounds for the immediate termination of the Contract by the Purchaser, without compensation to the Supplier and without prejudice to the Purchaser's rights to claim compensation for any loss or damage.

#### **17. DATA PROTECTION**

The Purchaser processes personal data of the Supplier, its servants and subcontractors for the management of its business and its suppliers and to ensure compliance with its legal obligations (including illegal working). The Purchaser retains personal data in compliance with the applicable legislation (the French law, 'Loi Informatique et Libertés' dated 6 January 1978, the UK Data Protection Act 2018 and any other legislation or regulation relating to data protection, including those set out by the European Union). The personal data collected can only be disclosed to third parties for the purposes defined above. Data subjects have the right to access, modify, and request deletion of their personal data by writing to [dpo@getlinkgroup.com](mailto:dpo@getlinkgroup.com).

#### **18. NO WAIVER**

No waiver by the Purchaser of any breach of this Contract by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision.

#### **19. ANTI-BRIBERY AND CORRUPTION**

19.1 The Supplier undertakes to comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and corruption including French law n°2016-1691 dated 9 December 2016 ('Loi Sapin 2') and the UK Bribery Act 2010.

19.2 The Supplier undertakes to comply with the fundamental principles of Getlink Charter of Ethics and Behaviour and to maintain equivalent principles within its organisation. The charter is updated from time to time and is available upon request or at <https://www.getlinkgroup.com/uk/home/> - on suppliers' page.

#### **20. THIRD PARTY RIGHTS**

No one other than a party to the Contract shall have any right to enforce any of its terms.

#### **21. 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 if such delay or failure results from an event considered as force majeure under English law. If the period of delay or non-performance continues for 4 weeks, the other party may terminate the Contract by giving 7 days written notice.

#### **22. GOVERNING LAW AND JURISDICTION**

22.1 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.

22.2 In the event of a dispute or difference, the parties agree to use reasonable endeavours to resolve the matter amicably, including by reference to the parties' managing directors.

22.3 In the event the parties are not able to resolve the matter amicably, the parties will refer the matter to mediation at the following address: [mediateur@getlinkgroup.com](mailto:mediateur@getlinkgroup.com)

22.4 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.