

TERMS AND CONDITIONS OF ORDER

1. DEFINITIONS

In these Conditions, the following words shall have the following meaning:

"Conditions" means these terms and conditions of order.

"Contract" means the contract between the Purchaser and the Supplier for the supply of the Goods and/or Services comprising (1) the Purchase Order and any supplementary or special conditions detailed on the face of the Purchase Order (2) these Conditions (3) any specification of the Goods and/or Services detailed on the Purchase Order and (4) subject always to Clause 2 hereof, any correspondence, specifications, drawings or other documents expressly referred to in any of the foregoing.

"Contract Price" means the sum stated on the Purchase Order as the price payable to the Supplier for the supply of the Goods and/or provision of the Services and shall include costs of packaging, carriage, customs clearance, expenses and insurance unless otherwise expressly agreed, as may be varied under and in accordance with this Contract.

"Purchaser" means the entity purchasing the Goods and/or Services set out on the Purchase Order.
"Defects Liability Period" means 12 months (or such other period as may be specified on the face of the Purchase Order) from (1) the date of the delivery of the Goods or (2) from the date of incorporation or integration of the Goods into the equipment, machinery or plant owned, maintained or operated by the Purchaser or (3) the date of completion of the Services whichever shall occur last.

"Delivery Point" means the place of delivery of the Goods specified on the Purchase Order or, if no such place is specified, the place notified in writing to the Purchaser by the Supplier.
"Force Majeure" means industrial dispute (other than a dispute only affecting the Supplier), war (whether declared or undeclared), fire, accident, governmental action or any other cause beyond the relevant party's control.

"Intellectual Property Right" means patents, trademarks, registered designs and all applications for registration of them, copyrights or design rights, any moral rights, any know how, any trade or business name, any right to bring an action for passing off or any right, whether subsisting now or in the future, which is similar or analogous to any of these in any part of the world.

"Goods" means all goods, materials and equipment or things of any kind to be provided by the Supplier under the Contract including those set out on the face of the Purchase Order.
"PCR" means the Public Contracts Regulations 2015 as amended from time to time.

"Purchase Order" means the Purchaser's order for Goods and/or Services, detailed in the Purchase Order.

"Relevant Requirements" means applicable laws, statutes, regulations and codes relating to anti-bribery, anti-corruption and modern slavery including but not limited to the Bribery Act 2010 and the Modern Slavery Act 2015.

"Services" means the services and works including any deliverables, to be provided by the Supplier under the Contract including the services set out on the face of the Purchase Order.

"Statutory Requirements" means all applicable laws, orders, regulations or bylaws having the force of law including but not limited to those relating to data protection, health and safety at work, toxic and hazardous substances and the protection of the environment.

"Supplier" means the person, firm or company to whom the Purchase Order is addressed.

The headings in the Conditions shall not be deemed part thereof or be taken into consideration in the interpretation or construction of the Contract. A reference to a party includes its successors and permitted assigns. A reference to a statute or statutory provision is a reference to it as amended or re-enacted and shall include all subordinate legislation. 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 preceding words, description, phrase or terms.

2. CONDITIONS

If the Supplier has not previously accepted the Conditions, the Supplier shall be deemed to have accepted the Conditions on the date that the Supplier has commenced the supply of Goods and/or Services or carried out any activity consistent with fulfilling this Contract. Notwithstanding anything to the contrary in any quotation, tender, delivery note, invoice, order acknowledgement, correspondence or other documents issued by the Supplier, these Conditions shall apply except insofar as expressly agreed otherwise in writing by a duly authorised representative of the Purchaser. No servant or agent of the Purchaser or the Supplier has the authority to vary the Conditions orally. Any conditions appearing on the Supplier's acknowledgement of order, delivery note(s) or invoice(s) or implied by trade, custom or practice are expressly excluded from the Contract and shall be deemed deleted. The order precedence of documents comprising the Contract shall be that given in the definition of "Contract" in Clause 1 unless otherwise expressly agreed. The Supplier's obligations and liabilities under the Conditions are in addition to and not in substitution for the Supplier's liabilities at common law and under statute and the Purchaser's rights under the Contract are in addition to its rights and remedies implied by statute and common law. All of the Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified. The Supplier shall ensure at all times it has and maintains the licences, permissions, authorisations and consents and permits that it needs to carry out its obligations under the Contract.

3. GOODS

The Goods shall be in accordance with the Contract and shall (1) be of first class quality and workmanship (2) be fit for purpose specified in or reasonably to be inferred from the Contract (3) correspond to their description and comply with any performance characteristics represented by the Supplier and specified and/or referred to on the face of the Purchase Order (4) comply with Statutory Requirements and (5) be free from defects in design, materials and workmanship and remain so for the Defects Liability Period.

4. DELIVERY OF GOODS

The Goods shall be delivered (1) at the Delivery Point (2) at the date(s) specified in the Contract or such later date(s) as may reasonably be specified by the Purchaser, and (3) during the Purchaser's normal hours of business or as instructed by the Purchaser. The Purchaser shall have the right by written notice to vary the delivery arrangements, to include the place of delivery and quantities. Upon receipt of such notice of variation, the Supplier shall promptly give written notice to the Purchaser of the amount of any amendment to the price (if any) by applying the pricing methodology contained in the applicable tender or quotation. The Supplier shall ensure that the Goods: (a) are properly packaged and secured so as to prevent any loss of or damage to the Goods during transit to the Delivery Point and during the subsequent distribution and/or storage of the Goods (whether by the Supplier, Purchaser or others); (b) are clearly labelled and addressed and shall be accompanied by delivery notes which detail (1) the Purchase Order number (2) the type and number of Goods supplied and (3) whether the delivery is a full or part delivery (4) any Goods which are hazardous and (5) shall specify the precautions to be taken in relation to the safe use, handling, storage and disposal of the Goods. If so required by the Purchaser or requested by the Supplier, packaging will be returned to the Supplier at the Supplier's expense and risk, provided that full descriptions of such packaging (including identification marks, numbers and values) are included in the Supplier's advice notes and invoices. Risk of loss of or damage to the Goods shall remain with the Supplier until delivery of the Goods to the Delivery Point. Title in the Goods shall pass to the Purchaser upon delivery or payment, whichever is the earlier, without prejudice to any right of the Purchaser to reject the Goods.

5. SERVICES

All Services shall be performed at the dates and times set out in the Purchase Order (1) in a proper and workmanlike manner with reasonable skill, care and attention (2) consistent with practice in the Services industry (3) using suitably qualified, skilled and experienced personnel, (4) in compliance with Statutory Requirements and (5) and the Supplier shall (a) co-operate with the Purchaser (b) comply with all instructions of the Purchaser (c) observe health and safety rules and regulations and any other security requirements that apply to the applicable site; and (d) provide all equipment, tools and vehicles and such other items as are required to provide the Services.

6. PAYMENT

Under no circumstances should the Supplier commence the Services or undertake delivery of the Good without a valid Purchase Order number. The Supplier shall submit an invoice after the later of delivery of the Goods or completion of the Services in accordance with the Contract. The invoice shall set out the Purchase Order number, the sum invoiced (not to exceed the Contract Price) and any applicable VAT. If items of payment are not specified on the Purchase Order, the due date for payment is the date of the valid VAT invoice and the final date for payment of undisputed invoices shall be 60 days after the end of the month in which a valid VAT invoice is submitted. Without prejudice to the Purchaser's other rights and remedies, the Purchaser shall be entitled to: (1) give notice not later than 7 days after the due date for payment stating the amount that it considers due at the due date and the basis on which it is calculated and in the absence of such notice the amount set out in the valid VAT invoice shall be the amount due, and/or (2) pay less than the amount stated in the valid VAT invoice or under the notice under clause 6(1), by giving the Supplier notice of that intention not later than 5 days prior to the final date for payment by stating the amount that it considers to be due at the date the pay less notice is given and the basis on which that sum has been calculated. No payment made by the Purchaser or absence of a pay less notice shall constitute an admission that the Supplier has complied with the Contract or prejudice the Purchaser's right to reject Goods which are not in accordance with the Contract. To the extent that the PCR applies to the Services and/or Goods delivered pursuant to this Agreement, the Supplier shall ensure that payment of sub-contractor invoices are made in accordance with the requirements of the PCR.

7. INTEREST

If the Purchaser fails to pay the Supplier the sums payable pursuant to this Contract, then any outstanding amount shall bear interest from the final date for payment until payment is paid, above Lloyds Bank plc base rate.

8. SET OFF

The Purchaser shall be entitled by way of written notice to set off sums payable by it to the Supplier under this Contract against any sums from time to time owed by the Supplier to the Purchaser under this Contract and any other contract between the Parties or between a group company of the Purchaser and the Supplier.

9. SUB-CONTRACTING

The Supplier shall not, without the prior written consent of the Purchaser, (1) sub-contract in whole or in part any obligations under the Contract or (2) wholly or partly assign or confer any benefit hereunder (including either absolutely or by way of charge any sum which is or may become due and payable). Any consent of the Purchaser under this Clause shall be at the absolute discretion of the Purchaser and shall not relieve the Supplier of its obligations under the Contract.

10. INSPECTION AND TESTING

The Purchaser shall be entitled at any time before delivery of the Goods upon giving not less than 24 hours notice to inspect and test, on the Supplier's premises, the materials, workmanship, performance and progress of all Goods. If any part of the Goods are being manufactured or stored at other premises the Supplier shall obtain permission for the Purchaser and/or its representatives to inspect and test the Goods at the Supplier's premises. The Purchaser shall be entitled to inspect and test the delivery and completion of the Services at any time. The Supplier at its cost shall do and provide all things as may be necessary to carry out such test or inspection. The Supplier at its cost shall upon request provide all test certificates required by the Purchaser. Such inspection and testing or the failure to inspect or test shall not relieve the Supplier from any

obligation under the Contract. If following such inspection or testing the Purchaser considers that the Goods and/or Services do not comply or are unlikely to comply with this Contract, the Purchaser shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary under the Contract to ensure compliance.

11. PURCHASER REMEDIES

If any Goods or Services any parts thereof supplied under the Contract are defective or not in accordance with the Contract, the Purchaser may (1) reject such Goods or Services (2) require the Supplier to perform for the first time any missing Services and/or re-perform the defective or inadequate Services performed to date (3) recover from the Supplier any costs incurred by the Purchaser in obtaining substitute goods or services from a third party; (4) require the Supplier to promptly remove and make good or otherwise repair or replace the rejected Goods and/or (5) to claim damages for any additional costs, loss or expenses incurred by the Purchaser which are in any way attributable to the defective Goods or Services. All Goods or Services which have been made good, repaired or replaced may be subject to further inspection and testing by the Purchaser at the cost of the Supplier. Upon rejection, the risk and title in all rejected Goods shall revert to the Supplier. If the Supplier fails to deliver the Goods to the Deliver Point and/or perform the Services by the applicable date or the Purchaser reasonably believes that the Supplier will not be able to, the Purchaser shall, without limiting or affecting its other rights or remedies available to it, have one or more of the following rights: (1) to terminate the Contract with immediate effect on notice to the Supplier; (2) refuse to accept subsequent performance of Services and/or delivery of Goods which the Supplier attempts to make; (3) recover from the Supplier any costs incurred by the Purchaser in obtaining substitute goods and/or services from a third party; (4) to require a refund from the Supplier of sums paid in advance for Goods not delivered or Services not provided; and (5) to claim damages for any additional costs, loss or expenses incurred by the Purchaser which are in any way attributable to the Supplier's failure to meet such dates.

12. INTELLECTUAL PROPERTY RIGHTS

All Intellectual Property Rights created by the Supplier specifically for the purposes of or under the Contract shall be transferred to the Purchaser and the Supplier hereby assigns absolutely to the Purchaser all such Intellectual Property Rights as are capable of legal assignment. The Supplier shall do all such things and execute all such documents as may be reasonably required by the Purchaser to ensure that all such Intellectual Property Rights are effectively assigned to the Purchaser. The Supplier shall indemnify the Purchaser against all actions, suits, claims, demands, damages, costs, charges, losses and expenses arising from or incurred by reason of any infringement or alleged infringement of Intellectual Property Rights as a result of the supply of the Services or use or possession by the Purchaser or others of any Goods.

13. LIABILITY AND INSURANCE

The Supplier shall be liable for and shall indemnify the Purchaser against all actions, suits, claims, demands, damages, costs, charges, losses and expenses arising out of or in any way caused by any defect in the Goods and/or Services or packaging or by the Supplier's negligence or breach of contract or statutory duty limited to the sum of five million pounds (£5,000,000) or such higher limit as detailed on the face of the Purchase Order. The Supplier shall insure and shall maintain insurance against such liability under such provision with an approved insurer for an insured sum of not less than five million pounds (£5,000,000) for any one occurrence, or such higher limit as detailed on the face of the Purchase Order. Policies and receipts shall be made available to the Purchaser for inspection upon request. The Purchaser's maximum total liability for all contractual and non-contractual claims arising out of this Contract shall be limited to the lesser of: (a) the total sum paid by the Purchaser to the Supplier with respect to this Contract in any twelve (12) month period immediately preceding the date upon which the claim arose; or (b) five million pounds (£5,000,000). The Purchaser shall not be liable to the Supplier for any indirect or consequential loss or loss of revenue or profit, income, business or opportunities or anticipated savings. Nothing in this Contract shall exclude or limit the liability of either party in respect of (and no liability for the same shall be taken into account in determining whether any limits of liability have been reached or exceeded) death or injury caused by the parties negligence.

14. NOVATION AND COLLATERAL WARRANTIES

When so requested by the Purchaser, the Supplier shall be obliged to consent to and implement a novation of the Contract from the Purchaser to any third party notified by the Purchaser (in a form provided by the Purchaser) and to provide such collateral or direct warranties as may be specified on the Purchase Order.

15. TERMINATION

The Purchaser shall be entitled to terminate the Contract at any time immediately by written notice to the Supplier: (1) for convenience; or (2) if the Supplier's financial position deteriorates to such an extent that in the Purchaser's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy. If the Purchaser so terminates the Contract, the Purchaser shall pay the Supplier the reasonable and proper costs of such Goods as are delivered or Services as are complete and, at the sole discretion of the Purchaser, deemed satisfactory as at the date of cancellation provided that if the Contract is terminated under clause 15(2) then without prejudice to its other rights and remedies, recover all costs incurred as a result of such termination (including the cost of purchasing alternative equipment and services in substitution for the Goods and/or Services). Such payment shall be the Purchaser's sole and exclusive liability to the Supplier in respect of such cancellation and shall be without prejudice to the Purchaser's other rights and remedies.

16. DEFECTS LIABILITY PERIOD

Notwithstanding any other provision of this Contract, during the Defects Liability Period, the Supplier shall, at the Supplier's cost, make good, within 15 days of the Purchaser's request to do so, any defect in or damage to any part of the Goods and/or Services which may appear or occur during such period and which arises from any defective materials, workmanship or design from any act or omission of the Supplier. The Supplier's obligations hereunder shall be without prejudice to the Purchaser's other rights and remedies and shall apply to all Goods repaired or replaced and/or Services re-performed hereunder.

17. CONFIDENTIALITY

The Supplier shall treat the details of the Contract and any documents and information made available in relation to the Contract and/or the Goods and/or Services as private and confidential and shall not publish or disclose the same to any person (save insofar as may be necessary for the purposes of the Contract) without the prior written consent of the Purchaser. Upon termination for any reason the Supplier shall return all confidential information to the Purchaser. The Supplier shall not without the prior written approval of the Purchaser take or permit to be taken any photographs of the Purchaser's site for use in any publicity or advertising or publish alone or in conjunction with any other person, any articles, photographs or other illustrations in any publication journal or newspaper or any radio or television programme or internet site in relation to the Goods or Services or any part thereof.

18. FORCE MAJEURE

If either party's performance of its obligations is disrupted by Force Majeure they shall notify the other party in writing. If the Force Majeure (1) affects the Purchaser and continues for a period in excess of 60 days; or (2) affects the Supplier and continues beyond a reasonable period (to be determined at the sole discretion of the Purchaser), the Purchaser shall be entitled to terminate the whole or any part of the Contract by written notice to the Supplier. If the Purchaser terminates the Contract under this clause 18, the Purchaser shall pay the Supplier the reasonable and proper costs of such Goods delivered or Services as are complete (to be determined at the sole discretion of the Purchaser) as at the date of termination. Such payment shall be the Purchaser's sole and exclusive liability to the Supplier in respect of such termination and shall be without prejudice to the Purchaser's other rights and remedies.

19. THIRD PARTY RIGHTS

Except to the extent set out on the face of the Purchase Order, nothing in the Contract shall confer or purport to confer any right to enforce any of its terms on any person who is not a party to it and the provisions of the Contracts (Rights of Third Parties) Act are hereby excluded.

20. SEVERABILITY

If any provision of this Contract shall be declared invalid, unenforceable or illegal, such provision shall be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of the Contract.

21. COMPLIANCE

The Supplier shall deliver the Goods and/or perform the Services in compliance with (1) the Relevant Requirements; (2) the Purchaser's Supplier Charter; (3) the Purchaser's Health and Safety Policy; and (4) the Purchaser's commitments in the area of ethics, environmental and social responsibility as those commitments are set out in the Code of Ethics and the Anti-corruption Code of Conduct posted on its website www.equans.co.uk. The Supplier shall promptly refer to the Purchaser in writing any potential or actual breach of the Relevant Requirements, Supplier Charter, Health and Safety Policy, or the Code of Ethics and the Anti-corruption Code of Conduct.

22. DISPUTE RESOLUTION

To the extent that the supply of Goods and/or Services by the Supplier shall constitute "construction operations" within the meaning of the Construction Act 1996, the Purchaser and Supplier shall have the right at any time to refer any dispute or difference arising under or in connection with such construction operations to adjudication in accordance with the then current version of the Technology and Construction Solutions Association Adjudication Rules. With respect to any other disputes, the parties shall first seek to resolve such matters by referring the matter(s) in dispute to senior representatives within each party's organisation, and thereafter the parties may refer the matter to the courts.

23. NOTICES

Any notice given under this Contract shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally or sending it by pre-paid recorded delivery or registered post to the relevant party at its registered office for the time being. Any such notice shall be deemed to have been received: (a) if delivered personally, at the time of delivery; (b) in the case of pre-paid recorded delivery or registered post, 48 hours from the date of posting. For the purposes of this clause, "writing" shall not include e-mail. Copies of all notices issued in accordance with this clause shall be sent to the attention of the Purchaser by email (such copy not being effective notice for the purposes of this clause) at sc-coups@plmtr.uk@equans.com and uk-bv.legal@notices.uk@equans.com.

24. 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 the subject matter. To the extent that there is any conflict between these Conditions and the terms of the Purchase Order and any supplementary or special conditions detailed on the face of the Purchase, these Conditions shall prevail.

25. GOVERNING LAW

The Contract shall be governed by the laws of England and the Supplier and Purchaser hereby submit to the exclusive jurisdiction of the Courts of England.



1 Submitting your invoices for payment

- Your invoices should be submitted to us **electronically** via our **FREE** Coupa purchasing system: Simply email ssc-coupasuppliers.uk@equans.com and request an invitation to the Coupa Supplier Network

For a video walking you through the set-up process see:

http://onlinehelp.coupa.com/csn/en/content/resources/training/supplier_training/story_html5.html

- Alternatively, you can email your invoice to invoicesubmission.uk@equans.com OR post it *FAO [name of legal entity on PO], Unit E Stafford Park 12, Telford, TF3 3BJ.*

2 What to include

- You must include on your invoice the invoice number and corresponding invoice raised date and our corresponding Purchase Order (PO) Number. Our PO Number is auto-generated from Coupa and will be in the format of 3-Alpha followed by 9 Numeric characters - AAANNNNNNNNN
- Your invoice must state what you provided, in what quantity, for what price, to which legal entity and at what VAT rate. If you are a CIS (Construction Industry Scheme) registered supplier then the rules applied to your invoice including values associated to CIS must also be included.

3 Payment runs

- EQUANS is committed to paying suppliers to the terms agreed with them. These will be 60 days unless separately agreed and approved between the parties.
- Invoices should be received by no later than the 20th day of the month – and be due for payment – to be included in the last payment run of each calendar month.

4 Payment queries

- Once you are signed up to the **FREE** Coupa network you can view the status of your invoice online, at your convenience, by visiting <https://supplier.coupa.com/>
- If you do need to speak to someone then you can email our Accounts Payable team at accountspayable.uk@sharedservices.equans.co.uk or call 0333 006 3102.
- If an invoice is in dispute, you will hear from the requestor (and not Accounts Payable) who will discuss if replacement goods/services are needed or if a refund/credit note should be applied.