

HERCULES PLC (HPLC)

TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

1 BASIS OF PURCHASE

The Purchase Order constitutes an offer by HPLC to purchase Goods and/or Services from the Supplier in accordance with these conditions.

The Purchaser Order shall be deemed to be accepted (Effective Date) on the earlier of:

- a) the Supplier issuing a written acceptance of the Purchase Order;
- b) any act by the Supplier consistent with fulfilling the Purchase Order, at which point, and on which date the Contract shall come into existence.

The Agreement represents the entire agreement between the Supplier and HPLC as to the terms upon which the Goods and/or Services shall be supplied and delivered. Notwithstanding anything to the contrary in any quotation, tender, delivery note, invoice, order acknowledgement, correspondence or other document issued by the Supplier, these Conditions shall apply to all Purchase Orders issued by HPLC and all other terms or conditions are excluded.

HPLC and the Supplier shall act as stated in the Agreement and in a spirit of mutual trust and co-operation.

In performing its obligations (including the provision of the Goods and/or Services) under this Agreement, the Supplier shall notify HPLC as soon as it is aware of any potential or actual delays or obstacles to the performance of any of the Supplier's obligations.

2 TERM

This Agreement shall take effect on the Effective Date for the Term, unless and until terminated earlier in accordance with this Agreement.

If a Purchase Order does not specify a Term, the Term shall be deemed to expire when the Supplier has complied with all of its obligations under this Agreement.

3 SUPPLY OF SERVICES

The Supplier shall from the Effective Date, or the date set out in the Order (if specified) supply the Services to the Purchaser in accordance with the terms of the Agreement.

The Supplier shall meet any performance dates for the Services specified in the Purchase Order or that HPLC notifies to the Supplier and time is of the essence in relation to any of those performance dates.

In providing the Services, the Supplier shall:

- a) cooperate with HPLC in all matters relating to the Services, and comply with all instructions of HPLC
- b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;
- d) ensure that the Services will conform with all descriptions, standards and specifications set out in the Services Specification, and that the Deliverables shall be fit for any purpose that HPLC expressly or impliedly makes known to the Supplier;
- e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;

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- f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services are transferred to the Purchaser and be free from defects in workmanship, installation and design;
- g) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- h) comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply to the provision of the Services.
- i) observe all health and safety rules and regulations and any other security requirements that apply at any of HPLC's Site;
- j) hold all HPLC Materials supplied by HPLC to the Supplier in safe custody at its own risk, maintain HPLC Materials in good condition until returned to HPLC, and not dispose or use the HPLC Materials other than in accordance with the HPLC's written instructions or authorisation;
- k) not do or omit to do anything which may cause HPLC to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that HPLC may rely or act on the Services;
- l) comply with any additional obligations as set out in the Services Specifications (if any).

4 QUALITY OF GOODS

The Supplier shall ensure and warrants on an on-going basis that the Goods:

- a) conform to their description in the Order;
- b) are of the standard and quality specified in the Goods Specifications (if any) and fit for any purpose specified in, or implied by, the Purchase Order. Where standard or quality is not specified, the Goods shall be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and shall comply with all relevant British Standard Specifications and Eurocodes. The Goods and Services shall be to the reasonable satisfaction of HPLC.
- c) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and
- d) where they are manufactured products, are free from defects in design, materials and workmanship and remain so during the Warranty Period.

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

HPLC shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance. HPLC may conduct further inspections and tests after the Supplier has carried out its remedial actions.

5 PERFORMANCE

If the Order specifies a required performance for the Goods and/or Services, the Supplier shall be deemed to have warranted that the Goods and/or Services will attain the required performance. Should the Goods and/or Services fail to meet the required performance, such failure shall be deemed to be a defect under Clause 3 (Supply of services) and a Default under Clause 22 (remedies).

6 HEALTH AND SAFETY AND ENVIRONMENTAL

The Goods and Services are to be provided in full compliance with HPLC's Policies including any health, safety, environmental and quality procedures and shall conform with statutory requirements at all times including those requirements contained in the Agreement and/or as made available to the Supplier from time to time and shall comply with such procedures, requirements and with applicable health, safety and environmental laws at all times.

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7 PAYMENT

HPLC shall pay all undisputed Charges validly due under this Agreement relating to the Goods and/or Services in accordance with this clause and the Purchase Order.

Unless otherwise stated in the Purchase Order and/or agreed in writing between the Parties, payment of invoices shall be made within a 35-day period for the Goods and/or Services provided in accordance with the Purchase Order. The payment period is calculated from any proceeding month end date.

HPLC reserves the right to set off any amount at any time owing to it by the Supplier against any amount payable by it to the Supplier under this Agreement (and/or any other agreement between HPLC and the Supplier).

Except where otherwise stated, the Charges are exclusive of value added tax.

8 CHARGES

Charges shall be fixed unless otherwise agreed in writing by the parties.

The Charges for the Goods shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Purchaser.

The Charges for the Services shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Purchaser, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

9 DELIVERY REQUIREMENTS

The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Purchase Order, the Purchase Order number (if any), the type and quantity of the Goods, special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

The delivery of the Goods and/or Services shall be commenced, carried out and completed in accordance with the requirements stated in the Purchase Order. Where such requirements are not so stated, delivery/supply shall be in accordance with any programme agreed between HPLC and the Supplier or, in the absence of such programme, in accordance with the reasonable directions of HPLC. Time is of the essence in relation to the date and rate of supply of the Goods and/or Services.

The Supplier shall not deliver the Goods in instalments without the Purchaser's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle HPLC to the remedies set out in Clause 22 (remedies).

10 PACKAGING AND LOADING

The Supplier shall properly pack and secure the Goods in such manner as to enable them to reach their destination in good conditions. The Supplier shall in due course inform the Purchaser of the conditions of preservation and storage of the Goods following their delivery on Site. Any loads which are of an abnormal nature and which could present difficulty unloading, or may have a specific sequence of unloading, must be brought to the attention of HPLC and the Supplier must provide the Purchaser with a written method statement advising of the means and sequence of unloading.

11 RETURNABLE ITEMS

Any items upon which the Supplier charges a deposit shall be clearly stated in the delivery note and be collected by the Supplier at the Supplier's cost, within 14 days of written notification by HPLC that such items are ready for collection. Should the Supplier fail to collect such items or credit HPLC with such deposit HPLC may set off

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in accordance with clause 7 (payment) any deposit previously paid and dispose of the items as HPLC may see fit.

12 QUANTITY

HPLC does not undertake to accept any quantity in excess of the quantity specified by the Purchase Order. Goods delivered in excess of HPLC's specified delivery requirements may be returned to the Supplier at the cost and risk of the Supplier. No order shall be considered to be completed unless the specified quantity has been delivered, except where special arrangements have been made in writing or the order is a bulk or call off order. No variation to the quantities stated in the Order shall vitiate the Contract. Unless otherwise agreed in writing, the prices in the Order shall apply to any variation to the quantities.

Where bulk or call off orders specify a value or quantity this is an estimate taken in good faith and does not imply that HPLC will request delivery of materials up to the maximum value or quantity.

13 DELIVERY ACCEPTANCE

Unless otherwise agreed in writing, notice must be given to HPLC's site representative of the Supplier's intention to make each delivery, which shall be during the HPLC's normal site hours on a Business Day at a time agreed in advance including but not limited to the vehicle registration and driver's details. Waiting time charges will only be accepted by HPLC if agreed at the time of the occurrence. All Goods are subject to inspection after delivery.

14 RISK AND TITLE

Risk to Goods shall rest with the Supplier until delivery of the Goods at the Delivery Place (delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Place) and acceptance of the Goods and/or Services by HPLC.

The Supplier shall ensure that title to Goods shall pass to HPLC, without it being necessary to perform any formalities or do anything else for title to so pass and without prejudice to any right of rejection which may accrue to HPLC under these Conditions:

- a) upon delivery by the Supplier to the Delivery Place;
- b) upon payment for them by the Employer to HPLC

whichever is earlier.

15 COMPLIANCE WITH LAW AND REGULATION

The Supplier represents and warrants that neither it nor any of its agents, representatives, subcontractors, consultants, directors, officers or employees has engaged or will at any time engage in any practice or conduct which would constitute an offence under any Ethical Rules. Each Party undertake to:

- (a) comply with all Ethical Rules and
- (b) that it will not otherwise take any actions that will cause the other Party to violate such Ethical Rules Any breach of this clause by either Party shall constitute a material breach of the Agreement not capable of remedy.

The Supplier shall comply with all applicable laws and regulations in performing its respective obligations under this Agreement, and the Supplier shall ensure that at all times the Goods and/or Services comply with all applicable laws and regulations.

The Supplier acknowledges having been made aware of HPLC Policies and hereby undertakes to comply with them and to ensure that the supply chain of its suppliers and subcontractors do the same. Any breach of the above Policies by the Supplier shall constitute a material breach of the Agreement and shall entitle HPLC to terminate this Agreement and any other agreement between the parties, with immediate effect without liability.

The Supplier represents, warrants and undertakes to HPLC that:

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- (a) in carrying out its responsibilities under this Agreement, it shall at all times comply with all applicable local and international laws. In particular, neither it nor any of its officers, employees, directors or agents shall, directly or indirectly offer, promise, pay or give, or authorise any offer, promise, payment or gift of, money or anything else of value to any person, including any Public Official or other Relevant Person, either as an improper inducement to make, or as an improper reward for making, any decision favourable to the interests of HPLC or the Supplier.

Notwithstanding any other provision of this Agreement, if HPLC becomes aware of what it determines in good faith to be a breach of the above representations and warranties, HPLC is entitled to terminate this Agreement, and any other agreement between the parties, with immediate effect. In the event of such termination, HPLC shall have no liability to the Supplier under this Agreement for any fees, reimbursements or other compensation or for any other loss, cost, claim or damage resulting, directly or indirectly, from such termination.

16 INTELLECTUAL PROPERTY

All Intellectual Property Rights belonging to HPLC prior to the Effective Date will remain vested in HPLC.

All Intellectual Property Rights in any reproductions, enhancements, replacements, amendments and/or modifications to all or any part of the HPLC Materials will vest in HPLC on their creation.

All Intellectual Property Rights belonging to the Supplier prior to the Effective Date will remain vested in the Supplier.

All Intellectual Property Rights arising as a result of or as part of the provision of the Services (including any Intellectual Property Rights embodied in the deliverables delivered as part of the Services) will vest in HPLC upon their creation. The Supplier hereby assigns to HPLC all existing and future Intellectual Property Rights in the deliverables and all materials embodying such rights to the fullest extent permitted by law.

17 INDEMNITIES

The Supplier will indemnify and keep fully and effectively indemnified HPLC on demand from and against any and all Losses incurred or suffered by HPLC as a result of or in connection with:

- a) any claim made against HPLC alleging that the use of the Goods and/or Services permitted under this Agreement infringes the Intellectual Property Rights of a third party; or
- b) any claim made against HPLC by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the deliverables;
- c) defective workmanship, quality or materials in or in relation to the Goods; or
- d) any liability, loss, damage, injury, cost or expense to the extent caused by, relating to or arising from the Goods or Services or as a consequence of a direct or indirect breach, negligent performance or failure or delay in performance of the Agreement by the Supplier or the Supplier's personnel, and such indemnities will include all losses of any nature incurred by HPLC directly or indirectly to the extent arising as a consequence of or in connection with such claim.

The indemnities in this clause shall remain in full force and effect notwithstanding the termination or expiry of this Agreement.

18 DATA SECURITY AND DATA PROTECTION

The Supplier shall ensure that any system on which the Supplier holds HPLC Data, is secure and ensures complete data integrity in accordance with Good Industry Practice.

The Supplier complies with all of its obligations under the Data Protection Laws and, where it is processing Personal Data on behalf of the Purchaser ("HPLC Personal Data"), the Supplier shall only act in accordance with instructions from the Purchaser in relation to the HPLC Personal Data.

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The Supplier promptly notifies the Purchaser after becoming aware of any Personal Data Breach (as defined in the General Data Protection Regulation) affecting the Purchaser Personal Data under this Supply Contract.

The Supplier shall indemnify HPLC on demand and shall keep HPLC indemnified from and against all Losses arising out of or in connection with (i) any breach by the Supplier of its obligations under this clause and (ii) any third party claims made in respect of information subject to the Data Protection Laws, which claims would not have arisen but for some act, omission or negligence in the performance of the Contract on the part of the Supplier, his employees, agents or Subcontractors of any tier, or any other third party to whom it has disclosed Purchaser Personal Data.

19 CONFIDENTIALITY

All Confidential Information given by one party (the "Disclosing Party") to the other party (the "Recipient") or otherwise obtained, developed or created by the Recipient relating to the Disclosing Party will be treated by the Recipient, as confidential and will not, other than as necessary for the performance of this Agreement be used or disclosed without the prior written consent of the Disclosing Party.

20 FREEDOM OF INFORMATION

The Supplier acknowledges that the Employer is subject to the FOI and agree to assist and co-operate with HPLC to enable the Employer to comply with its obligations under the FOI Legislation. The foregoing shall not preclude the Supplier from objecting to a disclosure of information provided or made available to HPLC and/ the Employer by the Supplier and recorded in any form held by HPLC and/or the Employer or held by the Supplier on behalf of HPLC ("Supplier Information")

The Supplier acknowledges that the Employer may be obliged under the FOI Legislation to disclose Supplier Information.

21 REPRESENTATIONS AND WARRANTIES

Each party warrants and represents that, as at the date of this Agreement:

- a) it has full capacity and authority to enter into and perform this Agreement and that this Agreement is executed by a duly authorised representative of that party;
- b) there are no actions, suits or proceedings or regulatory investigations pending or, to that party's knowledge, threatened against or affecting that party before any court or administrative body or arbitration tribunal that might affect the ability of that party to meet and carry out its obligations under this Agreement; and
- c) once duly executed this Agreement will constitute its legal, valid and binding obligations.

22 REMEDIES

If any Goods and/or Services are not supplied in accordance with, or the Supplier fails to comply with, any terms of the Agreement (occurrence of any such event being a "Default"), HPLC may exercise any one or more of the following rights or remedies, whether or not any part of the Goods and/or Services have been accepted by HPLC:

- a) terminate the Agreement with immediate effect by giving written notice to the Supplier; or
- b) refuse to accept any subsequent performance of the Services and/or delivery of Goods which the Supplier attempt to make;
- c) reject the Goods and/or Services (in whole or in part) and return such Goods and/or Deliverables to the Supplier (whether or not title has passed) at the risk and cost of the Supplier on the basis that a full refund for the Goods and/or Services returned shall be paid immediately by the Supplier; or
- d) require the Supplier, at the Supplier's expense, either (at HPLC's option) to remedy any defect in the Goods or Services and carry out such other work as is necessary to ensure that the Goods are in all respects in accordance with the Purchase Order or to supply replacement goods or services; or

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- e) recover from the Supplier any cost incurred by HPLC in obtaining other goods and/or services from third parties in substitution for those in respect of which the Agreement was terminated.
- f) in any case, claim such damages for additional costs, loss or expenses as it may have sustained in connection with the Supplier's breach of the Agreement not otherwise covered by this clause.

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

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

23 LIMITATIONS OF LIABILITY

Neither party limits its liability:

- a) for fraud or fraudulent misrepresentation;
- b) where there has been unauthorised access to HPLC Systems;
- c) for death or personal injury caused by its negligence or that of its employees, agents or subcontractors (as applicable);
- d) under Clause 17 (Indemnities) or Clause 18 (Data);
- e) for deliberate repudiatory breach or wilful default; and
- f) or any regulatory fines or penalty, or damages, expenses or other losses arising from a breach by a party of any law, statute, or regulation.

Subject to this clause the total aggregate liability of HPLC under or in relation to this Agreement for all claims and Losses whether arising under tort (including negligence) breach of contract, or otherwise shall not exceed the total charges paid or payable by HPLC to the Supplier for Goods or Services under this Agreement.

Subject to this clause neither party shall be liable to the other party for any loss of profit, any loss of business, any loss of opportunity, any loss of revenue or any indirect or consequential loss or damage, in each case whether arising under tort (including negligence), breach of contract or otherwise.

24 INSURANCE

The Supplier shall, throughout the term of the Agreement and for a period of 1(one) year after expiry or termination of the Agreement, maintain in place as specified in the Purchase Order, with a reputable insurance company, insurance arrangements covering its assets, risks and liabilities that may arise under or in connection with the Agreement. If nothing is specified in the Purchase Order, such insurance arrangement shall be, in the reasonable opinion of HPLC:

- a) appropriate in their amount of cover, scope and conditions to the nature and scale of the Supplier's activities and the commitments it has undertaken; and
- b) comparable to, or more beneficial than, the insurance arrangements maintained by competitors offering similar services to customers of a comparable nature and size.

The Supplier shall provide from time to time provide such evidence of those insurance arrangements as HPLC shall reasonably require.

25 TERMINATION

Each of HPLC and the Supplier shall be entitled to terminate this Agreement immediately by written notice to the other party if that other party:

- a) is unable to pay its debts or becomes insolvent;
- b) is the subject of an order made or a resolution passed for the administration, winding-up or dissolution (otherwise than for the purpose of a solvent amalgamation or reconstruction);

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- c) has an administrative or other receiver, manager, trustee, liquidator, administrator, or similar officer appointed over all or any substantial part of its assets; or
- d) enters into or proposes any composition or arrangement with its creditors generally.
- e) if there is a breach of the HPLC Policies

In the event of termination of the Agreement, HPLC shall only be liable to the Supplier for payment for Goods delivered or Services supplied on or before the date of termination.

Termination or expiry of the Agreement shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement shall remain in full force and effect.

26 SUSPENSION

HPLC may at any time for any reason, with or without cause and/or for convenience, instruct the Supplier by written notice to suspend delivery or performance of the Goods and/or Services without liability. During any such suspension, the Supplier shall, at no additional cost, to HPLC protect, secure and insure any Goods affected by the suspension at the Supplier's premises or elsewhere, as the case may be, against any deterioration, loss or damage. The Supplier shall not resume delivery and/or performance of the Goods and/or Services until receipt of written instructions from HPLC to do so.

27 FORCE MAJEURE

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. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

28 PROMOTIONAL, COMMUNICATION & MARKETING

Neither party shall, and each party shall procure that its Affiliates, employees, agents, contractors and subcontractors shall not:

- (a) make or authorise any public or private announcement or communication including but not limited to promotional communications including , media relations, social media and marketing activity such as sponsorship, advertising, digital communications, case studies or corporate presentations ("Promotional Communications") concerning this Agreement, the Services or their relationship with the other party; or
- (b) refer to or use any business name, logo or trademarks (whether registered or not) of the other party or its Affiliates in any Promotional Communications; without the prior written approval of the other party and in the case of the Supplier, without the prior written approval of an HPLC Director and without

29 THIRD PARTY RIGHTS

Subject to Clause 3 (Supply of services), no term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person other than HPLC, the Supplier and the Employer.

30 MODERN SLAVERY COMPLIANCE

The Supplier represents, warrants and undertakes that neither it nor any of its officers, employees or other persons associated with it has:

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- a) been convicted of any offence involving slavery or human trafficking;
- b) been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery or human trafficking.

In performing its obligations under the agreement, the Supplier shall and shall ensure that each of its subcontractors shall comply with:

- (a) all applicable laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and
- (b) HPLC's Modern Slavery Policy PD 07 and shall implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.

31 DISPUTE RESOLUTION

Any disputes resulting from, or related to, this contract that the parties fail to resolve by way of negotiations shall be resolved by a single-member court of arbitration in accordance with the valid law of arbitration.

32 GOVERNING LAW AND JURISDICTION

This Agreement (and any non-contractual obligations arising in connection with it) shall be governed by and interpreted in accordance with English law. The courts of England shall have exclusive jurisdiction to settle any disputes (including disputes in relation to non-contractual obligations) arising out of or in connection with this Agreement.

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