

## **GLOBAL ASSOCIATES' CONDITIONS OF SALE**

### **1. Definitions**

In these conditions: "Global " means Global Instrumentation Ltd trading as Global Associates; the "Client" means the customer of Global; and the "Goods" means any item or items (including parts thereof) supplied by or on behalf of Global hereunder, "Conditions" shall mean this document headed Global Associates Conditions of Sale, 2015 including Global's Offer and any other documents referred to therein and "Insolvent" shall mean as defined in Section 113 of the Housing Grants, Construction and Regeneration Act, 1996.

### **2. General**

Unless otherwise agreed in writing by Global, the Conditions set out below shall apply in any Contract between Global and the Client for the supply of goods and/or the supply of services, to the exclusion of any Conditions contained in or attached to the Client's Order or any other written or oral information which conflict or purport to modify the Conditions: Any such other Conditions shall not form part of the Contract between the Client and Global except as agreed in writing by Global.

Notwithstanding the foregoing, the Client hereby warrants to Global that all technical details, specifications, drawings and other information supplied to Global are accurate and Global shall be entitled to rely upon the same.

Global shall, at their absolute discretion, be entitled to reject any order, or forthwith terminate any contract, if unsatisfactory credit references are obtained prior to any substantive works having been commenced.

### **3. No Waiver**

No relaxation, forbearance, delay or indulgence by Global in enforcing any of the Conditions hereof shall prejudice Global's rights to insist upon the strict compliance with the Conditions nor shall the same constitute a waiver or estoppel.

### **4. Prices**

Prices shall be those ruling at the date of the Offer providing that acceptance in writing is received by Global within 30 days of the date of Offer or such other period as is specified in the Offer. Where the Client cannot satisfy this Condition, Global reserves the right to charge prices ruling at the date of despatch should there be any change in costs or exchange rates.

All prices quoted are net and are subject, where appropriate to the addition of Value Added Tax ruling at the date of invoice/application.

### **5. Carriage**

Unless and to the extent that delivery is stated as being included within Global's Offer, Global shall have the right at his sole discretion to make reasonable charges for carriage in addition to any agreed price.

### **6. Packing**

Packing will be charged where special packing is ordered. Packing in accordance with Global's standard practice is included in the prices charged.

## 7. Risk

Goods shall be at the Client's risk immediately on delivery to the Client or upon delivery to a third party as directed by the Client and the Client shall effect and maintain adequate insurance cover against such risk.

Notwithstanding delivery and passing of risk in the Goods, or any other provision of the Conditions, property in the Goods shall not pass to the Client until Global has received in cash or cleared funds payment in full of the price of the Goods and all other Goods agreed to be sold by Global to the Client for which payment is then due.

Until such time as the property in the Goods passes to the Client, the Client shall hold the Goods as Global's fiduciary agent and bailee, and shall keep the Goods separate from those of the Client and identified as the property of Global, but it shall be entitled to resell or use the Goods in the ordinary course of the Client's business.

Until such time as the property and the Goods passes to the Client (and provided these Goods are still in existence and have not been resold) Global shall be entitled at any time to require the Client to deliver up the Goods to Global and if the Client fails to do so, to enter upon the premises of the Client or any other third party where the Goods are stored and repossess the Goods.

Where the Client resells or uses the Goods in the ordinary course of business the Client shall pay into a separate account specifically designated as a trust account ("the account") all proceeds of the sale of the Goods and all other Goods supplied to it by Global equal to the total amount owing to Global from time to time in respect of the Goods and all other Goods supplied to it by Global.

## 8. Payment

All payments due from the Client to Global under this or any other Contract shall be made in full without deduction, abatement or set-off. Payment terms shall be net monthly and payment must be received not later than the last working day of the month following date of invoice/application or such other payment terms agreed in writing by Global. In the event of default in payment by the date specified, the Client shall pay simple interest on the amount outstanding at the rate of 8% per annum above the base rate of Bank of England, current at the date that the debt became overdue for payment. The foregoing provision shall be in addition to and without prejudice to any other remedies available to Global for non-payment

## 9. Delivery

- a. While Global will make every effort to effect delivery in accordance with prearranged dates, deliveries may be suspended or delivery dates extended in the event of any circumstances whatsoever beyond Global's control.
- b. Subject as above, delivery shall be taken by the Client within the period (if any) named in the Offer or Order and such full details as may be necessary (or required by Global) to enable Global to complete the delivery within such period shall be supplied by the Client. If for any reason, the Client is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery, Global may, if its storage facilities permit, store the Goods at the risk of the Client and take reasonable steps to prevent their deterioration until the actual delivery and the Client shall be liable to Global for the reasonable cost (including insurance) of its so doing. Such storage shall be without prejudice to any of Global's rights in respect of the Client's failure to take delivery at the appropriate date.



- c. It shall be a condition precedent to future deliveries that all payments already due to Global (whether under this or any other contract) shall have been made and, if such payment shall not have been made and future deliveries are withheld, then (notwithstanding any other agreement between the parties) Global shall not be liable to the Client in respect of any matter arising out of or in connection with such non-delivery howsoever caused.

## 10. Loss or Damage in Transit

Global will repair, or at its option, replace free of charge, Goods lost or damaged in transit provided that Global receives written notification of such damage within three working days of delivery or, if lost, within fourteen days of Global invoice/application. In the case of Orders for shipment abroad, Global will not be responsible for loss or damage to Goods which have left Global works.

## 11. Guarantee

- a. Subject to these Conditions, Global will replace or repair free of charge all Goods which are or become faulty within a period of 12 calendar months from the date of delivery, the fault being directly attributable Global use of defective materials in the manufacture of the Goods or by reason of Global defective workmanship in the manufacture of the Goods, provided that the Client has notified Global in writing of the fault within 12 months from delivery.
- b. The Client shall, as soon as practicable after discovering any such defect or fault, return the defective Goods carriage paid to Global. If the Client requires Global to attend site, then travelling and labour may be charged if it is found that Global is not liable for the fault which has arisen.
- c. Global shall have no liability to the Client in respect of any Goods where any unauthorised person has attempted to repair them or where such Goods have been installed otherwise than in accordance with the recommendations of Global from time to time in force relating to such Goods including, but not limited to those recommendations set out in data sheets produced by or on behalf of Global.
- d. Where delivery has been delayed for any reason beyond Global's control the 12 month period specified in Clause 11(a) shall be deemed to have commenced on the programmed delivery date, irrespective of the actual date of delivery.

## 12. Liability

Notwithstanding any other provision of these Conditions maximum liability for loss, damage or expense for any matter arising out of or in connection with the Goods shall not exceed £10,000.00 in total or the Contract sum whichever is the lesser, including any contractual liability (including but not limited to any implied contractual terms, statutory or otherwise) tort (including but not limited to negligence, trespass and nuisance) or breach of statutory duty. Notwithstanding the foregoing, nothing in this Clause shall be taken as excluding liability for death or personal injury resulting from negligence by Global.

## 13. Returns

Goods supplied in accordance with the Conditions but returned within 60 days of delivery will receive a credit of 75% where the Goods returned are still unopened as delivered. All returns must be referenced to our



invoice or acknowledgement number. There will be a minimum charge of £50. Goods specifically manufactured or ordered from third parties may not be accepted back for credit except at the sole discretion of Global.

#### **14. Extensions of Time/Loss & Expense**

Global shall not be liable to the Client or deemed to be in breach of contract by reason of any delay in performing, or any failure to perform, any of Global's obligations in respect of the Goods, if the delay or failure was due to any cause beyond Global reasonable control. In addition the Client shall pay to Global any costs incurred by Global as a result of the said failure or delay, where such failure or delay is caused by any act, omission, neglect or default of the Client his Principals or any party for whom the Client is responsible.

#### **15. Application of Goods**

The Client must rely on its own skill and judgement in relation to the Goods and shall satisfy itself that the Goods specified are suitable for the Client's intended purpose and Global accepts no liability for fitness of purpose of the Goods unless and to the extent that Global has agreed in writing within its Offer or by reference to a particular specification that the Goods are so fit.

#### **16. Suspension and Determination**

Without prejudice to any other right or remedy available to Global, Global may, if the Client is in breach of any of its obligations to Global under this or any other Contract, suspend any further deliveries under this or any other Contract or suspend the supply of all or any part of the services to the Client under any other Contract; and if any goods have been delivered or any services supplied by Global to the Client under any Contract between Global and the Client but not paid for, the price for such goods or services shall immediately become due and payable notwithstanding any previous arrangement to the contrary.

If the breach is capable of remedy the Client shall, if Global so elects and gives written notice of such an election, have 7 days to effect a remedy during which time Global may suspend or continue its obligations hereunder without thereby accepting such breach.

Global may forthwith determine the Contract without notice if the Client shall fail to remedy any such breach as aforesaid under this or any other Contract or if the Client becomes Insolvent.

#### **17. Governing Law**

The Law of England and Wales shall be applicable to this Contract and the parties hereby submit to the exclusive jurisdiction of the Courts of England and Wales except that where Clause 18 hereof applies this will be subject to the provisions of Clause 27 hereof.

#### **18. Provisions of Services**

Where Global provides services in addition to or instead of Goods then the following Clauses 19-28 should also form part of the Conditions and shall take precedence over any other part of the Conditions within Clauses 1-17, which may be at variance or in conflict.

#### **19. Additional Definitions**

In relation to Clauses 20-28 hereunder, "Works" shall mean the supply of Goods and/or services provided by Global to the Client and "Adjudication Rules" shall mean the Rules described in the Scheme for Construction Operations referred to in the Housing Grants Construction and Regeneration Act, 1996 as amended by the Local Democracy, Economic Development and Construction Act, 2009.

#### **20. Additional Liability**



The provisions of Clause 12 in respect of liability also apply to the Works.

## **21. Design/Selection of Materials/Performance Specification**

Global will exercise all reasonable skill and care in:

- a. The design of the Works insofar as the Works have been or will be designed by Global ; and
- b. The selection of materials and Goods for the Works, insofar as such materials and Goods have been or will be selected by Global ; and
- c. The satisfaction of any performance specification or requirement insofar as such performance specification/or requirement is included or referred to in Global Offer.

## **22. Risk**

Notwithstanding the provisions of Clause 7 above Global shall take responsibility for the protection on site of any Goods installed by Global or any of Global's Sub-Contractors until such time as they have become fully and finally incorporated into the Works. For the purposes of this Clause and for the avoidance of doubt Goods shall be deemed to have been fully and finally incorporated once they have been fixed to the structure.

## **23. Extension of Time/Loss & Expense**

The provisions of Clause 14 in relation to the extensions of time/loss and expense also apply to the Works.

## **24. Variations**

No variation shall vitiate this agreement. The Client may make a variation to the Works and Global shall be paid for any additional costs arising out of or in connection with the variation and shall be entitled to extend/postpone the agreed delivery dates or period for completion to take account of the variation. The additional costs referred to herein shall be calculated at rates analogous to Global's Offer, however effect shall be given to the quantities, timing and particular circumstances related to any such variation. Where rates analogous cannot reasonably be applied such additional costs shall be calculated at reasonable market rates.

## **25. Payment**

Where the agreement includes the provision of services by Global the following terms shall apply, in lieu of Clause 8 herein;

- a. The price shall be paid to Global in monthly instalments calculated on the basis of the value of the Works carried out by Global during each calendar month and the Works shall be valued by the Client accordingly.
- b. The first and every subsequent application shall be submitted by Global by the 28th day of each calendar month valued to the end of each calendar month and shall include the value of Works that Global has carried out during that period, less any amounts included in previous applications, provided that if Global shall fail to submit an application for payment in the manner described herein, such failure shall not in any way affect the Client's obligation to value the Works and make payment as provided for herein. Nothing contained in these Conditions, save as provided for in Clauses 25 and 26, shall be construed as affecting the value of the sum due to Global.



- c. Payment shall become due to Global (the “due date”) within 5 days from the date of the application (or in the absence of an application, the date that the application should have been submitted) and the final date of payment shall be within 30 days of the due date (the “final date”).
- d. In respect of any payments which are not paid by the final date of payment, simple interest shall be payable at the rate of 8% per annum over the base rate of The Bank of England, current at the final date of payment.
- e. Within 5 days of the due date for payment the Client will notify Global in writing of the sum the Client considers to be due and payable by the final date of payment (the “notified sum”) together with the basis of calculation. Where the Client does not notify Global as aforesaid, then, subject to clause 26, the sum in the application referred to in clause 25 (b) shall thereupon become the notified sum due and payable by the final date of payment.
- f. Where the Client fails to issue the notice referred to in clause 25(e) and Global have not submitted an application for payment in accordance with clause 25(b), then Global shall be entitled to issue a notice in writing to the Client (the “default notice”) specifying the sum Global consider to be due and the basis of calculation. Subject to clause 26 any sum so notified to the Client shall thereupon become the notified sum due and payable to Global by the final date of payment, although the final date of payment related thereto shall be deferred by the period of time between the date of the Client’s notice under clause 25(e) (or the date such notice should have been issued) and the date of Global’s default notice.
- g. Global shall submit an invoice for the notified sum within the period beginning with the date that notification of the sum due should have been issued by the Client and the date 5 days prior to the final date of payment to which it relates, however should Global fail to issue any invoice as aforesaid, this shall in no way relieve the Client from the obligation to pay Global the notified sum by the final date of payment, or relieve the Client of any liability for interest under clause 25(d).
- h. Without affecting Global’s other rights and remedies, if the Client fails to pay Global the notified sum in full by the final date of payment as required by these conditions and the failure continues for 7 days after Global has given notice to the Client of his intention to suspend all or part of his obligations under this contract and the ground or grounds on which it is intended to suspend performance, Global may suspend all or part of such performance until payment is made in full. Where Global have suspended all or part of its performance pursuant to this clause, Global shall be entitled to an extension of time and reimbursement of all reasonable costs incurred and any such suspension period shall be treated as an act, omission, neglect or default of the Client under clause 14.

## 26. Pay Less Notice

Not later than 5 days prior to the final date of payment the Client may give a written notice (the “pay less notice”) to Global specifying the sum that the Client considers to be due and the basis upon which this sum is calculated and this sum shall become the notified sum due and payable by the final date of payment. If the



Client fails to issue a timely pay less notice within the prescribed timescales or if the notice fails to fully identify the basis on which the sum specified therein is calculated, it will pay the notified sum otherwise due by the final date of payment.

## **27. Adjudication Provisions**

Subject to clause 17 herein if any dispute or difference arises out of or in connection with the Works either Global or the Client may give notice in writing (the "notice to refer") requiring the dispute or difference to be referred to an Adjudicator who shall be appointed and act in accordance with the Adjudication Rules.

The notice to refer may be given at any time save that the notice to refer issued by the Client must be addressed to the Company Secretary, Global at the address detailed in Global's Offer.

The Adjudication Rules shall form part of these conditions where clause 18 applies.

The parties to any Adjudication shall pay their own costs and the Adjudicator shall be empowered to determine which party will pay his costs based upon the outcome of the Adjudication.

The Adjudicator shall be entitled to correct clerical or typographical errors arising by accident or omission within 5 days of issuing his decision to the parties.

## **28. Exclusion of Third Party Rights**

Notwithstanding any other term, this Agreement confers a benefit only on the Client and Global and only the Client and Global may enforce its terms.

