

I. INTERPRETATION

The following definitions and rules of interpretation apply in these Conditions.

(a) Definitions:

Business Day means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Charges means the charges payable by the Customer for the supply of the Services in accordance with clause 6 (Charges and payment).

Commencement Date has the meaning given in clause 2.2.

Conditions means these terms and conditions as amended from time to time in accordance with clause 12.5.

Contract means the contract between the Customer and the Supplier for the supply of Services in accordance with these Conditions.

Control shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

Customer means Zircon Industry Association Limited registered in England and Wales with company number 08187233.

Customer Materials has the meaning set out in clause 3.3.7.

Deliverables means all documents, products and materials (including, but not limited to, webinars and presentations) developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Intellectual Property Rights means patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order means the Customer's order for the supply of Services, as set out in the Project Order form.

Services means the services, including any Deliverables, to be provided by the Supplier under the Contract, as set out in the Order.

Supplier means the company or entity from whom the Customer purchases the Services.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2 The Order shall be deemed to be accepted on the earlier of:

2.2.1 the Supplier issuing written acceptance of the Order; or

2.2.2 any act by the Supplier consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence (the "**Commencement Date**").

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

3. SUPPLY OF SERVICES

3.1 The Supplier shall from the Commencement Date and for the duration of the Contract provide the Services to the Customer in accordance with the terms of the Contract.

3.2 The Supplier shall meet any performance dates for the Services specified in the Order or that the Customer notifies to the Supplier.

3.3 In providing the Services, the Supplier shall:

3.3.1 co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;

3.3.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;

3.3.3 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 Contract;

3.3.4 ensure that the Services will conform with all descriptions, standards and specifications set out in the Order, and that the Deliverables shall be fit for

any purpose that the Customer expressly or impliedly makes known to the Supplier;

3.3.5 obtain and at all times maintain all licences and consents which may be required for the provision of the Services;

3.3.6 comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply from time to time to the provision of the Services;

3.3.7 hold all materials, equipment and tools, drawings, specifications, data and product samples (which may include zircon, zirconia and ceramic tiles among other product samples) supplied by the Customer to the Supplier (the "**Customer Materials**") in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;

3.3.8 not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services.

4. CUSTOMER REMEDIES

4.1 If the Supplier fails to perform the Services by the applicable dates, the Customer shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights:

4.1.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;

4.1.2 to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;

4.1.3 to recover from the Supplier any costs incurred by the Customer in obtaining substitute services from a third party;

4.1.4 to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided.

4.2 If the Supplier has supplied Services that do not comply with the requirements of clause 3.3.4 then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights:

4.2.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;

4.2.2 to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);

4.2.3 to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;

4.2.4 to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute services or deliverables from a third party.

4.3 These Conditions shall extend to any substituted or remedial services provided by the Supplier.

4.4 The Customer'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.

5. CUSTOMER'S OBLIGATIONS

5.1 The Customer shall provide such necessary information for the provision of the Services as the Supplier may reasonably request.

6. CHARGES AND PAYMENT

6.1 The Charges for the Services shall be set out in the Order, described as the agreed price, and 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 Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

6.2 The Supplier shall invoice the Customer on the basis of the agreed payment terms set out in the Order. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant project order number set out in the Order.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 All Intellectual Property Rights in or arising out of or in connection with the Services and/or the Deliverables shall automatically be owned by the Customer to the fullest extent permitted by law.

7.2 All existing Intellectual Property Rights of the Supplier is and shall remain the exclusive property of the party owning it and nothing in this Contract shall operate to transfer these to the Customer.

7.3 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy any materials provided by the

Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.

7.4 All Customer Materials are the exclusive property of the Customer.

8. INDEMNITY

8.1 The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (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 Customer arising out of or in connection with:

8.1.1 any claim brought against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Services (excluding the Customer Materials);

8.1.2 any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Services; and

8.1.3 any claim brought against the Customer in respect of any breaches of applicable tax laws, including, for the avoidance of doubt, the Criminal Finances Act 2017 applicable in England and Wales.

8.2 The Supplier represents and warrants to the Customer that it:

8.2.1 is not on any sanctions list in any jurisdiction;

8.2.2 has in place appropriate policies, to the extent possible, in respect of:

- (a) tax evasion;
- (b) modern slavery and human trafficking;
- (c) anti-bribery and anti-corruption;
- (d) data and privacy;
- (e) non-discriminatory practices and equal opportunities;
- (f) workplace safety and fair labour;
- (g) antitrust and competition law compliance;

8.2.3 it complies with national and international laws applicable in the jurisdiction in which it operates.

8.3 This clause 8 shall survive termination of the Contract.

9. DATA PROTECTION

The parties shall comply with their data protection obligations as set out under applicable national laws.

10. TERMINATION

10.1 Without limiting or affecting any other right or remedy available to it, the Customer may terminate the Contract:

10.1.1 with immediate effect by giving written notice to the Supplier if:

(a) there is a change of control of the Supplier; or

(b) the Supplier's financial position deteriorates to such an extent that in the Customer's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

(c) the Supplier commits a breach of clause 3.3.6,

10.1.2 for convenience by giving the Supplier one month's written notice.

10.2 Without limiting or affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

10.2.1 the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of seven days after being notified to do so;

10.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

10.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

11. CONSEQUENCES OF TERMINATION

11.1 On termination of the Contract for any reason or on expiry, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete.

11.2 Termination or expiry of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

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

12. GENERAL

12.1 **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 under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for two months, the party not affected may terminate the Contract by giving seven days' written notice to the affected party.

12.2 Assignment and other dealings.

12.2.1 The Supplier shall not assign, transfer, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Customer.

12.3 Confidentiality.

12.3.1 Each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.3.2.

12.3.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12.3; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

12.4 **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 its subject matter.

12.5 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.

12.6 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

12.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity or enforceability of the rest of the Contract. If any provision or part-provision of this Contract is deemed deleted under this clause 12.7, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provisions.

12.8 Notices.

12.8.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by next working day delivery service or reputable international courier service at its registered office (if a company) or its principal place of business (in any other case) or by email.

12.8.2 A notice or other communication shall be deemed to have been received: if delivered by hand, at the time the notice is left at the proper address; if sent by next working day delivery service, at 9.00 am on the second Business Day after posting; if sent by a reputable international courier service, by five Business Days after mailing;

if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 12.8.2, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

12.8.3 This clause 12.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

12.9 Third party rights.

12.9.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

12.10 **Governing law.** 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 laws of England.

12.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England 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.