

#### TERMS AND CONDITIONS FOR THE PROVISION OF GOODS AND SERVICES

These are the terms on which Blazequel Limited (Company Number NI622109) whose registered address is at 1a Carrakeel Drive, Maydown Industrial Estate, Maydown, Londonderry, United Kingdom, BT47 6UQ ('Company') do business ("the Conditions").

### 1. DEFINITIONS

1.1 In these Conditions, unless the context requires otherwise, the following expressions have the following meanings:

**"Charges"** means the price payable for the Goods and/or Services as specified in the Order and as calculated in accordance with and as varied by these conditions.

**"Company"** means Blazequel Limited which expression shall include its successors in business and assigns.

**"Contract"** means any contract made between the Company and the Customer for the sale and purchase of Goods and/or performance of Services which arises from acceptance by the Company of an Order.

**"Covid 19"** means Covid 19 and/ or severe acute respiratory syndrome coronavirus (SAR-COV-2) or a mutation of these.

**"Customer"** means the customer specified in an Order.

**"Delivery Installment"** means the amount payable to the Company before the Company shall be obliged to make delivery of the Goods to the Site.

**"Estimated Commencement Date"** means the estimated date of when the Company envisages that it will deliver the Goods and/or perform the Services (as the case may be).

**"Force Majeure"** means any circumstances beyond the reasonable control of the Company which shall include (but shall not be limited to) acts of God, the effects of Covid 19 (including any guidance, recommendations, advice or changes in regulations, laws or statutes introduced by any state, body and/or government and/or government agency and/or any relevant authorities in relation to Covid 19), any advice in relation to the prevention or delay of the spread of Covid 19, perils of the sea or air, fire, flood, drought, explosion, sabotage, accident, embargo, strikes, lock outs, riot, civil commotion including acts of local government and parliamentary authority; shortage of supplies (but not lack of funds), utilities, equipment, materials, breakdown or shortage of equipment, materials and/or labour

**"Goods"** means any products, articles or items which the Company sells to the Customer as specified in the Order.

**"Order"** means an order for Goods and/or Services made on the Company's order form.

**"Services"** means any services which are requested by the Customer under the Order.

**"Work"** means all those Goods and Services to be supplied by the Company to the Customer at the Site including any variation agreed in writing by the Company.

### 2 BASIS OF CONTRACT

These Conditions shall apply to, and shall be part of the Contract to the exclusion of any terms and conditions of the Customer. No variation to the Contract shall be binding unless agreed in writing between the authorised representatives of the Customer and the Company. Any conditions contained within your invitation to tender, purchase order, on your communications or any other documents or implied by law, trade, practice or course of dealing are excluded and performance by us of any aspect of the Contract shall not constitute performance of such conditions.

### 3 CHARGES

3.1 Unless otherwise agreed in writing, payment will be due upon receipt of an invoice ("**Due Date for Payment**") ("**the Invoice**"). No Services shall be commenced or supply contracts for the Goods concluded by the Company until the

Deposit has been paid by the Customer. Within 7 days of the Due Date for Payment the Customer shall issue a notice specifying an amount that the Customer considers is due to be paid and the basis on which sum has been calculated ("**Payment Notice**"). If a Payment Notice is not issued the amount due to be paid shall be (subject to any Payless Notice, as defined below) the amount specified in the relevant invoice. The Customer shall pay the amount set out in the Payment Notice or invoice (as the case may be) within 30 days of the date of the Invoice ("**Final Date for Payment**"). If the Customer intends to pay less than the amount specified in the Invoice or the Payment Notice, then, not later than 15 days before the Final Date for Payment, the Customer shall give the Company written notice of the intention to payless which shall specify the amount that the Customer considers due and the basis on which that amount has been calculated ("**Payless Notice**"). If a Payless Notice is not given in accordance with this Clause 3.1 and 9.1, then the amount to be paid by the Customer shall be the amount stated in the Payment Notice, or if none, the Invoice.

3.2 Where the Work is completed by sections we may render invoices on account of such sections save that the Company shall have the right to render invoices on a monthly basis notwithstanding completion or otherwise of a section or the whole of the Works.

3.3 The Customer shall pay interest (both before and after any judgement) in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 on any part of the charges not paid on the due date from that date until payment is made in full calculated on a daily basis from the due date and the Company shall be entitled to suspend further Work until all outstanding invoices have been paid in full.

3.4 No retention by the Customer may be deducted from any payment due in respect of any of the Work completed and the Customer shall not have any right of set off (whether at common law or in equity) against such payment. If any retention is agreed then the Customer shall hold any such retention on trust for the Company with the Customer's interest in such retention being fiduciary as trustee and the Customer shall account to the Company for any interest accrued thereon.

3.5 Unless otherwise expressly agreed in writing the Charges shall be an estimate only and subject to amendment and variation as hereinafter provided.

3.6 The Charges are based upon current costs of transport, labour and Goods unless otherwise stated and shall be inclusive of all labour, transport and Goods but exclusive of VAT.

3.7 The Charges are partly calculated by reference to the quantity of Goods which shall be estimated to be required but which can only be accurately determined during performance of the Work. The amount of Goods actually consumed shall be monitored on performance of the Works and if the amount of Goods actually consumed exceeds the material estimate the Charges shall be revised accordingly PROVIDED ALWAYS that the quoted price shall not be revised by more than 20% without prior consultation with the Customer.

3.8 Any other additional costs above the quoted price arising from delays or interruptions including but not limited to Force Majeure, unforeseen site conditions, suspension of manufacture or re-scheduling of deliveries of Goods or of the

programme of Work as a result of Covid 19, the Customer's instructions or revisions or information or failure to comply with Clause 7 or acts or omissions of the Company, its employees, agents, contractors, consultants and suppliers shall be borne entirely by the Customer and shall be added to the Charges.

3.9 The price payable by the Customer for the Work shall be the Charges as varied by clauses 3.7, 3.8, 4.3, 10 and 12 or otherwise in accordance with these conditions.

#### **4 DELIVERY AND SPECIFICATION**

4.1 On condition that the Delivery Installment (if any) has been paid to the Company, the Company will use reasonable endeavours to commence the delivery of the Goods and performance of the Services on the Estimated Commencement Date or such other date as may be mutually agreed in writing and complete its obligations under the Contract within the Estimated Time to Complete. The Company shall have no obligation to perform the delivery or provide the Goods or Services until any such Delivery Installment has been paid to the Company.

4.2 Subject to clause 3.7 the quantity, quality and description of and any specifications for the Goods or Services shall be those set out in the Company's quotation.

4.3 The Company reserves the right at all times and without notice to change its specifications for any of the Goods or the Services if any such change will not materially affect the quality or performance of the Goods or the Services and without prejudice to the generality of the foregoing, to make any changes in the specification of the Goods or the Services which are required to conform with any applicable safety or other legal requirements subject to any adjustment of the prices quoted which may result from any such change.

4.4 Any time for performance stated in the Contract shall be an estimate unless the Company has expressly agreed a fixed time for performance in conjunction with a provision for liquidated damages. Such liquidated damages shall be payable at the rates specified in the Order up to a maximum of 5% of the Charges and will only be payable if the delay has been directly and solely caused by the default of the Company. Liquidated damages so payable shall be in full satisfaction of our liability for delay. Otherwise, the Company will not be liable for any loss or damage direct or indirect caused by any delay and in no case shall delay be a ground for rejecting the Work or otherwise rescinding the Contract. Time shall not be of the essence for performance of the Work or delivery of the Goods.

4.5 The time for performance shall be extended if delay is due in whole or in part due to (a) any delay caused by the acts or omissions of the Customer, its agents, employees, contractors, suppliers or consultants, (b) non-availability of materials or labour, (c) loss or damage by any one of the risks insured against by the Customer or its customer in relation to the Works; (d) Force Majeure; or (e) unforeseen site conditions.

4.6 If the Contract requires that any inspection or test is carried out in the presence of the Customer or other parties or representatives, the Company will provide not less than three working days' notice of such inspection or test. In the event of any delay on the part of the Customer or other attendee in carrying out such inspection or test, the inspection or test may proceed in the absence of the Customer or other proposed attendees and shall be deemed to have been carried out in their presence.

#### **5 RISK AND PROPERTY**

5.1 Risk of damage to or loss of the Goods shall pass to the Customer upon delivery of the Goods to the site of the Works but title in the Goods shall only pass upon full payment of the Charges.

5.2 Until such time as title in the Goods has passed to the Customer the Company shall be entitled to repossess at any time any of the Goods of which title remains vested in the

Company and in this regard, the Company or any of its agents or authorised representatives shall be entitled at any time and without notice to enter upon any premises in which the Goods or any part thereof are installed, stored or kept, or are reasonably believed so to be to retrieve the Goods and the Company shall not be liable for any damage or loss caused to the Customer or the Customer's premises provided that the Company has taken reasonable care when retrieving such Goods.

5.3 Any scaffolding, plant, or equipment which the Company provides for its works shall be for its exclusive use. No other person may use such scaffolding, plant or equipment. The Customer shall issue and procure compliance with all such instructions to its employees, contractors, suppliers and consultants as are necessary to ensure that this clause is complied with and shall indemnify the Company against any failure to comply.

#### **6 WARRANTIES AND LIABILITY**

6.1 Subject to Clause 6.5, the Company warrants to the Customer that:

6.1.1 Any installations carried out by the Company as part of the Services will be substantially free from defects in workmanship for a period of 12 months after the Services have been performed ("Warranty Period") unless otherwise agreed in writing by the authorised representative of the Company;

6.1.2 the Services will be performed by appropriately qualified and trained personnel, with reasonable skill and care; and

6.1.3 the Company will use its reasonable endeavours to pass on any manufacturer's warranty to the Customer in respect of any Goods not manufactured by the Company.

The warranty described in this clause shall be defined as the 'Limited Warranty'. To the maximum extent permitted by law all other warranties and conditions are excluded.

6.2 The Company will be liable to the Customer in respect of (i) any claim arising from injury to or death of any person where and to the extent that the injury or death is caused by negligence on the part of the Company and (ii) fraudulent misrepresentation.

6.3 Subject to Clauses 6.2, 6.4 and 6.5, the Company's entire liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of a Contract shall be limited to; and in respect of the Goods the Company shall have no liability save that the Company shall pass on to the Customer by way of assignment or transfer (if and to the extent possible) the benefit of any manufacturer's or supplier's warranty that the Company has received.

6.4 Subject to Clause 6.2, in no event shall the Company be liable for any indirect, incidental or consequential loss, wasted or lost management time, lost profits, goodwill, savings and/or other indirect economic loss arising from or relating to any contract or the use of the Goods or performance or non-performance of the whole or part of the Services, or breach of statutory duty, or delay even if the Company has been advised of the possibility of such loss.

6.5 The Limited Warranty in Clause 6.1 does not cover failures of the Goods which result from accident, abuse, misuse, alterations (by persons other than the Company or its authorised repair agents), moisture, corrosive environments, high voltage surges, or abnormal working conditions. The Limited Warranty does not cover normal wear and tear.

6.6 Subject to clause 6.2, the Company's liability under or in connection with this Contract shall not exceed, in the aggregate, the amount, if any, recoverable by the Company against the claim or claims in question under the

professional indemnity insurance taken out and maintained by it

6.7 The Company's maximum aggregate liability for delay payable by the Company shall not, in any event, exceed 5% of the Charges.

6.8 The Customer acknowledges and warrants that:

6.8.1 it is responsible and liable for any specifications, designs, instructions, data, drawings, calculations, services or connections specified or supplied by it to the Company (the Information);

6.8.2 it warrants that any such Information is fit for purpose and suitable for the Works and has been carried out or prepared using all reasonable skill and care; and

6.8.3 the Company may use and can rely upon the Information;

6.9 The Company shall retain ownership of and all intellectual property rights in any designs, drawings, data, calculations, software and any other intellectual property created by the Company and its suppliers ("the Documents"). Upon payment of the Charges in full, we shall grant you a licence to use such Documents for the Works only. The Company shall not be liable for any use other than that for which the Documents were originally prepared.

6.10 If the Customer fails to let the Company supply any replacement Goods or make good any defects in accordance with clause 6.1, then the Company shall have no liability to reimburse the Customer for the cost of any such Goods or services or repairs which shall be at the Customer's risk.

6.11 The Customer acknowledges that if it requests or requires (either expressly or implicitly due to the nature of the site and/or the desired solution or outcomes) the Company to design a system that is not in accordance with any industry standards, guidance, requirements or recommendations then the Company shall not be in breach of contract or have any liability to the Customer (subject always to clause 6.2) in respect of such design and Services due to it not being in accordance with those standards, requirements, guidance or recommendations and shall indemnify the Company from any claims, damages, costs, losses, expenses and fees from such designs and/or Services.

## **7 CUSTOMER'S OBLIGATIONS**

7.1 The Customer warrants that:

7.1.1 The Customer shall allow safe, asbestos free, full and free access to the Site of the Work and shall provide that all legal, statutory or other requirements and necessary consents, licences (including all licences and permissions required to use the Information) and notices have been obtained to enable the Work to be commenced on the Estimated Commencement Date at the Site and that all facilities necessary for carrying out the Work continuously during the working hours and outside normal working hours (if the Customer has notice of the Company's requirements to work outside normal working hours) are provided to the Company before the Estimated Commencement Date;

7.1.2 The Customer shall provide such information regarding the site of the Work and its use and environment as may reasonably be required by the Company to carry out the Work;

7.1.3 The Customer shall take all steps as may be necessary to ensure the safety of any of the Company's representatives who shall carry out the Work;

7.1.4 The Customer or its representatives shall be available for consultation at all times during the continuance of the Work;

7.1.5 The Customer shall co-ordinate all and any works being carried out on the Site so that such other works, contractors, suppliers, employees and consultant allow the free and uninterrupted performance of the Services;

7.1.6 The Customer shall make available at its cost and constantly maintain an adequate supply of electricity and such other mains services as shall be considered necessary by the Company for the Work to be carried out;

7.1.7 Whilst the Company will use reasonable endeavours to ensure that the site of the Work is left in a clean and tidy condition following completion of the Work the Customer hereby agrees that the reinstatement of the Site and all waste arising from the Work shall be the liability and responsibility of the Customer; and

7.1.8 The Site is suitable and ready for the Work. The Customer is responsible for, inter alia, all and any site alterations, structural works, scaffolding, steel or timber works necessary to install the Goods and to carry out the Services including intersections, establishing site datum levels or alignment of ceilings, floors, protection and sheeting, associated surfaces (for final aesthetics or otherwise).

7.2 The Customer shall indemnify and keep the Company indemnified against any liabilities which the Company may incur to any person whatsoever and against any claims, demands, costs and/or expenses sustained, incurred or payable by the Company (whether direct or indirect or consequential) to the extent that the same arises by reason of any act, negligence, error, omission or default of the Customer, its employees, agents and sub-contractors in connection with this Agreement including any third party contracts.

## **8 TERMINATION**

8.1 The Company shall be entitled to terminate or suspend the Contract without liability by giving notice to the Customer at any time if the Customer:-

8.1.1 shall make or offer to make any arrangement or composition with its creditors or commit any act of bankruptcy or be the subject of any insolvency proceedings, or if a bankruptcy petition be presented against the Customer or (if the Customer is a company) if any resolution or petition to wind up the Customer shall be passed or presented, or if a receiver of the whole or any part of the Customer's undertakings, property or assets shall be appointed;

8.1.2 should the Customer fail to pay the Charges when they are due;

8.1.3 the Company is unable to carry out the Services or deliver the Goods in a reasonable time or at a reasonable cost due to the impact and effects of Covid 19; or

8.1.4 should the Customer be in breach of any of its obligations hereunder.

8.2 Upon termination of the Contract by either party or at all, the Customer agrees to forthwith take a novation of any hire or lease agreement or sub contract that the Company has entered into at the Customer's request for the performance of the Contract and hereby agrees to indemnify the Company for any losses, damages etc including without limit for any liabilities or obligations that the Company may have or have had under any hire or lease agreements or subcontracts entered into in connection with the Contract.

## **9 GENERAL**

9.1 Any notice required or permitted to be given by either party to the other under the Contract shall be in writing addressed to that other party at its registered office or such address set out in the Order save that (a) any Payment Notice must be sent to and marked for the attention of the Project Manager and Financial Supervisor notified to the Customer from time to time; and (b) any Payless Notice must be sent by recorded delivery to the registered office address of the Company addressed for the attention of Andrew Picton, Managing Director.

9.2 No waiver by the Company of any breach of a

Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision. Any waiver by the Company shall only be effective if in writing expressly waiving the provision in question.

9.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

9.4 The Company shall be under no liability to the Customer in respect of anything which, apart from this provision, may constitute breach of any Contract arising by reason of Force Majeure.

9.5 These Conditions and any Contract shall be governed and construed in accordance with the laws of England (including as to validity and enforcement) and the parties submit to the exclusive jurisdiction of the English courts.

9.6 If a dispute or difference arises under this Contract which either party wishes to refer to adjudication the TeCSA's adjudication procedure shall apply.

9.7 These Conditions (and where applicable construed together with the Contract) shall constitute the entire agreement between the parties with respect to its subject matter and (except in the case of fraud) supersedes all warranties, promises and representations or other assurances.

9.8 All illustrations, drawings and data contained in the Company's printed literature, prices list, publications or advertisements are approximate representations only and none of them form part of the Contract.

9.9 The Customer acknowledge and agree that details of its name, address and payment record may be submitted to a credit reference agency, a credit insurer or other third party to verify its credit worthiness, and that personal data will be processed by us and our behalf in connection with the Work.

9.10 A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

## **10 INSTRUCTIONS AND VARIATIONS**

10.1 The Customer may not issue instructions or request variations to the Works ("**Variation**") unless these instructions are in writing and the instructions are valued as variations or the Variation is agreed in writing by an authorised representative of the Company.

10.2 Variations shall be valued by the Company by reference to the relevant rates and prices in the Order.

10.3 The Company shall be paid any loss and/or expense incurred by the Company due to the progress of the Work being affected by the Variation and shall be granted an extension of time as is reasonable given the nature and extent of the Variation.

10.4 The value of the Variation together with the value of any loss and expenses to be paid to the Company calculated in accordance with this clause 10 shall be added to the Charges.

## **11 CREDIT ACCOUNTS**

11.1 The Customer may apply for a credit account with the Company. The Company shall assess such application by obtaining reports from credit references agencies.

11.2 In the Company's sole discretion, it may grant a credit limit to the Customer. The Company shall monitor and record the Company's purchase ledger balance and their payment

performance. The Customer agrees that any and all such records kept and generated by the Company may be made available by the Company to credit reference agencies.

11.3 If the Customer's credit rating (as assessed by the Company) falls between 7 and 10 of a 10 point scale using the Euler Hermes "Simplicity" credit rating system then the Customer shall be required to immediately pay for all the Goods and Services in full before the Company is required to deliver any Goods or perform any of the Services. Failure to make payment in full shall entitle the Company to suspend performance of its obligations hereunder and the Company shall not be required to remobilise or deliver any of the Goods or carry out any of the Services unless payment is made in full. The Customer shall reimburse the Company for all of its costs, losses, damages (including loss of profit, loss of opportunity and goodwill) of de-mobilisation and remobilisation together with the loss and expense caused to the Company for the delay in performing the Contract.

## **12 ANCILLARY DOCUMENTS**

12.1 The Company has no obligation to enter into or provide any security or other ancillary documentation such as, inter alia, bonds, guarantees, warranties, letters of reliance, additional insurance cover ("**Security**"). The Company may enter into such Security at its own sole election. If the Company so elects, then it shall enter into such Security with such amendments as its advisers, insurers and funders may recommend or require.

12.2 The Company may charge the Customer for the review, negotiation, and provision of and entering into any Security requested by the Customer or other parties involved in the Works. Such costs and fees shall be added to the Charges. Provision of any such Security shall be conditional on payment in full of such charges which shall include the fees of any advisers or other parties that have been incurred or are payable by the Company in respect of the Security.

# **BLAZEQUEL LIMITED**

## **QUOTATION AND ORDER ACCEPTANCE FORM**

**NAME OF CUSTOMER:**

**TELEPHONE NUMBER:**

**ADDRESS:**

**EMAIL:**

**Customer's Requirements:**

*[Reference Specific Documents or Appendixes. For example:]*

*[Draft Program of Works]*

*[Site Drawing Reference Numbers]*

*[any other requirements]*

**Quotation:**

*Quotation Ref.*

*Contract Sum as per quotation*

*Documents & Appendixes*

**Site Address**

**RATES FOR VARIATIONS/INSTRUCTIONS**

Hourly Rate for services:

Manager or Director: £85.00 per hour plus vat

Tradesman: £50.00 per hour plus vat

Goods to be costed by reference to this Order as at the date of performance.

Mileage: £0.45 per mile

This quotation is open to acceptance for a period of 30 days after which we reserve the right to re-calculate the charges.

Notes:

(i) Work will be carried out between the hours of 8.00am to 5.00pm on Mondays to Fridays excluding public and bank holidays.

(ii) The charges specified above include all administration and certificates which will be issued after the Services have been performed.

(iii) Any additional work beyond what is set out above or variations or changes will be charged on a time and materials basis and the charges will be calculated on the Hourly Rate per hour and the cost of materials will be based on manufacturer's prices plus our usual mark up.

**ESTIMATED DATE OF PERFORMANCE:**

**ESTIMATED TIME TO COMPLETE:**

**CUSTOMER'S SIGNATURE:**

**DATE:**

**BLAZEQUEL LIMITED**

**SIGNATURE:**

**DATE:**

**\* BLAZEQUEL LIMITED'S TERMS AND CONDITIONS APPLY**