

# SONNAZ

UPHOLSTERY · FURNISHINGS · RESTORATION

## Conditions of Purchase

### 1 Definitions

- 1.1. 'The **Buyer**' shall mean Sonnaz Ltd
- 1.2. 'The **Seller**' shall mean the person, firm or company to whom the Purchase order is issued.
- 1.3. '**Purchase order**' shall mean the Purchase order placed by the Buyer with the Seller for the supply of the goods and/or services.
- 1.4. '**Goods and/or services**' includes all goods and/or services to be supplied and delivered by the Seller under the Purchase order and includes any labels, instructions or handbooks relating to the goods and/or services.
- 1.5. '**Delivery**' shall mean the supply of all goods and/or the completion of all services described on the Purchase order.
- 1.6. '**Contract**' shall mean the Contract between the Buyer and Seller consisting of the Purchase order, these Conditions of Purchase, any other documents (or parts thereof) referred to in the Purchase order and the Seller's acceptance of the Purchase order but not any terms and conditions, other than these Conditions, incorporated in or referred to in such acceptance.
- 1.7. '**Premises**' shall mean any office, building, or other place belonging to or occupied by the Buyer where the Seller is to deliver the goods and/or execute the Services in whole or in part.
- 1.8. '**Completion**' and '**Completed**' shall mean the completion of any quantity or part of the delivery (goods and/or services) according to the Purchase order or any schedule attached thereto including the Acceptance of the goods and/or services by the Buyer.
- 1.9. '**Acceptance**' and '**Accept**' shall mean the acceptance of the goods and/or services by the Buyer by written confirmation by the Buyer that the goods and/or services have been delivered and/or performed to his reasonable satisfaction.
- 1.10. '**the Price**' shall mean the sum stated in the Purchase order for the supply of the goods and/or completion of the Services, or the sum calculated in accordance with any schedule attached to the Purchase order together with such additions or deductions as may be allowed under these Conditions.
- 1.11. '**Date for delivery**' shall mean the Date for delivery specified in the Purchase order.
- 1.12. In this Contract where the context permits references to: the masculine gender includes the feminine the singular includes the plural a person includes a firm or corporation any enactment order regulation standard or other similar instrument shall be construed as a reference to any subsequent enactment order regulation standard of instrument amending same.

### 2. General

- 2.1. These terms and conditions apply in preference to and supersede any terms and conditions referred to, offered or relied upon by the Seller whether in negotiation or at any stage in the dealings between the Buyer and the Seller with reference to the goods and/or services to which this Contract relates. Without prejudice to the generality of the foregoing, the Buyer will not be bound by any standard or printed terms furnished by the Seller in any of its documents unless the Seller specifically states, in writing, separately from such terms that it intends such terms to apply and the Buyer acknowledges such notification in writing.

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- 2.2. Where this Purchase order is issued as a result of a Contract (awarded via a competitive tender process), issued in connection with an established Framework agreement or such other written contract issued by the Buyer to the Seller, the terms and conditions of the aforesaid Contract shall supersede and take preference to these Conditions of Purchase.
- 2.3. The Purchase order shall remain confidential as between the Buyer and Seller. The Seller shall not disclose any details of the Purchase order without the prior written consent of the Buyer, which shall not be unreasonably withheld, except insofar as it is necessary for the Seller to fulfil his obligations under the Purchase order.

### **3. Independent Contractor**

- 3.1. Relationship of Seller shall remain as an independent contractor. Seller is not an agent of Buyer for any purpose, and shall have no power, nor shall Seller represent that Seller has any power to bind Buyer or to assume or to create any obligation, expressed or implied, on behalf of Buyer. Seller shall disclose to subcontractors, vendors, and other third parties that Seller is not an agent or Buyer.

### **4. Variation**

- 4.1. Neither the Buyer nor the Seller shall be bound by any variation or waiver of, or addition to these conditions except as agreed by both parties in writing and signed on their behalf.

### **5. Specification, description, sample and standard**

- 5.1. The goods and/or services shall conform in all respects with (a) the provisions of the Contract and in particular the specification, drawings, samples or other descriptions of the goods and/or services contained or referred to in this Contract (b) European (EU) or International standards (ISO) specified in the Contract or, where no EU or ISO standard is specified, with the relevant British Standards and (c) the requirements of any relevant legislation applicable at the date for delivery of the goods or completion of the services.

### **6. Quality**

- 6.1. The goods shall be of satisfactory quality and shall be free from defects in material or workmanship.
- 6.2. If the purpose for which the goods and/or services are required is made known to the Seller expressly or by implication the goods and/or services shall be fit for such purpose.

### **7. Inspection and testing**

- 7.1. Buyer shall have the right to expedite, inspect, and/or witness any tests of Seller of goods provided or to be provided by Seller. Buyer shall be granted access to all portions of the Seller's facilities or Seller's supplier facilities which are related to or involved with the manufacturing or processing of this Purchase Order.
- 7.2. Buyer's expediting, inspection or witnessing of testing, or lack of inspection or witnessing of testing, shall in no way release the Seller from any obligations related to this Purchase Order.
- 7.3. Seller will notify Buyer at least five (5) calendar days in advance of the date any inspection or test is to be made. If for any reason the inspection should be delayed, Seller shall immediately notify Buyer.
- 7.4. No goods shall be delivered by Seller without a final inspection by Buyer, where Buyer has confirmed that such final inspection is required.
- 7.5. Seller shall maintain records of all inspections of goods provided or to be provided by Seller, and provide these to Buyer if so requested by Buyer.

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## **8. Guarantee and Warranty**

- 8.1 Seller guarantees that all goods and components furnished hereunder shall be (a) new, (b) in strict conformity with the requirements of Clauses 5 and 6, (c) free from defects in design (except to the extent the design is furnished by Buyer) and (d) if of Seller's bespoke design, of proper materials, sizes and capacity to perform satisfactorily under the full range of operating and/or design conditions specified. Seller shall promptly repair, modify, or replace all goods and components not in conformity with the above (except goods or components which have failed due to normal wear and tear) upon notification by Buyer, in accordance with manufacturer's warranty or guarantee where applicable.
- 8.2 All guarantees and warranties of the goods and services shall be deemed to run for the benefit of Buyer's customers where applicable.

## **9. Intellectual property infringement indemnity**

- 9.1. For all goods furnished under this Purchase Order, if the design of such goods was not furnished by Buyer, Seller shall indemnify, defend, release and hold harmless Buyer from all judgments for damages resulting from any claims or suits for infringement of patents, copyrights, trademarks, or other intellectual property rights arising out of the sale or use of such goods. Seller shall defend all such suits and shall pay all related costs. At discretion of Buyer, Seller shall, at its sole expense, procure the right for Buyer (or its clients or assignees) to continue to use the item, modify the item to render it non-infringing, replace the item with a non-infringing item, or remove the item completely and refund the Price of the item plus all related transportation, installation and dismantling costs.

## **10. Price and Payment**

- 10.1. Unless otherwise specifically stated in the Purchase order, the Price shall be fixed for the period of the Contract.
- 10.2. The Price is inclusive of all taxes, fees, insurances, duties, licenses, software and any and all expenses, with the exception only of VAT (where applicable).
- 10.3. The Seller shall be entitled to submit an invoice for the goods and/or services as soon as Delivery has been completed. The Seller has an obligation to submit clearly labelled Invoices with the relevant Purchase order reference, other relevant information and clearly addressed to the Finance team to aid the invoice matching and payment process. Failure to do so may result in late payment for which the Buyer will not be held liable.
- 10.4. Unless otherwise specifically stated in the Purchase order, payment shall be made by the Buyer via BACS within thirty (30) days from the month end of receipt of a correctly completed invoice after the satisfactory Delivery and Acceptance of goods and/or completion of Services in accordance with the instructions specified on the Purchase order unless, before payment is due, the Buyer has rejected all or any part of the goods and/or Services pursuant to Clause 13.
- 10.5. Where either party fails to make a payment on a due date the other party shall be entitled to charge interest on the late payment (except where part or the whole of the payment is withheld due to a bona fide dispute as to entitlement to payment or as per Clause 10.3) calculated daily at the rate of 3% above the Bank of England base rate. It is agreed by the parties that this clause provides the parties with a substantial remedy against late payment.

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## **11. Delivery**

- 11.1. The Seller shall deliver the goods and/or perform the Services to the Buyer by the Date for delivery during the times specified.
- 11.2. The Seller shall at his own expense deliver the goods to the Buyer at the address specified in the Purchase order and unless otherwise specified in the Purchase order delivery shall include the off-loading of the goods.
- 11.3. If the goods are incorrectly delivered, the Seller shall be responsible for any additional expense incurred, save where the fault for incorrect Delivery lies with the Buyer.
- 11.4. A delivery note shall accompany each delivery of the goods. All delivery notes shall be clearly marked with the Buyer's order number and the description and quantity of the goods concerned.

## **12. Time of performance**

- 12.1. If the Seller does not deliver the goods and/or perform the Services or any part thereof within the time specified in the Contract, the Buyer shall be entitled to terminate the Contract and purchase other goods and/or Services of the same or similar description to make good such default, without prejudice to any other remedy for breach of contract.

## **13. Acceptance and rejection**

- 13.1. If any of the goods, or the packages containing the same, and/or the Services do not comply with the Purchase order or with any term of this Contract including quantity, quality or description, the Buyer shall be entitled to reject those goods and/or services or any part of them at any time after delivery and/or performance, irrespective of whether the Buyer has accepted them.
- 13.2. Any acceptance of such goods and/or services by the Buyer shall be without prejudice to any rights that the Buyer may have against the Seller.
- 13.3. The Buyer shall be entitled to return any rejected goods, carriage forward, to the Seller at the risk of the Seller, and the Seller shall credit the Buyer for any monies already paid in respect of the same.

## **14. Property and risk**

- 14.1. The goods shall become the property of the Buyer when they have been delivered in accordance with Clause 8 above without prejudice to the Buyer's right to reject the goods under Clause 13.
- 14.2. Unless otherwise provided for in the Contract the risk in any goods which are to be delivered by the Seller to the Buyer shall pass to the Buyer on Acceptance by the Buyer of such goods in accordance with Clause 13.
- 14.3. Where goods belonging to the Buyer are to be sent to the Seller's works for overhaul, repair or cleaning such goods shall be at the risk of the Seller from the time that they are handed over to the Seller at their position on the Premises until they have been delivered back to the Buyer and, if so provided for on the Purchase order, repositioned, and reconnected to the satisfaction of the Buyer. The property in such goods shall at all times remain with the Buyer and the Seller shall clearly mark such goods as belonging to the Buyer and keep them separate from all other goods in the Seller's possession as far as it is reasonable to do so in order to complete the work specified in the Purchase order. The Seller shall insure the Buyer's goods against their full replacement value whilst in the custody or control of the Seller.

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## **15. Force Majeure**

15.1. Neither the Seller nor the Buyer shall be liable to the other for any failure to fulfil its obligations under the Contract to the extent that and for so long as such a failure is caused by circumstances beyond its reasonable control, PROVIDED THAT the party affected shall as soon as reasonably practicable serve notice on other party specifying the circumstances of the Force Majeure event. If such Force Majeure event shall be such as shall prevent or shall delay the delivery of the goods and/or services for more than two weeks after the date for delivery the contractual obligations of both parties shall cease. In this event, the Buyer shall pay to the Seller such reasonable sum as may be agreed between the parties in respect only of the expenditure actually incurred and commitments entered into by the Seller in the performance of the Contract up to the date of the Force Majeure notice.

## **16. Indemnity**

16.1. The Seller shall indemnify the Buyer against all claims, cost, expenses, loss or damage which directly and naturally results in the ordinary course of events which the Buyer may suffer howsoever arising from the Seller's breach of any of its obligations under this Contract or negligence of Seller.

## **17. Consequential Damages**

17.1 Neither party hereto shall be liable to the other for any special or consequential damages of any kind or character, however arising, including without limitation, loss of anticipated profits, except as may be specifically provided for in this Contract. If the Contract provides the payment of liquidated damages this provision shall not be deemed to invalidate the requirement to pay liquidated damages.

## **18. Assignment and sub-contracting**

- 18.1. The Seller shall not assign or transfer the whole or any part of this Contract.
- 18.2. The Seller shall not sub-contract any part of this Contract without the Buyer's prior written consent, which shall not be unreasonably withheld. The Seller shall be responsible for all work done and goods supplied by sub-contractors as if the work had been done or the goods had been supplied by the Seller.
- 18.3. Nothing within this Contract shall confer upon any third party the right or benefit to pursue any term of this Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

## **19. Novation**

19.1. The Buyer shall be entitled to: assign, novate or otherwise dispose of its rights and obligations under this Contract.

## **20. Equal opportunities**

20.1. The Seller shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or any Act of Parliament or statutory modification or re-enactment thereof relating to discrimination in employment. The Seller shall take all reasonable steps to secure the observance of these provisions by all servants, employees or agents of the Seller and all sub-contractors permitted under the Contract.

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## **21. Compliance and Ethics**

21.1. Seller confirms and agrees that it shall;

- comply with the UK Anti Bribery Act 2010, the US Foreign and Corrupt Practices Act 1977 and all other laws and regulations relating to bribery, corruption and fraud which apply in any country in which the goods and/or services are provided or which otherwise apply to the Seller or any of its personnel.
- Not offer any bribe, facilitation payment, gift, promise, other advantage, or anything of value to any government official, commercial entity or person in order to secure a business advantage in connection with this Contract,
- Provide, at Buyer's request, such information as is required to satisfy Buyer's due diligence requirements;
- Maintain adequate internal controls and procedures to ensure compliance with Anti Bribery Laws; and
- Make its books of accounts and records in connection with this Contract available and provide all reasonable assistance to enable the Buyer to audit its compliance with this Clause 21.

21.2. Buyer shall be entitled to terminate this Contract if Seller or any of its Affiliates, subcontractors or sub-suppliers breaches the terms of the Business Ethics Policy or otherwise commits an offence under the Anti-Bribery Laws, whether the breach occurs before, on or after the award of this Contract.

## **22. Insurance**

22.1. Without prejudice to its liability to indemnify the Buyer under Clause 16.1, the Seller shall throughout the duration of this Contract maintain such insurance as is necessary to cover the liability of the Seller in respect of the matters specified in Clause 13.1. For all claims to which this Clause applies, the insurance cover shall be for a sum not less than £1,000,000 (one million) in respect of any one incident.

22.2. The Seller shall upon request made from time to time provide Buyer with documentary evidence that the insurances required by Clause are properly maintained.

## **23. Confidentiality**

23.1. The Seller undertakes to treat as confidential all information relating to: the business and operations of the Buyer the terms and conditions of this Contract; and all information relating to third parties obtained through the Seller's provision of the goods and/or services and not disclose or use such information except as may be necessary for the proper provision of the goods.

23.2. The Seller shall ensure that its employees, sub-contractors, and agents comply with confidentiality obligations set out in Clause 23.1.

23.3. The provisions of Clauses 23.1 and 23.2 shall not apply to: any information in the public domain otherwise than through act or default of (or on behalf of) the Seller and; disclosure of any information where this is required to be disclosed by law or by any court of competent jurisdiction.

## **24. Termination**

24.1. At any time, Buyer may terminate for its convenience all or any separable part of this Purchase order by giving written notice to Seller. In event of termination in accordance with this Clause 24.1, Buyer shall pay Seller for all Goods and/or services provided up until the effective date of termination, and any other reasonable costs incurred by Seller directly arising from such termination provided in no event shall payment of such costs cause the Price to be exceeded. At request of Buyer, Seller shall provide such documents and evidences to support verification of such costs by Buyer.

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24.2. The Buyer may at any time by notice in writing summarily terminate the Contract without compensation to the Seller in any of the following events: if the Seller, being an individual, or, where the Seller is a firm, any partner in that firm shall at any time become bankrupt, or shall have a receiving order, administration order or interim order made against him, or shall make any composition or scheme of arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport to do so; or if the Seller being a company shall pass a resolution or the court shall make an order, that the company shall be wound up (except for the purpose of amalgamation or reconstruction), or if an administrative receiver on behalf of a creditor shall be appointed, or if the court shall make an administration order, or if circumstances shall arise which entitle the court or creditor to appoint an administrative receiver or which entitle the court to make a winding-up order or administration order; provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Buyer.

## **25. Publicity**

25.1. Neither the Seller nor his sub-contractors or assignees shall without prior written consent of the Buyer, advertise or publicly announce that the Seller is providing goods and/or services to the Buyer.

## **26. Notices**

26.1. Notices to be served on either party shall be in writing.

26.2. Any notice given under the Contract shall be served at or sent to the address of the Buyer or the Seller shown on the Purchase order or such other address as the Buyer or the Seller shall notify to the other party in writing. Notices sent by inland first-class post shall be deemed to have been received two working days after dispatch.

## **27. Law**

27.1. The Contract shall be construed and take effect according to the laws of England and Wales.

## **28. Arbitration**

28.1. All disputes arising out of or in connection with this contract shall be referred to arbitration by one arbitrator. In the event of the parties being unable to agree on an arbitrator within 21 days of one party giving the other notice of the existence of a dispute, either party may apply to the President of the Chartered Institute of Arbitrators for the appointment of an Arbitrator. Location for Arbitration is England.

## **29. Entire Agreement**

29.1 This Contract, including documents incorporated in this Contract by express written reference, constitutes the entire agreement between Buyer and Seller and supersedes any requests for proposal, proposals, and discussions.

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