

## GENERAL TERMS AND CONDITIONS OF PURCHASE OF GOODS AND/OR SERVICES

### 1 Definitions

1.1 In this Agreement the following expressions have the following meanings unless the context otherwise prescribes:

**Agreement** means the agreement for the purchase of Goods and/or Services (as applicable) made by or on behalf of the Buyer with the Supplier formed in accordance with these terms and conditions and incorporating the Order and Proposal (if any).

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

**Buyer** means Solarport Systems Limited a company registered in England and Wales with company number 09377661, whose registered office is at Unit 3, The Core, Gore Cross Business Park, Bridport, Dorset DT6 3FH.

**"Buyer's Representative"** means the person appointed by the Buyer from time to time as their representative for the purposes of this Agreement.

**Confidential Information** means all information of a confidential nature concerning the trade secrets or business dealings, methods of business, clients, members, market information, transactions, plans or affairs of a party, pricing, designs, information regarding components, datasheets and any information (whether encrypted, in copy form or in any media) which by its nature the recipient ought to reasonably conclude is confidential information of the other party, but no information that is: (a) in the public domain (other than by breach of this Agreement); (b) stock in trade or readily ascertainable by persons in the trade; or (c) received lawfully by the recipient from a third party on a non-confidential basis shall be deemed information of a confidential nature/confidential information of the other party.

**Data Protection Laws** means all applicable data protection and privacy laws and legislation in force from time to time in the United Kingdom including the GDPR; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended; any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time.

**Delivery Address** means the location for delivery of the Goods specified in the Order.

**Force Majeure Event** means:

any acts, events or circumstances (to the extent not caused by either party or its agents or employees) which occur and which (A) are (having exercised reasonable skill care and diligence) unforeseeable (or, being foreseeable, unavoidable) and outside the reasonable control of the affected party, (B) are not substantially attributable or connected with any act, omission, fault, or negligence of the affected party, and (C) render said party unable to comply totally or partially with its obligations under this Agreement. Force Majeure Events may include, but are not limited to the following events or circumstances, so long as the conditions in (A), (B) and (C) above are satisfied:

- (a) war (whether war be declared or not), hostilities, invasion, act of foreign enemies;
- (b) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war. Acts of theft or vandalism, or any acts committed on or on behalf of a criminal organisation shall not be considered Force Majeure Events to the extent they can be insured;

- (c) riot, commotion, disorder, strike, walkout or lockout;
- (d) epidemics, pandemics and similar national emergencies (other than Covid-19);
- (e) the effects of munitions of war, explosive materials, ionising radiation or contamination by radioactivity; and
- (f) floods, earthquake, hurricane, lightning, typhoon, landslide, fire or volcanic activity (including volcanic activity outside of the country in which the System is located), objects striking the earth from space (such as meteorites), quarantine restrictions, epidemics or similar acts of God.

**GDPR** means the General Data Protection Regulation (EU) 2016/679) as agreed upon by the European Parliament and Council in April 2016 and adopted in the United Kingdom.

**Goods** means the goods, products, works or materials detailed or referred to in the Order or incidental thereto.

**Good Industry Practice** means the exercise of the degree of skill, diligence, prudence, efficiency, foresight, care and timeliness which would be expected from a reputable company within the relevant industry or business sector in the same or similar circumstances and seeking to fulfil their obligations under an agreement the same or similar (in whole or in part) to this Agreement.

**Insolvency Event:** A party suffers an Insolvency Event if:

- (a) it suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
- (b) it commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or a solvent reconstruction;
- (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with its winding up other than for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or a solvent reconstruction;
- (d) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over it;
- (e) the holder of a qualifying floating charge over its assets has become entitled to appoint or has appointed an administrative receiver;
- (f) a person becomes entitled to appoint a receiver over all or any of its assets or a receiver is appointed over all or any of its assets;
- (g) a creditor or encumbrancer of it attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (h) any event occurs, or proceeding is taken, with respect to it in any jurisdiction to which it is subject that has an effect equivalent or similar to

any of the events mentioned in (a) to (g) (inclusive); or

- (i) it suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

**Manufacturer's Warranty** means the warranty provided by the manufacturer and/or the Supplier's own supplier/subcontractor or of the Goods and/or Services.

**Order** means an order in writing for the Goods and/or Services (as applicable) issued by the Buyer to the Supplier together with all documents referred to in it.

**Party** means a party to the Agreement, and Parties means all or both such parties to the Agreement.

**Proposal** means any written proposal or quotation provided by the Supplier to the Buyer as amended by this Agreement, the Order or otherwise in writing between the Parties.

**Services** means the services described in an Order.

**Supplier** means any person, firm or company to whom an Order is addressed.

**Supplier's Warranty** means the Supplier's warranties detailed in clause 5 of these terms and conditions.

**Warranties** means the Supplier's Warranty and the Manufacturer's Warranty.

**Warranty Period** means the warranty period in respect of the Supplier's Warranty and/or Manufacturer's Warranty (as applicable) which shall be a minimum of twenty four (24) months and longer if the Supplier's Warranty and/or Manufacturer 's Warranty as published and/or available in respect of the Goods have a longer period during which the Supplier and/or Manufacturer guarantees, warrants or assures the performance or functionality of the Goods and/or warrants they are free of defects, faults or other imperfections.

1.2 In this Agreement, unless the context requires otherwise, the following rules apply:

- (a) any reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it;
- (b) where the words "include(s)", "including" or "in particular" are used in this Agreement, they are deemed to have the words "without limitation" following them. Where the context permits, the words other/otherwise are illustrative and do not limit the sense of the words preceding them;
- (c) a reference to writing includes emails;
- (d) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (e) a reference to a party includes its personal representatives, successors or permitted assigns;
- (f) where there is a conflict between this Agreement and an Order or a Proposal (if any) then the terms of this Agreement shall prevail unless expressly stated otherwise in writing;
- (g) where there is a conflict between the terms of an Order and a Proposal then the terms of the Order, shall prevail.

## 2 Acceptance of Order

- 2.1 The Supplier's acknowledgement of the Order, or the commencement of delivery of Goods and/or performance of Services ordered (as applicable), constitutes the Supplier's deemed acceptance of the Order and the formation of the Agreement subject to these terms and conditions.
- 2.2 The Buyer is not liable for any Order unless:
- (a) it has been placed on behalf of the Buyer by an authorised representative of the Buyer; and
  - (b) the Supplier confirms its acceptance of such Order and this Agreement as set out in clause 2.1.

## 3 Delivery and Performance

- 3.1 The Supplier shall deliver the Goods and/or provide the Services (as applicable) at the date, time and place specified on the relevant Order or Proposal (as applicable) and time for delivery or performance of an Agreement is of the essence. If Goods are incorrectly delivered and/or Services are incorrectly provided, the Supplier is liable for any additional expense incurred by either Party in handling and delivering the Goods and/or providing the Services at the correct date, time and place.
- 3.2 The Supplier is solely responsible for unloading the Goods at the agreed point of delivery specified in the Order or Proposal (as applicable) ("**Delivery Address**"). Unless otherwise agreed in writing by the Buyer, the Supplier shall unload the Goods immediately on their arrival at the Delivery Address or at such specific time as agreed between the Parties. The Supplier shall indemnify the Buyer against any loss, liability and/or costs arising as a result of the Buyer or its sub-contractors assisting the Supplier in the unloading, loading or other removal of the Goods from the Delivery Address. Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Address.
- 3.3 The Supplier shall ensure that:
- (a) any Goods are properly packed and secured in such a manner as to enable them to reach their destination in a good, safe, clean and dry condition; and
  - (b) each delivery of Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered in instalments, the outstanding balance of Goods remaining to be delivered.
- 3.4 The Buyer accepts no liability for packaging materials unless expressly agreed in advance.
- 3.5 The Supplier shall not deliver the Goods in instalments without the Buyer's prior written consent. Where it is agreed that Goods are to be 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 Goods delivered in any instalment shall entitle the Buyer to the remedies set out in clause 4.2.
- 3.6 If any Goods contain any hazardous substances or require any special precautions to be taken to ensure safety in handling, transport, storage or use, the Supplier shall prior to delivery furnish the Buyer with written details of the nature of those substances and the precautions to be taken and shall ensure that before despatch appropriate instructions and warnings are clearly and prominently marked or securely attached to any containers into which they are packed.

3.7 In particular (but without limitation) the Supplier shall provide to the Buyer in writing all such data, instructions and warnings as are required to comply with applicable legislation relating to health and safety and shall indemnify the Buyer against any and all liabilities, claims and expenses which may arise as a result of the Supplier's failure to do so.

#### **4 Acceptance of Goods and/or Services**

4.1 The Supplier will grant the Buyer and its authorised representatives, agents or Buyers access to its premises (or the premises of any permitted subcontractor) for the purpose of inspecting or testing the Goods and/or Services at any reasonable time. Such inspection does not relieve the Supplier of any liability or imply that the Supplier has accepted the Goods and/or Services.

4.2 If the Goods and/or Services are not delivered or provided in accordance with clause 3, or do not comply with the Warranties referred to in clause 5 or are not otherwise in accordance with the relevant Agreement then, without limiting its other rights or remedies, the Buyer shall have the right to any one or more of the following remedies, whether or not it has accepted the Goods and/or Services:

- (a) reject the Goods and/or Services (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
- (b) cancel any Agreement of which such Goods and/or Services are the subject;
- (c) return any Goods already delivered which by virtue of such rejection or cancellation are no longer of use;
- (d) refuse to accept any subsequent delivery of Goods and/or provision of Services (as applicable) which the Supplier attempts to make;
- (e) require the Supplier to repair or replace the Goods and/or carry out the Services again in accordance with clause 5.4; and/or
- (f) claim damages for any other reasonable costs, loss or expense incurred by the Buyer which are attributable to the Supplier's failure to carry out its obligations under the Agreement.

4.3 In addition, if the Goods and/or Services or any part of them (whether or not inspected or tested by the Buyer) do not comply with the requirements of the Agreement, the Buyer may elect to repair such Goods and/or carry out the Services again (either by itself or through a third party) at the Supplier's expense.

4.4 If the Buyer rejects any Goods and/or Services, the Buyer may:

- (a) request a refund from the Supplier of any money paid in respect of such rejected Goods and/or Services;
- (b) if the Goods and/or Services have been paid for but no refund given, purchase replacement goods and/or services from an alternative source at the Supplier's cost; or
- (c) if the Goods and/or Services have not been paid for, purchase Goods and/or Services from an alternative source and recover any additional costs (that it would not have incurred if the Supplier had complied with the Agreement) from the Supplier as a debt.

4.5 This Agreement shall apply to any repaired or replaced Goods and/or any re-performed Services supplied by the Supplier.

## **5 Service standards**

5.1 The Supplier agrees, warrants and undertakes for the benefit of the Buyer and the Buyer's Buyers that:

- (a) the Goods and/or Services will conform to the specifications, descriptions, data sheets or other details referred to in the Order and/or Proposal (as applicable) as to quantity, quality and description and to the specifications, descriptions, data sheets and other details published by or otherwise available from the Supplier and/or the Manufacturer in respect of the Goods (or any other specifications, requirements or instructions made known to the Supplier);
- (b) the Goods will be of good and satisfactory quality, fit for any purpose expressly or implicitly made known to the Supplier by the Buyer, of good quality materials and workmanship and free from defects of any kind;
- (c) the design, construction and quality of the Goods and/or provision of the Services will comply with any relevant statutory rules or regulations in force at the time of delivery or performance, including relevant UK safety standards and British Standards; and
- (d) the Supplier shall provide the Services in accordance with the terms of the Order and/or Proposal (as applicable), with a good, professional standard of care, skill and diligence, using properly experienced and qualified people and in accordance with Good Industry Practice.
- (e) observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Buyer's premises from time to time and that have been communicated to it. The Buyer reserves the right to refuse any of the Supplier's personnel involved in the provision of the Services access to the Buyer's premises, which shall only be given to the extent necessary for the performance of the Services;
- (f) notify the Buyer in writing immediately upon the occurrence of a change of Control of the Supplier

5.2 In addition the Supplier shall provide the Buyer with the benefit of the Manufacturer's Warranty (and any additional warranties secured from the Supplier's own suppliers) in respect of the Goods for the maximum available period of the Manufacturer's Warranty together with the benefit of all Supplier's Warranty published and/or otherwise agreed with the Buyer at the time of placement of an Order.

5.3 The Supplier's Warranty and Manufacturer's Warranty shall extend to cover the customers of the Buyer and any purchasers or users of the Goods to whom the Goods are sold on without any need for the Supplier or its purchasers to formally assign the benefit of the Warranties.

5.4 The Supplier will promptly, at its own cost, rectify any defect in the Goods, repair or replace the same (at the option of the Buyer) or shall remedy any deficient Services or defective Services results, notified by the Buyer to the Supplier within the Warranty Period. This remedy shall be without prejudice to any remedy available from the Manufacturer under the Manufacturer's Warranty which may be for a longer or shorter time period to the Supplier's Warranty.

## **6 Imported Goods**

The Parties agree that delivery and the supply of Goods and/or Services is deemed to occur in the UK (unless the Buyer expressly agrees otherwise in writing on the Order). The cost of all Goods and/or Services is all inclusive of any and all import taxes, duties, levies and similar charges and such costs shall be the responsibility of the Supplier.

## **7 Title and Risk**

- 7.1 The Supplier warrants that it has good title to the Goods when supplied to the Buyer, that the transfer is lawful and that the Goods are delivered free from any security interest or encumbrance thereon in favour of a third party.
- 7.2 Risk for the Goods shall pass to the Buyer on the Buyer's acknowledgement of delivery, without prejudice to any right of rejection which may accrue to the Buyer under this Agreement or otherwise.
- 7.3 Title for the Goods shall pass to the Buyer on delivery of the Goods to the Delivery Address.

## **8 Price and Payment**

- 8.1 The price for the Goods and/or the Services shall be the price set out in the Order and or Proposal (as applicable). The price for each of the Goods and/or Services to be paid by the Buyer to the Supplier will include all costs, both direct and indirect, of supplying the Goods and/or Services except that where the Goods and/or Services are subject to VAT, the amount legally due must be specified as a separate item of account on the Supplier's invoice.
- 8.2 The Supplier may invoice the Goods and/or Services on or after the completion of delivery as per the terms set out in the Order or Proposal (as applicable). Invoices shall be submitted to the Buyer's accounts team at [accounts@solarport.com](mailto:accounts@solarport.com).
- 8.3 Invoiced amounts shall be due and payable as per terms specified in the Order or Proposal (as applicable). The Supplier shall be entitled to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment at a rate of 2% per annum above the base rate of the Bank of England.
- 8.4 The Buyer may offset any amount owing to it from the Supplier against any amount owed to the Supplier by the Buyer. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Buyer.

## **9 Liability**

- 9.1 Nothing in this Agreement shall limit or exclude either party's liability for:
- (a) death or personal injury resulting from a party's negligence;
  - (b) fraud or fraudulent misrepresentation; or
  - (c) anything for which the Parties cannot legally limit or exclude or attempt to limit or exclude their liability.
- 9.2 The Supplier shall indemnify and keep indemnified the Buyer, its agents, employees, subsidiaries, associated companies and assigns in respect of all loss, liability and cost (including any interest, penalties, legal and other professional fees and expenses awarded against or incurred or paid by the Buyer) directly or indirectly arising from:
- (a) any alleged or actual infringement of any intellectual property right owned by a third party resulting from the purchase, use or resale by the Buyer, its agents, employees, subsidiaries, associated companies, customers and assigns of the whole or any part of the Goods and/or Services;
  - (b) any claim made against the Buyer or Buyer's customers by a third party arising out of, or in connection with, the supply of the Goods and/or Services, to the extent arising out of the breach, negligent performance or failure or delay in performance of the Agreement by the Supplier, its employees, agents or subcontractors;

- (c) any claim made against the Buyer or Buyer's customers by a third party (including Buyer's employees, personnel and subcontractors) for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods and/ or provision of Services, to the extent that the defect in the Goods and/ or the provision of the Services is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
  - (d) any damage to property of the Buyer or Buyer's customers arising out of, or in connection with, defects in Goods and/ or provision of Services, to the extent that the defect in the Goods and/ or the provision of the Services is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors.
- 9.3 Subject to clause 9.1 above the Buyer's aggregate liability to the Supplier for any damages, costs, claims or expenses arising out of the performance (or non-performance) by the Buyer, the Buyer's employees, agents, consultants or subcontractors of the Buyer's obligations under this Agreement (whether by virtue of negligence, breach of statutory duty or otherwise) shall be limited to the total amount paid under this Agreement.
- 9.4 Neither party shall be liable for any delay or failure to perform its obligations under this Agreement to the extent this is caused by a delay or failure by the other party to perform (or procure performance of) its obligations under this Agreement.
- 9.5 Neither party shall have any liability for any loss, damage, claims, costs or expenses arising from or in relation to its delay or failure to perform its obligations under this Agreement to the extent such failure is the result of a Force Majeure Event.
- 9.6 The rights and remedies of the Buyer provided in this Agreement are cumulative and are not exclusive of any rights or remedies provided at law or in equity.
- 9.7 The provisions of this clause 9 shall survive termination of this Agreement.
- 10 Insurance**
- 10.1 During this Agreement and for a period of one year after expiry or earlier termination, the Supplier shall at all times insure and keep itself insured with a reputable insurance company against all insurable liabilities which a company complying with Good Industry Practice would take out in respect of the Goods and/ or Services including, without limitation:
- (a) employer's liability at an amount of not less than £5,000,000 (five million pounds) for each and every claim;
  - (b) public liability insurance at an amount of not less than £5,000,000 (five million pounds) for each and every claim.
- 10.2 The Supplier shall not do anything or permit the doing of anything which would invalidate or void the insurances of the Supplier and/ or the Buyer nor prejudice the Buyer's entitlement under any insurances.
- 10.3 Where the Supplier provides any design or other professional services, it shall maintain professional indemnity insurance at its own cost for an amount of not less than the amount specified in the Order or, where no such amount is specified, at an amount of not less than £2,000,000 (two million pounds) for each and every claim for a period beginning on the date of this Agreement and ending twelve (12) years after the date of completion of the Services.
- 10.4 Whenever the Buyer reasonably requests, the Supplier shall send the Buyer evidence that the Supplier's insurances are in force.

## **11 Termination**

- 11.1 Either party may terminate this Agreement with immediate effect by giving written notice to the other party if:
- (a) there has been a material breach or breaches of this Agreement by the other party which is not capable of remedy or, being capable of remedy, has or have not been remedied by the defaulting party within twenty (20) Business Days in each case;
  - (b) the other party is subject to an Insolvency Event.
- 11.2 Without limiting its other rights and remedies, the Buyer may also terminate the whole or any part of an Order or the Agreement at any time with immediate effect by written notice to the Supplier:
- (a) at any time prior to delivery of the Goods (subject to clause 11.3 below);
  - (b) where the Supplier is acquired by or merges with any third party without the Buyer's prior written consent; or
  - (c) where the financial position of the Supplier deteriorates to such an extent that in the reasonable opinion of the Buyer the capability of the Supplier to fulfil its obligations under the Agreement has been placed in jeopardy.
- 11.3 Where the Buyer terminates under clause 11.2(a), the Buyer shall pay the Supplier its reasonably and properly incurred third party costs committed to prior to the effective date of termination. For the avoidance of doubt such compensation shall not include loss of anticipated profits or any consequential loss.
- 11.4 On termination or expiry of this Agreement each party shall promptly:
- (a) return to the other party all equipment, materials and property belonging to the other party that the other party had supplied to it or a member of its group in connection with the supply of the Goods and Services under this Agreement;
  - (b) return to the other party all documents and materials (and any copies) containing the other party's Confidential Information; and
  - (c) erase all the other party's Confidential Information from its computer systems (to the extent possible)
- 11.5 Termination of the Agreement, however arising, shall not affect any of the Parties' rights that have accrued prior to termination.
- 11.6 Clauses which expressly or by implication survive termination of the Agreement shall continue in full force and effect.

## **12 Intellectual Property Rights**

- 12.1 If the Supplier or its employees or agents design the Goods and/or perform the Services pursuant to a commission, specific requirement or instruction from the Buyer (whether to fulfil an Order or otherwise), any Intellectual Property Rights created in relation to such Goods and/or Services shall vest in the Buyer and the Supplier shall do or procure the doing of all such further acts and execute or procure the execution (as a deed or otherwise) of all such documents as may from time to time be necessary to give full effect to this clause 12.
- 12.2 The Supplier shall not use the trademarks, designs or brand names of the Buyer (or its licensors) without the Buyer's prior written consent.

### 13 Data Protection

13.1 Each party shall, in respect of all personal data processed by the such party on behalf of the other party under this Agreement:

- (a) act only on the documented instructions of the other party in processing such personal data;
- (b) implement, maintain and operate sufficient and appropriate technical and organisational measures to protect against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, such personal data;
- (c) provide evidence to the other party, on request, of the technical and organisational measures it has taken to comply with its obligations under clause 13.1(b);
- (d) promptly notify the other party, upon becoming aware of any errors or inaccuracies in such personal data;
- (e) not transfer any such personal data to any country or territory outside the European Economic Area (EEA) without the prior written consent of the other party and then subject to executing such agreements and taking such additional steps as the other party may request;
- (f) ensure that: (i) such personal data is accessible only to personnel who need to have access to it in order to carry out their roles in the performance of the party's obligations under this Agreement; (ii) all such persons are subject to contractual obligations of confidentiality in respect of such personal data; and (iii) all such persons have been appropriately trained in the requirements of Data Protection Laws;
- (g) not engage any other processor to process such personal data without the prior written consent of the other party;
- (h) assist the other party by appropriate technical and organisational measures for the fulfilment of the other party's obligation to respond to requests for exercising data subjects' rights under Chapter III of GDPR;
- (i) assist the other party in ensuring compliance with the obligations in Articles 32 to 36 of GDPR;
- (j) without limiting clause 13.1(h), notify the other party, via email and telephone, without undue delay, and in any event within twenty-four (24) hours, of becoming aware of, or having reasonable grounds to suspect, any accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, such personal data; and
- (k) make available to the other party all information necessary to demonstrate compliance with the obligations in Article 28 of GDPR.

13.2 The measures referred to in clause 13.1(b) shall, having regard to the state of technological development and cost of implementing any measures, ensure a level of security appropriate to:

- (a) the harm that might result from the events as mentioned in clause 13.1(b); and
- (b) the nature of the personal data to be processed.

13.3 Each party shall, at its own cost:

- (a) on request by the other party or on termination or expiry of this Agreement, deliver to the other party any personal data in its possession, and destroy any copies of the personal data it has made unless otherwise required by operation of law; and
- (b) on request by the other party, with reasonable notice and during business hours, submit its data processing facilities, data files and documentation to auditing (including inspection) by the other party (or a duly qualified independent auditor or inspection authority selected by the other party), or by any supervisory or regulatory authority responsible for enforcing or monitoring compliance with Data Protection Laws, to ascertain compliance with this clause 13.

13.4 The provisions of this clause 13 shall survive termination of this Agreement.

## **14 Confidential Information**

14.1 Each party shall be permitted to use the Confidential Information disclosed to them by the other party only for the purposes and to the extent needed for performance of their respective obligations under this Agreement and will do so strictly in accordance with its terms and conditions.

14.2 Each party shall keep in strict confidence all Confidential Information received from the other and all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to each other.

14.3 Both parties shall restrict disclosure of any of the other's Confidential Information to their staff and to such other agents, consultants or subcontractors as need to know it for the purpose of discharging their obligations to the other party under this Agreement. Both parties shall also ensure that any such staff and any agents or subcontractors receiving such Confidential Information are subject to obligations of confidentiality corresponding to those which bind them and shall be responsible for any breach by them of this clause 14 as if they were a party hereto.

14.4 All Confidential Information (along with any records, materials, equipment, software and tools, drawings, specifications and data) supplied by either party, their employees, agents, consultants or subcontractors to the other party shall, at all times be kept securely with appropriate technical and organisational security measures and (unless otherwise agreed in writing) remain the supplying party's exclusive property or that of their licensors.

14.5 The provisions of this clause 14 shall survive termination of this Agreement.

## **15 Force majeure**

15.1 Notice of Force Majeure

- (a) If either party is or will be prevented from performing any of its obligations under the Agreement by a Force Majeure Event, then it shall promptly give notice to the other party giving the details of the nature of the Force Majeure Event, the expected impact of the Force Majeure Event on its ability to carry out its obligations under the Agreement and the anticipated duration of the Force Majeure Event. Such notice shall be given as soon as practicable, and not later than ten (10) days after the party became aware of the event or circumstance.
- (b) Neither party shall be entitled to claim Covid-19 as a Force Majeure Event.

15.2 Duty to Minimise Delay

- (a) The party seeking to rely on clause 15.1(a) shall at all times use all reasonable endeavours to minimise any delay in the performance of the Agreement as a result of Force Majeure Event and to mitigate the effects of the Force Majeure Event. The

relying party shall give notice to the other party when it ceases to be affected by the Force Majeure Event.

- (b) The parties shall continue to perform all of their obligations under the Agreement, which are not affected by the Force Majeure Event.

#### 15.3 Consequences of Force Majeure

- (a) Provided it has complied with its obligations under clauses 15.1 and 15.2, the party affected by the Force Majeure Event shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of its obligations.

#### 15.4 Optional Termination

- (a) If the performance of this Agreement is prevented for a continuous period of one ninety (90) days or more by reason of a Force Majeure Event, then either party may give notice to the other party to terminate this Agreement.

### 16 Licences and Consents

If a licence or consent of any government or other authority is required for the supply or carriage of the Goods and/or performance of the Services by the Supplier, the Order or the Agreement, the Supplier will obtain such licence or consent at its own expense and produce evidence of it to the Buyer on demand.

### 17 Severance

If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected. If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

### 18 No Partnership or Agency

Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other.

### 19 Notices

19.1 Any notice to be given by either party under this Agreement shall be sufficiently served if sent by hand or by post to the other party's registered office address or electronic mail to the email addresses set out in the Order. Notices shall be marked for the attention of the relevant Buyer Representative or Supplier Representative.

19.2 Any notice sent by hand shall be deemed to be served on the date of delivery and any notice served by electronic mail shall be deemed to be served in full at the time recorded on the electronic mail (provided that an electronic mail shall not be deemed to be served where the sender receives an notice of non-delivery or failed delivery) provided that if any notice sent by hand or electronic mail is sent after 5 p.m. on any day it shall be deemed to be served on the next Business Day. Any notice sent by post shall be deemed to have been duly served at the expiration of 48 hours after the time of posting if the end of that period falls before 5 p.m. on a Business Day and otherwise on the next Business Day.

19.3 The provisions of this clause 19 shall not apply to the service of any process in any legal action or proceedings.

## **20 Miscellaneous**

- 20.1 Each party that has rights under this Agreement agrees it is acting on its own behalf and not for the benefit of another person.
- 20.2 The parties to the Agreement agree they shall not do anything which brings or might reasonably be expected to bring into disrepute the other, including its representatives or staff.
- 20.3 The parties shall comply with all reasonable health and safety and security requests arising from time to time made by the other in performing their obligations under this Agreement.
- 20.4 Each party agrees to do or procure to be done all such further acts and execute or procure the execution of all such documents as the other may from time to time reasonably require for the purpose of giving the other the full benefit of the provisions of this Agreement.
- 20.5 No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 20.6 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 20.7 Each party to this Agreement warrants that it shall comply with the UK Bribery Act 2010.
- 20.8 The Supplier shall at all times act in accordance with the Buyer's policies as may be provided to it by the Buyer from time to time, and those available to view on the Buyer's website [www.solarportsystems.com](http://www.solarportsystems.com).

## **21 Entire Agreement**

- 21.1 This Agreement constitutes the entire agreement between the Supplier and the Buyer and supersedes and extinguishes all previous drafts, heads of terms, letters, courses of dealing, understandings or agreements between the Supplier and the Buyer, whether written or oral, relating to the subject matter of this Agreement.
- 21.2 Each party acknowledges that, in entering into this Agreement, they do not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 21.3 Each party agrees that their only remedies in respect of those representations and warranties that are set out in this Agreement (whether made innocently or negligently) shall be for breach of contract.
- 21.4 Nothing in this clause 21 shall limit or exclude any liability for fraud.

## **22 Third party rights**

- 22.1 A person who is not a party to this Agreement (other than the successors in title to any party) shall not have any rights (including under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any term of this Agreement.

## **23 Governing law and jurisdiction**

- 23.1 This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

- 23.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).
- 23.3 Any dispute or difference shall, in the first instance, be referred to senior management of each Party for resolution.