



## General Terms and Conditions of Purchase (“T&Cs”)

### 1. DEFINITIONS

In the context of these terms and conditions, the following words shall have the following meanings: “Goods” means any goods pursuant to the Order; “Group Company” means the Purchaser or any holding company or any company which is a subsidiary company of the ultimate holding company of the Purchaser where the expressions “holding company” and “subsidiary” shall have the meaning assigned to them in section 1159 of the Companies Act 2006 and shall include any joint venture company in which the Purchaser or any member of the Group of Companies owns no less than fifty per cent of the share capital eligible to vote or has the right to appoint or remove no less than half of the board of directors; “Force Majeure” means any cause beyond the affected party’s reasonable control preventing or delaying the performance of that party’s obligations under the Order but excluding any breakdown of plant or apparatus, strike or lock out or other industrial dispute; “the Order” means the Order issued by the Purchaser for the supply of services, goods or works; “the Order Performance” means any services supplied and/or any goods delivered and/or any works performed pursuant to the Order; “the Purchaser” means the Scotia Gas Networks Group Company business placing the Order; “Services” means any services pursuant to the Order; “Specification” means the technical description and/or requirements (if any) of the services, goods or works referred to in the Order; “the Supplier” means the person, firm, company or organisation to whom the Order is addressed including any of its employees, agents, permitted sub-contractor’s or others acting on the Supplier’s behalf; “Works” means any works pursuant to the Order; “the Site” means any site owned or occupied by the Purchaser.

### 2. APPLICABLE TERMS AND CONDITIONS

The Order is made only upon and subject to the terms and conditions set out below and shall be accepted in writing by the Supplier. These terms and conditions and any special conditions of purchase prescribed in writing by the Purchaser as being applicable to the Order shall prevail over any terms and conditions of the Supplier whether contained in a quotation, catalogue, price list, order acknowledgement or any other document.

### 3. AUTHORISATION

The Purchaser accepts no liability for the Order Performance unless the Order has been placed by a duly authorised officer of the Purchaser.

### 4. ALTERATIONS

No alterations, modifications or amendment to the Order, the quantities, type, physical structure, specifications or standards are to be accepted or undertaken by the Supplier at the request of any employee of the Purchaser or its agent or representative or any other person unless and until written confirmation is received from a duly authorised representative of the Purchaser.

### 5. QUALITY

5.1 Without prejudice to the Purchaser’s statutory rights or rights under these terms and conditions, it is a condition of this Order that it shall:

- (i) conform to the specification and any quality, standards, description and/or references quoted in the Order and/or to any samples submitted and be to the satisfaction of the Purchaser;
- (ii) be of the very best materials and workmanship;
- (iii) be capable of any standard of performance specified in the Order or applicable to the Order; and
- (iv) where the Supplier has British standard accreditation or equivalent thereof conform with applicable quality standards and systems.

v) where applicable comply with the implied conditions in Sections 13,14,15 of the Supply of Goods and Services Act 1982 (as amended from time to time) and the implied terms in Sections 12,13 and 14 of the Sale of Goods Act 1979 (as amended from time to time).

5.2 In the event that the Order or any part thereof fails to meet in full the terms of Clause 5.1, irrespective of whether this failure amounts to a material breach, the Purchaser (without prejudice to any of its other rights) reserves the right to reject the Order.



5.3 The quantities of any Goods supplied shall be as stated in the Order. No quantity in excess of that stated on the Order will be paid for without the written authority of the Purchaser before delivery. The Purchaser reserves the right to reject incomplete deliveries and to refuse delivery, reject or refuse to pay for and/or (at the Supplier's expense and risk) return any unauthorised and/or unaccepted shortfall or excess.

5.4 Any signature by or on behalf of the Purchaser on any delivery note or order acknowledgement will not signify acceptance of the quality and or quantity of any Goods.

## **6. TESTING AND INSPECTION OF GOODS**

6.1 Prior to delivery the Supplier shall inspect the Goods for compliance with the Order.

6.2 The Purchaser shall be entitled to request the Supplier to supply certified copies of records of such inspection and tests free of charge and the Supplier shall promptly and fully comply with such request.

6.3 Without prejudice to Clause 6.2, the Purchaser shall be entitled to inspect, test and/or have a representative attend any test conducted by or on behalf of the Supplier of the Goods at any reasonable time or times during manufacture, processing and/or storage of the Goods. If the Purchaser exercises this right, the Supplier shall grant to the Purchaser or its nominated representative a right of access at all reasonable times and shall afford to the same all such facilities as may be reasonably required for such purposes.

6.4 In the event that the Goods or any part thereof fail inspection and/or testing the Purchaser (without prejudice to any of its other rights) reserves the right to charge the Supplier any cost in respect of travel and accommodation incurred by the Purchaser for subsequent re-inspection and/or testing (if any).

6.5 Any inspections or tests carried out under Clauses 6.3 and/or 6.4 above shall not in any way relieve the Supplier from any of its obligations under the Order or from those existing either in common law or by statute or any part thereof.

## **7. DELIVERY**

7.1 Time shall be of the essence of the Order.

7.2 The Purchaser reserves the right to extend the date of delivery of the Order.

7.3 In the event of the Order Performance not being met on the date and (if applicable) the time or any of the dates and times specified in the Order, the Purchaser reserves the right to cancel the Order or part thereof. In such circumstances, pursuant to Clause 8 the Purchaser may obtain the Order or any part thereof from a third party. Without prejudice to any rights or remedies available to the Purchaser, the Supplier shall pay to the Purchaser any excess expenditure incurred directly or indirectly by the Purchaser as a result of such cancellation.

7.4 All deliveries of Goods will be at the Supplier's own risk and expense.

7.5 The Purchaser shall be under no obligation to accept delivery of the Order before the date(s) specified in the Order.

7.6 The Order Performance shall be made to the address as shown on the Order unless the Supplier is subsequently advised in writing by the Purchaser of a change of address. In the event that the Order Performance is made to the wrong address, the Purchaser reserves the right (at its discretion) to refuse to accept the Order Performance at that address or charge the Supplier for the cost of subsequent transfer.

7.7 Without prejudice to its other rights, the Purchaser shall be entitled to recover liquidated damages from the Supplier as specified in the Order, in the event of the Supplier failing the Order Performance to the full satisfaction of the Purchaser by the date specified in the Order. The Purchaser reserves the right to deduct any sums due to it under this Clause from any outstanding payments due to the Supplier by the Purchaser or any Group Company.

7.8 The Supplier shall, at the Purchasers discretion, repair or replace free of charge any item(s) damaged or lost whilst in transit.

7.9 All deliveries must be appropriately packed for the mode of delivery and in compliance with all applicable packaging regulations.

## **8. REJECTION AND RESCISSION**

If the Goods, Works or Services do not comply with the Order or any of the terms and conditions are breached or not complied with by the Supplier, or it is evident that the Supplier will be unable to perform its obligations, the Purchaser shall at its discretion be entitled, but not obliged to treat the Order as repudiated or reject and/or rescind the Order (notwithstanding



that the property relating to the Order may have passed) by giving written notice to the Supplier and the following conditions shall apply:

(i) the Supplier shall repay to the Purchaser any monies paid by the Purchaser in respect of the rejected Order.

(ii) the Supplier shall be fully accountable to the Purchaser for any direct or indirect loss the Purchaser may have suffered arising from or out of such repudiation, rejection and/or rescission including but not limited to the reasonable costs incurred by the Purchaser in obtaining replacement Goods, Works or Services from a third party; and

(iii) any such repudiation, rejection and/or rescission shall be without prejudice to the accrued rights of either party.

## **9. RISK & TITLE OF GOODS**

9.1 Subject to the provisions of Clause 5.3, the property and risk in the Goods shall pass to the Purchaser on acceptance by the Purchaser or (in the case of delivery by instalments) on the acceptance by the Purchaser of each instalment.

9.2 If the Supplier postpones delivery at the request of the Purchaser title shall pass to the Purchaser seven days after the date of receipt of notification from the Supplier that the delivery is ready for dispatch however the risk remains with the Supplier until actual delivery has been completed.

## **10. PURCHASER'S PROPERTY**

10.1 The Supplier shall ensure that any drawings, data, goods, tools, materials, equipment or any other property provided by, through or on behalf of the Purchaser for use by the Supplier shall at all times be:

(a) clearly identified and marked as being the property of the Purchaser; and

(b) stored separately from any other property belonging to the Supplier or a third party.

10.2 The Purchaser reserves the right to repossess such property at any time and the Supplier shall grant an irrevocable right and licence to the Purchaser its servants or agents to enter with or without vehicles upon all or any of its premises or any land or premises occupied by the Supplier or wherever such property is located. The right shall continue to subsist notwithstanding the termination of the Order for any reason and is without prejudice to any other rights of the Purchaser under or in respect of the Order or otherwise.

## **11. PRICE AND PAYMENT**

11.1 Prices shall remain as stated in the Order and shall not be subject to variations, unless agreed in writing by the Purchaser.

11.2 The Supplier shall send to the Purchaser as soon as reasonably practicable after the Order Performance a Value Added Tax invoice.

11.3 Prices quoted shall be exclusive of Value Added Tax and shall be deemed to be inclusive of any other form of purchase tax and/or import duties applicable from time to time. Value Added tax at the appropriate rate where chargeable shall only be paid by the Purchaser on receipt of a valid Value Added Tax invoice. Where Incoterms apply, unless otherwise stated, Delivery At Place (DAP) will be applicable.

11.4 Payment shall be made in accordance with the payment terms stated on the Order. If no payment terms are stated on the Order payment shall be net monthly.

11.5 The period for payment shall begin to run on receipt of the correct and fully detailed invoice..

11.6 The Purchaser reserves the right to deduct from any monies due or becoming due to the Supplier any monies due from the Supplier to the Purchaser whether under the Order or otherwise or any other Group Company in respect of materials supplied or services rendered by the Purchaser or any other Group Company or any other sums due to the Purchaser from the Supplier.

## **12. SITE WORKS**

12.1 Where the Order requires the Supplier to assemble, construct, fit, install or carry out any of the works on the Site, the following terms and conditions shall apply:

(ii) The Supplier will provide all the necessary plant tools machinery, materials and labour to enable the Supplier to carry out the works specified in the Order. The Supplier shall provide the Purchaser on request with such drawings, reports, specifications, designs or other documents as used by the Supplier in connection with the works.



(iii) The Supplier will be required to provide a competent representative on the Site who will report to the Purchaser as the Purchaser may direct and who will liaise with the Purchaser's own Project Manager or such other person nominated by the Purchaser.

12.2 The Supplier will at its own cost replace, repair or reinstate as the Purchaser may require any of the Purchaser's buildings, equipment and/or property which may be lost, damaged or destroyed by the Supplier during the execution of the work.

12.3 During or on completion of the works, no off cuts, waste or other materials remaining will be removed from the Site without the Purchaser's prior consent.

12.4 The Purchaser reserves the right to request the Supplier to remove its employees where in the Purchaser's sole opinion be unsatisfactory or unsuitable for work on the Site.

12.5 All plant, tools, machinery and materials necessary for carrying out the work will be of a standard approved by the Purchaser and the Supplier shall be responsible for all disbursements, costs and charges in providing welfare facilities for the Supplier's personnel including (*inter alia*) accommodation, subsistence, medical facilities, food, work permits and transport to and from the Site.

12.6 The Supplier shall conform and ensure that its employees and sub-contractors conform with all statutes, statutory rules, orders, directives or regulations in force at the time in respect of employment of the Supplier's personnel for the execution of this Order. In particular the Supplier shall, in relation to the work and the Supplier's employees and sub-contractors employed thereon, observe the provisions of the Factories Act 1961, the Health and Safety at Work Act 1974 (or any statutory modification or re-enactment thereof) and all other existing statutory provisions and all orders and regulations made thereunder and any health and safety and/or security rules of the Purchaser.

12.7 The Supplier warrants that it is and shall for the duration of the performance of the works remain fully compliant with all applicable rules and regulations in force relating to security whether imposed by the Purchaser or by statute or regulation.

### **13 WARRANTY**

13.1 Without prejudice to any other rights and remedies of the Purchaser, the Supplier warrants that:

(a) the design, supply, use and quality of the Order will comply in all respects with any statute, statutory rule, order, directive or statutory licence, consent or permits which may be in force at any time; and

(b) the Order Performance and all supporting literature and documentation comply with all trade descriptions (within the meaning of the Trade Descriptions Act 1968 or any statutory modification or re-enactment thereof) applicable.

13.2 Where applicable and unless otherwise agreed in writing by the Purchaser, the Supplier warrants to have all necessary licences and comply with all relevant government regulations.

13.3 The Supplier shall indemnify the Purchaser against all claims proceedings damages losses expenses or liabilities the Purchaser may suffer or incur by reason of any breach or alleged breach of the warranties contained in this Clause.

### **14. DEFECTS LIABILITY**

14.1 If within twelve months of: (i) the Service having been supplied (if any); and (ii) the Works having been completed (if any); and (iii) the Goods having been put into service (if any); any defect relating to the Order shall be discovered or arise under normal use attributable to faulty design, materials or workmanship the Supplier shall without prejudice to any other rights or remedies of the Purchaser promptly replace, repair, re-work or remedy the defect to the Purchaser's satisfaction or replacement without charge to the Purchaser.

14.2 Where the parties agree a guarantee period in excess of twelve months, Clause 14.1 shall be deemed to be amended to provide for such longer periods.

14.3 The provisions of this Clause shall apply to any replacement Goods, Services or Works as if they were Goods, Works or Service but shall not prejudice any of the Purchaser's rights resulting from any defects in the Order.

### **15. INSURANCE**

15.1 The Supplier shall maintain adequate insurance to the full value of the Order.

15.2 The Supplier shall maintain at all times adequate insurance with a reputable insurer acceptable to the Purchaser against the liabilities in Clauses 16 17.1. The Supplier shall, at the Purchaser's request, produce for inspection any such policy or policies or such



documentary evidence of the same and/or evidence of payment of premium as the Purchaser may require.

## **16. INDEMNITY**

16.1 The Supplier shall indemnify the Purchaser against the following:

(i) loss, damage or personal injury including death arising from, or caused by or contributed to the negligent act or omission of the Supplier or its servants, agents, or sub-contractors or arising from any breach of any terms and conditions of the Order or any alleged fault or defect (howsoever arising) in the materials, workmanship or quality of the services supplied by the Supplier and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto;

(ii) loss or damage to property of the Purchaser or third parties and all claims in respect of personal injury (including death) howsoever caused to or by any of the employees, servants, agents or sub-contractors of the Supplier in performance of this Order.

## **17. CONFIDENTIALITY**

17.1 The Order and the subject matter thereof shall be treated as confidential between the parties and shall not be disclosed or publicised by the Supplier to any third party for any reason without the Purchaser's prior written consent.

17.2 The Supplier shall not advertise, announce, or otherwise publicise in any form or cooperate or allow to be advertised, announced or otherwise publicised that the Order is to be or has been supplied by it to the Purchaser or otherwise use the Purchaser's name or any other form of identity without the Purchaser's prior written consent.

17.3 The Supplier shall not copy or otherwise make available to any third party any specifications, drawings, patterns, tools, tooling of any kind, written instructions, or other instructions or technical papers supplied by the Purchaser or produced by the Supplier at the Purchaser's cost for the purpose of the Order and the same shall remain the property of the Purchaser and must be returned to the Purchaser on demand free of charge.

## **18. DATA SECURITY**

All data transferred by means of an electronic and/or hard copy between the Purchaser and the Supplier, whether or not it is part of the Order or forms part of the Order, must be transferred securely ensuring integrity and confidentiality of the data is not compromised. The most appropriate method of transfer must be agreed by both parties depending on the sensitivity and nature of the data. In the event that there is a loss of any data whatsoever or the data has been mishandled howsoever, then the Supplier is wholly responsible for notifying the Purchaser in a timely manner and indemnifying the Purchaser against all losses, costs, expenses, damages, liabilities, demands, claims, actions or proceedings which the Purchaser may incur as a result of such loss or mishandling.

## **19. DATA PROTECTION**

19.1 The parties mutually undertake and agree not to disclose to any unauthorised person any data other than in accordance with the Data Protection Act 1998 (if applicable).

19.2 The parties mutually undertake and agree to apply for registration under the Data Protection Act 1998 either as "data controller" or as "data processor" (if applicable).

## **20. STATUTORY REQUIREMENTS**

20.1 The Supplier warrants that it fully complies and shall procure that any Associated Person fully complies with the Bribery Act 2010. Any breach of this Act by the Supplier or any Associated Person will entitle the Purchaser to terminate the Order. The Purchaser reserves the right to audit the Supplier's internal policies on any associated codes of conduct. For the purposes of this Clause 20.1, Associated Person shall have the meaning ascribed to it in section 8 of the Bribery Act 2010.

20.2 A person who is not a party to the T&Cs has no right under the Contracts (Rights of Third Parties) Act 1999.

20.3 The Supplier confirms that it conforms and complies at all times with all relevant legislation.



20.4 The Supplier warrants that they have procured and for the term of this Order shall procure that no slavery or human trafficking takes place or has taken place within any parts of its own business or in any of its supply chains. The Supplier complies with the relevant requirements of the Modern Slavery Act 2015 and provides access for the Purchaser to its policies, procedures and adopted approaches to ensure that slavery and human trafficking is prevented within its own business and in any of its supply chains. For the purposes of this clause, “slavery” and, “human trafficking shall have the meanings ascribed in section 54 of the Modern Slavery Act 2015.

## **21. INTELLECTUAL PROPERTY RIGHTS**

21.1 All intellectual property in both tangible and electronic format including drawings, transparencies, prints, photographs, negatives, working notes and books (“Intellectual Property”) created for or supplied by the Purchaser shall be the property of the Purchaser. Any originals and all copies shall be returned to the Purchaser on completion of the Order.

21.2 All documents drawings technical know-how, software calculations, computer listings, designs and inventions developed by the Supplier pursuant to this Order whether fully or partially completed shall be the property of the Purchaser and the copyright for the same shall be vested in the Purchaser.

21.3 Each party grants the other party a royalty-free, non-exclusive licence to use any of its Intellectual Property strictly necessary for the purpose of carrying out the Order. The Supplier grants the Purchaser a royalty-free, non-exclusive licence to use any of its Intellectual Property strictly necessary for any purpose in connection with the Goods, Works or Services. Neither party may grant any sub-licence to use the other's Intellectual Property except that the Purchaser may allow its Group Companies and any person working for or on behalf of the Purchaser or any Group Company to use the Suppliers' Intellectual Property for the purpose of carrying out the Order and any other purpose in connection with the Goods, Works or Services.

21.4 The Purchaser reserves the right to repossess such intellectual property at any time and the Supplier shall grant an irrevocable right and licence to the Purchaser its servants or agents to enter with or without vehicles upon all or any of its premises or any land or premises occupied by the Supplier or wherever such property is located. The right shall continue to subsist notwithstanding the termination of the Order for any reason and is without prejudice to any other rights of the Purchaser under or in respect of the Order or otherwise.

## **22. INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS**

22.1 Without prejudice to the other rights and remedies, the Supplier shall fully indemnify and hold harmless the Purchaser against any and all actions, claims, demands, proceedings, damages, costs, charges and expenses (including without limitation legal fees and costs and consequential loss and damage resulting directly or indirectly at any time from the purchase, exploitation, marketing, supply or other use of the Goods, Works or Services) in respect of any alleged or actual infringement of any patent, registered design, copyright or other intellectual property right.

22.2 If at any time allegation of infringement of any intellectual property rights is made or in the Purchaser's reasonable opinion is likely to be made, then the Supplier will, at its own cost, either:

(i) procure for the Purchaser the right to continue to use the Goods, Works or Services without infringing any rights in any or all ways and in and for any or all purposes for which it dealt with or was dealing or intended to deal with the goods, works or services prior to the allegation of its likelihood arising; or

(ii) replace the Goods, Works or Services which do infringe any intellectual property rights to comply with the Specification.

## **23. DOCUMENTATION, INFORMATION AND TRAINING**

23.1 The Supplier will provide for the Purchaser where applicable no later than the date of delivery or installation of the Order:

(i) any operator's manuals, instruction manuals, list of recommended spares and other supporting information; and

(ii) sufficient information about the use for which the goods, works or services have been designed and have been tested; and



(iii) detailed information about any conditions or procedures required to ensure that, when put to use, they will be safe and without risk to health.

23.2 If any Goods are perishable or have a life expectancy of a fixed duration or if there are any circumstances known to the Supplier which could adversely affect the life span of the Goods, then the Supplier shall immediately advise the Purchaser in writing all such necessary and appropriate information relating thereto which information shall upon receipt by the Purchaser but not before form part of the description of the Order (or part thereof).

23.3 If requested, the Supplier will, at no cost, allow the Purchaser the opportunity to attend the Supplier's factory or premises for the purposes of receiving training as may be deemed necessary for the effective use, functioning and maintenance of the Goods. The Supplier will provide at no cost to the Purchaser suitably qualified personnel for the purpose of giving the Purchaser's employees such training.

23.4 The Purchaser, acting reasonably, shall approve the format of the Supplier's application and any subsequent Supplier's invoice. It is a condition precedent to payment that the Supplier's application and any subsequent Supplier's invoice is presented in the form previously approved by the Purchaser.

23.5 The Purchaser, acting reasonably, shall approve the format for submission of the Supplier's quotation for any agreed addition/variation/amendment to the Order.

#### **24. CANCELLATION**

Without prejudice to its other rights and remedies the Purchaser reserves the right to cancel the Order for any reason and at any time upon giving the Supplier notice in writing. Save in the event of breach of contract by the Supplier a reasonable price will be paid by the Purchaser for all work in progress at the date of cancellation which is subsequently accepted by the Purchaser on cancellation. The Purchaser shall not be liable for any other direct or indirect cost or loss to the Supplier including (but not limited to) indirect loss, consequential loss or loss of business or opportunity.

#### **25. AVAILABILITY OF SPARES**

25.1 The Supplier will make available to the Purchaser on demand an appropriate quantity and range of spares for the Goods for a minimum period of 10 years from the date of the last delivery.

25.2 Without prejudice to the Purchaser's other rights and remedies, in the event of the Supplier being unable to comply with the provisions of this clause, the Supplier will provide at no cost sufficient information and technical data to enable the Purchaser to manufacture or obtain such spares.

#### **26. FORCE MAJEURE**

If the Supplier fails to perform any part of the Order, as a consequence of an event of Force Majeure, the Purchaser may at its discretion suspend or cancel the Order, in whole or in part, without any liability to the Supplier for payment for such suspended or cancelled part.

#### **27. ASSIGNMENT**

The Supplier will not without the prior written consent of the Purchaser assign transfer or sub-contract or otherwise deal with the whole or any part of the Order or the benefit thereof or rights thereunder.

#### **28. INSOLVENCY**

Without prejudice to its other rights the Purchaser will have the right forthwith to cancel the Order by notice in writing to the Supplier in the event that:

- (a) any person enforces any security or guarantee against the Supplier;
- (b) on the Supplier being unable to pay its debts as defined in section 123 of the Insolvency Act 1986 (as amended from time to time) ("1986 Act");
- (c) any formal step taken in connection with the bankruptcy, sequestration, winding up, dissolution or administration of the Supplier (whether out of court or otherwise) including:
  - (i) the presentation of a petition or an application for its administration;
  - (ii) the filing of a notice of intention to appoint an administrator to a party pursuant to paragraph 14 of Schedule B1 to the 1986 Act;
  - (iii) the presentation of a winding up petition for the winding up of the Supplier;



- (iv) the appointment of an administrator, a liquidator, interim liquidator, receiver, administrative receiver, or manager (whether out of court or otherwise) to the Supplier;
- (d) any meeting of creditors of a party being held or any arrangements or composition with or for the benefit of its creditors (including any voluntary arrangement as defined in the 1986 Act being proposed or entered into by or in relation to the Supplier.

**29. WAIVER**

Failure by the Purchaser to exercise or enforce any right conferred by the Order shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise of enforcement thereof or of any other right on any later occasion.

**30. LAW AND JURISDICTION**

The Order shall be governed construed and interpreted in accordance with the local law of the address of delivery of the Services. The parties hereby agree to submit to the sole jurisdiction of the Courts of that local law in respect of any dispute arising out of or in connection with the Order or these terms and conditions.