

General Terms and Conditions of Supply – (April 2024)

1. Contract Terms

- 1.1 A contract between KBRS and the Customer will be concluded once a written Order Confirmation has been issued by KBRS to the Customer (**Contract**). Acceptance of a Proposal by the Customer will not create a binding contract.
- 1.2 Each Order shall form a separate Contract between KBRS and the Customer and shall be governed by these Terms, the relevant Order Confirmations and any variation of these Terms agreed in accordance with clause 1.3. These Terms shall prevail over any other documentation or communication from the Customer (including any terms or conditions which the Customer purports to apply under any Order, specification or other document). All other terms and conditions are hereby expressly excluded. In the event of inconsistencies between these Terms and an Order Confirmation, the Order Confirmation shall prevail.
- 1.3 No variation to these Terms shall be valid unless it is in writing and signed by the duly authorised representative of KBRS.
- 1.4 Each of the parties shall provide to the other the name and contact details of their Authorised Representative on or before the conclusion of a Contract for the supply of Goods and/or Services and shall immediately inform the other if the identity of the Authorised Representative changes.
- 1.5 For purposes of a Contract, the term “KBRS” means the Supplier.

2. Supply of Goods and Services

- 2.1 KBRS shall provide the Goods and/or Services in accordance with the agreed specification, if any. Changes are only agreed if KBRS expressly confirms them in writing and the parties have agreed to a Change Order in accordance with clause 14.
- 2.2 Any documentation enclosed with the Goods and/or Services is provided “as-is” and KBRS makes or offers no warranty or guarantee in relation to any documentation provided. The English language version of any Documentation shall take precedence over any foreign language version of any Documentation.
- 2.3 The Customer shall, where appropriate, be responsible for providing all appropriate instructions, documents, information, licences or authorisations in a timely manner to enable KBRS to deliver the Goods, prepare the Goods for collection and/or perform the Services (as applicable). KBRS shall not be liable for any delay in the delivery of the Goods, the preparation of the Goods for collection and/or the performance of the Services (as applicable) caused by failure by the Customer to comply with its obligations under this clause 2.3.
- 2.4 If the Customer provides KBRS with any material, the Customer warrants that it is entitled to transfer and use such material and that KBRS’ use of such material does not infringe any third-party intellectual property rights. In the event the Customer provides any material electronically, this must be done in a technically flawless condition; in particular, it must be free of viruses, Trojans, malware or other malicious software.
- 2.5 A Customer may at any time before the first agreed Delivery Date request in writing that the Order concerned may be amended or cancelled. KBRS may accept an amended Order at its discretion by providing to the Customer an Order Confirmation reflecting the amendment.

3. Delivery and Collection

- 3.1 KBRS shall deliver and the Customer shall take delivery of the Goods or KBRS shall make available and the Customer shall collect the Goods and/or KBRS shall perform the Services (as applicable):
 - 3.1.1 on the Delivery Date; and
 - 3.1.2 to/at the Place of Delivery in either instance in accordance with this clause 3;
 - 3.1.3 in such manner as KBRS may reasonably deem fit for delivery of Goods of such nature.
- 3.2 Time shall not be of the essence for delivery of the Goods, for preparation of the Goods for collection by the Customer and/or for the performance of Services.
- 3.3 Unless otherwise stated in the Order Confirmation, delivery shall be FCA from KBRS (Melksham) (as according to Incoterms 2020).
- 3.4 Where KBRS is to deliver the Goods any additional expenses which arise from delivery of the Goods to a Place of Delivery other than that originally set out in the Order Confirmation, shall be borne by the Customer. The Delivery Date shall be deemed to have been met upon actual delivery of the Goods to the Place of Delivery.
- 3.5 Where the Customer is responsible for the collection of the Goods from any premises of KBRS, the Delivery Date shall be deemed to have been met when KBRS informs the Customer that the Goods are ready for collection. The Customer shall take delivery of the Goods within two (2) Business Days of the Customer being notified by KBRS that the Goods are ready for collection.
- 3.6 If the delivery of the Goods by KBRS, preparation of the Goods by KBRS for collection by the Customer and/or the performance of the Services by KBRS (as applicable) is entirely or partly delayed at the request of the Customer or as a result of a Delaying Factor which could reasonably have been prevented by the Customer; or because the Customer, or carrier entrusted by the Customer to transport the Goods, objects to the transportation of the Goods in a manner which, whilst not being that which was set out in the Order Confirmation or otherwise agreed upon by KBRS and the Customer, is nonetheless one which is a reasonable alternative, the Customer

shall be charged, from the seventh (7th) calendar day following the Delivery Date, all costs incurred by KBRS as a result of the delay, including without limitation, storage costs, but not less than 0.5 % of the invoice value of the Goods and/or Services the delivery/preparation for collection/performance (as applicable) of which is delayed, unless the Customer can provide evidence that the loss has been smaller.

- 3.7 The Customer may not refuse to take delivery of, collect Goods and/or accept performance of Services on account of minor Defects in the Goods and/or Services.
- 3.8 Failure to deliver the Documentation with the delivery of the Goods and/or the performance of the Services and/or to ensure the Documentation is available for collection with the Goods (as applicable) shall not entitle the Customer to claim that the Delivery Date has not been met by KBRS.
- 3.9 KBRS may supply the Goods, prepare the Goods for collection and/or perform the Services (as applicable) in instalments to the extent that this is reasonable.
- 3.10 KBRS' liability in respect of its failure to deliver the Goods, prepare the Goods for collection by the Customer and/or perform the Services (as applicable) by the Delivery Date (subject to KBRS' right to delay the Delivery Date pursuant to clause 3.11), shall be limited to 0.5 % of the invoice value of those Goods and/or Services the delivery/preparation for collection/performance of which has been delayed, for every complete week, subject to an aggregate maximum limit of 5 % of the invoice value of those Goods and/or Services.
- 3.11 If delivery of the Goods, preparation of the Goods for collection by the Customer and/or performance of the Services (as applicable) by KBRS is or shall be delayed by a Delaying Factor, KBRS shall be entitled to delay the Delivery Date for the Goods and/or Services for a period not less than the duration of the Delaying Factor and such further period as KBRS deem reasonably necessary to enable it to deliver the Goods, prepare the Goods for collection and/or perform the Services. Upon becoming aware of the existence of a Delaying Factor, the relevant party's Authorised Representative shall notify the other in writing setting out full details of the nature of the Delaying Factor and the anticipated duration.

4. Warranty

- 4.1 KBRS shall comply with laws applicable to the manufacture of Goods and its performance of Services at the time of manufacture or performance of the Services.
 - 4.2 KBRS warrants that on delivery of the Goods by KBRS or collection of the Goods by the Customer (as applicable) the Goods shall:
 - 4.2.1 conform in all material respects with the technical specifications provided by KBRS to the Customer or as otherwise agreed between the parties; and
 - 4.2.2 be free from Defects in material workmanship and title; and
 - 4.2.3 be of satisfactory quality.
 - 4.3 KBRS hereby warrants that the Services shall be performed by KBRS with reasonable skill and care.
 - 4.4 Unless otherwise agreed in writing by KBRS:
 - 4.4.1 the warranty period with respect to Goods shipped to a location outside of the UK shall be fifteen (15) months from the date the Goods were shipped, or with respect to Goods shipped to a location within the UK shall be twelve (12) months from the date the Goods were shipped; and
 - 4.4.2 the warranty period for Services shall be twelve (12) months from completion of each applicable Service (the "Warranty Period").
 - 4.5 KBRS shall not be liable for a breach of any of the warranties in clauses 4.1 to 4.4 unless:
 - 4.5.1 the Customer complies fully with clause 4.6; and
 - 4.5.2 KBRS is given a reasonable opportunity after receiving the Notification of Defects to examine such Goods and/or Services.
 - 4.6 The warranties and remedies are conditioned upon:
 - 4.6.1 proper storage, installation, use, operation, and maintenance of the Goods by Customer;
 - 4.6.2 the Customer keeping accurate and complete records of operation and maintenance during the Warranty Period and providing KBRS access to those records; and
 - 4.6.3 modification of Goods or Services by Customer shall only be strictly as authorised by KBRS in writing.
 - 4.7 KBRS' obligations under this clause 4 shall not apply to:
 - 4.7.1 normal wear and tear;
 - 4.7.2 any off the shelf consumer goods that may be incorporated into the Goods;
 - 4.7.3 any material that is normally consumed in operation;
 - 4.7.4 any material that has a normal life inherently shorter than the Warranty Period specified in clause 4.4;
 - 4.7.5 material that has been subjected to any other kind of misuse or detrimental exposure, has been involved in an accident, or has been subject to an Event of Force Majeure.
- In the event the Customer uses non-Supplier parts or non-Supplier approved repairs, then any damage to, failure of, or performance degradation of the Goods or Services indirectly or directly resulting from the use of such parts or repairs, shall not be warranted by KBRS.
- 4.8 All warranties, conditions and other provisions implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from all contracts for the supply of Goods and/or Services between KBRS and the Customer.

4.9 Any liability of KBRS arising hereunder shall end upon expiration of the applicable Warranty Period, provided that the Customer may continue to enforce a claim for which it has given prior notice by commencing an action or arbitration, as applicable under the Contract, before expiration of any statute of limitations or other legal time limitation but in no event later than one year after expiration of such Warranty Period.

5. Defects

- 5.1 The Customer shall examine all Goods and/or Services immediately upon delivery, collection or performance of the Goods and/or Services (as applicable).
- 5.2 In the event the Customer, acting reasonably, believes any of the Goods and/or Services are Defective it shall provide KBRS with a written Notification of Defects within seven (7) calendar days of delivery or collection of the Goods and/or Services (as applicable). The Customer's obligation to provide notice of any Defects shall also apply to all Documentation but not to any hidden Defects. Hidden Defects shall be reported immediately after their discovery in the ordinary course of business.
- 5.3 The Notification of Defects shall include a full and complete description of all the Defects complained of, describing the deviation from the contractual requirements in detail. Only the Authorised Representative may issue such Notification of Defects.
- 5.4 The Customer shall, in the case of Defective Goods, return such Defective Goods, at the request and expense of KBRS, to KBRS' place of business.
- 5.5 KBRS may, at the request of the Customer, assist the Customer in identifying any Defects in the Goods. If the Defects identified (if any) cannot be directly attributed to KBRS, KBRS shall invoice the Customer at KBRS' standard rates from time to time for the provision of such services.
- 5.6 If any of the Goods and/or Services do not conform with any of the warranties in clause 4, KBRS shall at its option repair or replace such Goods (or the Defective part), have the Service re-performed or any faulty or Defective workmanship made good or refund a pro rata amount of the Price paid by the Customer for the Defective Goods and/or Services.
- 5.7 Following rectification of a Defect by KBRS, any repaired or replaced Goods shall be guaranteed on these Terms for the unexpired portion of the Defects Warranty Period. In the event that, after more than one attempt, KBRS fails to rectify the Goods/Services, the Customer may request a reasonable reduction in the Price.
- 5.8 If KBRS complies with its obligations in this clause 5, KBRS shall have no further liability for a breach of any of the warranties in clause 4 and the Customer's remedies under this clause 5 are in place of and to the exclusion of all other remedies whether in contract or tort (including but not limited to negligence) or by reason of statutory duty or otherwise.

6. Title and Risk

- 6.1 Ownership of Goods shall not pass to the Customer until KBRS has received in full (in cash or cleared funds) all sums due to it in respect of the Goods and any related Services. Title to the Services remains the property of KBRS at all times.
- 6.2 Until ownership of the Goods has passed to the Customer, the Customer shall:
- 6.2.1 hold the Goods on a fiduciary basis as KBRS' bailee;
 - 6.2.2 store the Goods free of charge; and
 - 6.2.3 insure the Goods on KBRS' behalf for their full Price against all risks to the reasonable satisfaction of KBRS.
- 6.3 The Customer may resell the Goods before ownership has passed to it on the condition that any sale shall be effected in the ordinary course of the Customer's business at full market value and such sale shall constitute a sale of KBRS' property on KBRS' behalf and the Customer shall deal as principal when making such sale; and that the Customer holds the proceeds of sale on trust for KBRS.
- 6.4 The Customer grants KBRS, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.
- 6.5 Risk of loss or damage to the Goods shall pass to the Customer upon actual delivery of the Goods to the Place of Delivery or, upon the Goods being made available for collection by the Customer, as the case may be.

7. Prices and Payment

- 7.1 The Customer shall pay KBRS the Prices for the Goods and/or Services. The Prices are for delivery ex works without packing and insurance unless stated otherwise.
- 7.2 If KBRS is to carry out installation of Goods, the Price shall not include ancillary costs not explicitly included in the Order Confirmation, such as freight, transport and travelling costs or any other expenses incurred by KBRS in performing such installation.
- 7.3 KBRS may change the Price accordingly if, between the conclusion of the Contract and the delivery or performance, unforeseeable significant cost increases or reductions occur affecting the relevant Price components and which were part of the original Price calculation. Such significant increases or decreases may especially be based on (but not limited to) new, additional or changed duties or taxes, changes in legal

regulations, material or manufacturing costs, in particular energy costs, transport/freight costs including customs duties, import and export taxes as well as changes due to exchange rate fluctuations.

- 7.4 KBRS shall be entitled with effect from 1st January in each year to index the Prices in accordance with the increase in the following formula: $[(V2 - V1 / V1) \times 100]$, whereas V2 equals the RPIx figure (as published by the Office for National Statistics) in the current December (i.e. the immediate month prior to the relevant 1st January) and V1 equals the RPIx figure (as published by the Office for National Statistics) in the previous December (i.e. 13 months prior to the relevant 1st January).
- 7.5 KBRS shall invoice the Customer at the times stated in the Order Confirmation or otherwise:
- 7.5.1 in respect of the Services, at reasonable intervals during the performance of the Services or, if such provision takes longer than one calendar month, at the end of each calendar month in which each single Service is provided; and
- 7.5.2 in respect of the Goods, upon delivery/collection (as applicable) of the Goods as a whole or upon delivery/collection (as applicable) of each instalment of the Goods.
- 7.6 Except as otherwise agreed in writing by KBRS, the Customer shall pay the full amount invoiced to it by KBRS within thirty (30) calendar days of the date of the invoice without any deductions whatsoever. Payment shall be made in accordance with the instructions set out in the relevant invoice. If the Customer refuses or is not able to accept deliveries on the agreed Delivery Date, payment becomes due on the agreed Delivery Date whether or not delivery in fact occurred. Payment is not deemed to have been effected until the payment amount is irrevocably received into KBRS' account.
- 7.7 At its discretion, KBRS may alternatively, however, make delivery conditional upon simultaneous or advance payment of the Price for the Goods and/or Services (for example but without limitation, cash on delivery or bank direct debiting service), especially if, for example but without limitation, if delivery is to be made to a foreign country or if KBRS considers that there is a high risk of late payment.
- 7.8 If the Customer fails to pay any invoice issued by KBRS by the due date, KBRS shall be entitled (without prejudice to any other right or legal remedy it may have) to:
- 7.8.1 cancel or suspend any further delivery of the Goods, preparation of the Goods for collection or performance of the Services (as applicable) under any Order;
- 7.8.2 make any or all future deliveries of the Goods, preparation of the Goods for collection or performance of the Services (as applicable) conditional upon the Customer paying for them in advance; and/or
- 7.8.3 charge the Customer interest on the outstanding amount at the statutory interest rate for late payments calculated on a daily basis from the date the payment became due until the date the payment in full is received by KBRS, whether before or after any judgment.
- 7.9 The Customer shall make all payments due in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by KBRS to the Customer, or as otherwise agreed in writing and signed by the Authorised Representative of each party.
- 7.10 All payments due to KBRS under a Contract for the supply of Goods and/or Services shall become immediately due on its termination notwithstanding any provision to the contrary.
- 7.11 All sums payable by the Customer to KBRS are exclusive of any VAT chargeable on the supplies for which such sums (or any part of them) are the whole or part of the consideration for VAT purposes. The applicable VAT rate shall be the rate in force as at the date on which the payment became due.

8. Intellectual Property Rights

- 8.1 All Intellectual Property Rights in the Goods and/or Services (whether or not developed before, during or after a Contract for the Supply of Goods and/or Services between the Customer and KBRS or accruing from KBRS' co-operation with the Customer or from the Customer's instructions) shall remain vested in KBRS. All Intellectual Property Rights in the Documentation shall remain vested solely in KBRS.
- 8.2 KBRS warrants that the Goods do not infringe any Intellectual Property Rights of third parties.
- 8.3 KBRS grants the Customer a perpetual, revocable (in the event of a breach of the terms of this licence by the Customer) licence within the United Kingdom (or such other territory as set out in the Order Confirmation) to use the Intellectual Property Rights contained within the Goods and/or Services for the Customer's business purposes for the Contract but such right shall not extend to any other purpose nor shall the Customer have any right to sell, commercialise or otherwise gain from the Intellectual Property Rights hereby granted. This licence may be sub-licensed or assigned by the Customer subject to such sub-licensee or assignee being bound by the same terms as this licence. The Customer may not reverse engineer any of the Intellectual Property Rights nor have any component part of the Goods and/or Services manufactured or produced by any third party.
- 8.4 The Customer shall not, without the prior written consent of KBRS, reproduce or disclose to a third party (except to the extent necessary for the implementation of an Order) the Documentation, these Terms or any Contract for the supply of Goods and/or Services between the Customer and KBRS. If a Contract for the supply of Goods and/or Services between the Customer and KBRS is not concluded or upon termination of such Contract, the Customer shall, at the discretion of KBRS, either return to KBRS or destroy all Documentation and shall make

no further use of the same. The Authorised Representative shall provide a signed, written confirmation to KBRs that the Customer's obligations under this clause 8 have been complied with.

8.5 This clause 8 shall not apply to and KBRs shall have no obligation or liability with respect to any patent infringement claim based upon:

8.5.1 any Goods that are manufactured, or Service performed, that is customised to the Customer's design or specification;

8.5.2 the combined use of any Goods or with any other apparatus or material;

8.5.3 the use of any Goods or Services furnished hereunder to the extent that the infringement claim is based upon a modification to the Goods or Services that were made by the Customer (or the Customer's employees, agents, contractors or subcontractors); or

8.5.4 the failure of Customer to implement any update provided by KBRs that would have prevented the claim.

As to any Goods, Services or use described in the preceding sentence, KBRs assumes no liability whatsoever for patent infringement or the unauthorised use of Goods or Services, including, without limitation, a breach of the provisions of the Contract.

8.6 This clause 8 states KBRs' exclusive and entire liability for indemnification for patent, trademark, copyright, and trade secret, or other intellectual property infringement for Goods and Services.

8.7 If any third party makes a Claim against, or notifies an intention to make a Claim against, the Customer, the Customer shall:

8.7.1 promptly give written notice of that matter to KBRs, specifying in reasonable detail the nature of the relevant Claim;

8.7.2 not make any admission of liability, agreement or compromise in relation to the relevant Claim without the prior written consent of KBRs;

8.7.3 allow KBRs complete control over any negotiations or litigation and/or the defence or settlement of any Claim; and

8.7.4 at the request and expense of KBRs, do all such things as KBRs may reasonably request to assist KBRs in resisting any proceedings in relation to any such Claim.

8.8 Subject to the Customer complying with its obligations under this clause 8, KBRs shall, at its own expense and at its discretion, procure any licences required to avoid the claim, modify the Goods and/or the work product of the Services in such way so as to avoid the claim or exchange the Goods and/or re-perform the Services in such a way so as to avoid the claim.

8.9 The obligations of KBRs in this clause 8 shall not apply if the Claim results from:

8.9.1 use by the Customer of any part of any Goods or any work product of the Services for a purpose or in a manner which was unforeseeable to KBRs at the Delivery Date; or

8.9.2 KBRs' use of any material provided by the Customer or KBRs' compliance with any specifications or instructions of the Customer; or

8.9.3 the processing, use, mixture or merger of the Goods or the work product of the Services with other products.

8.10 The Customer's rights under this clause 8 shall be the Customer's sole remedies in respect of the claim giving rise to such rights under this clause 8.

9. Export Control

9.1 KBRs' obligations are conditioned upon the Customer's compliance with all applicable trade control laws and regulations. The Customer shall not trans-ship, re-export, divert or direct Goods other than in and to the ultimate country of destination declared by the Customer and specified as the country of ultimate destination on KBRs' invoice.

9.2 Unless otherwise provided in the Contract, the Customer shall not, without KBRs' prior written consent, supply or forward any Goods and/or Services (as applicable) to any third party (whether or not related to the Customer). If onward supply of the Goods and/or Services is authorised by KBRs, then the Customer shall comply with export controls and economic sanctions imposed by the United Kingdom of Great Britain & Northern Ireland, the United States of America and/or the European Union and its Member States and any other applicable jurisdiction (any and each of which, whether singly or more than one being referred to as "Export Authority").

9.3 The Customer hereby indemnifies KBRs against any costs, losses, actions, demands arising from any failure or alleged failure of the Customer to comply with any requirements of an Export Authority, including any sanction controls.

10. Confidentiality

10.1 "Confidential Information" refers to business, marketing, technical, scientific, financial and other information, specifications, designs, plans, drawings, software, prototypes or process techniques that are marked confidential (or similarly identified) when disclosed by KBRs, are communicated under confidential circumstances or would be considered confidential under reasonable business judgment. This applies regardless of whether the information was disclosed in physical, verbal or electronic form.

10.2 The Customer is obligated to keep all Confidential Information strictly confidential, not to disclose such information, nor to use such information for any purpose other than its business relationship with KBRS. This applies to all third parties, including unauthorised employees or freelancers, if the disclosure is not necessary for the fulfilment of the obligations under this Agreement.

10.3 Confidential Information does not include information:

10.3.1 that was generally known or in the public domain or became so without the Customer's input;

10.3.2 that was already in the Customer's possession prior to KBRS' receipt of it;

10.3.3 that was lawfully obtained from a third party; or

10.3.4 that was independently developed by the Customer without access to the Confidential Information.

11. Data

11.1 Each party shall have joint ownership of any data arising from the use of any of the Goods by the Customer for its own business purposes.

12. Liability

12.1 Nothing in these Terms excludes or limits the liability of KBRS for:

12.1.1 death or personal injury caused by KBRS' negligence; or

12.1.2 under Section 2(3) of the Consumer Protection Act 1987; or

12.1.3 for fraud or fraudulent misrepresentation; or

12.1.4 any matter for which it would be illegal for KBRS to exclude or attempt to exclude its liability.

12.2 Subject to clause 12.1, KBRS shall have no liability, whether in contract, tort or otherwise for:

12.2.1 any pure economic loss, loss of profit, loss of business, loss of savings, loss of revenue, loss of data, depletion of goodwill or otherwise; or

12.2.2 any indirect, consequential or special loss,

in either case howsoever arising out of or in connection with a contract for the supply of Goods and/or Services.

12.3 Subject to clause 12.1 KBRS' total liability, whether in damages or under the terms of any indemnity, in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of a contract for the supply of Goods and/or Services between KBRS and the Customer shall be limited to the Price.

13. Termination and suspension

13.1 The Customer may terminate the Contract (or the portion affected) for cause if KBRS:

13.1.1 becomes insolvent or bankrupt; or

13.1.2 commits a material breach of the Contract which does not otherwise have a specified contractual remedy, provided that the Customer shall first provide KBRS with detailed written notice of the breach and of the Customer's intention to terminate the Contract and KBRS shall have failed, within thirty (30) calendar days after receipt of the notice, to commence and diligently pursue resolution of the breach.

13.2 If the Customer terminates the Contract pursuant to clause 13.1 the Customer shall pay to KBRS:

13.2.1 the portion of the Price for Goods ordered;

13.2.2 any lease fees incurred; and

13.2.3 any amounts for Services performed before the effective date of termination.

13.3 KBRS may suspend or terminate the Contract (or any affected portion thereof) immediately for cause if the Customer:

13.3.1 becomes insolvent or bankrupt; or

13.3.2 materially breaches the Contract, including, but not limited to, failure or delay in the Customer providing payment security, making any payment when due, or fulfilling any payment conditions.

13.4 In the event KBRS terminates the Contract as provided in clause 13.3:

13.4.1 KBRS shall be entitled to retain any down payment, advance payments, progress payments and/or milestone payments made by the Customer;

13.4.2 the Customer shall pay KBRS the applicable Price for any completed or substantially completed Goods and/or Services performed before the effective date of termination, plus expenses reasonably incurred by KBRS in connection with the termination;

13.4.3 the Customer shall pay KBRS a cancellation charge equal to 80 % of the remaining part of the Price for uncompleted made-to-order Goods and 15 % of the Price for all other uncompleted Goods.

13.5 Subject to clause 13.1, above, the Customer may not terminate, suspend or cancel the Contract (or any portion thereof) without the prior written consent of KBRS, which consent shall be at KBRS' sole discretion. KBRS may condition its consent upon any or all of the remedies set forth in clause 13.4, above.

13.6 For purposes of this clause 13, the following shall apply when determining the amount due from the Customer for Services performed before the date of termination:

13.6.1 for Services performed under time and material pricing, the Customer shall pay for all hours performed at KBRS' then-current standard time and material rates; and

- 13.6.2 for Services performed under a firm fixed Price, the Customer shall pay:
- (a) the applicable Price for all milestones achieved; and
 - (b) for any milestone not yet achieved, all hours performed in connection with the unachieved milestone(s) at KBRs' then-current standard time and material rates.
- 13.7 The Customer shall pay all reasonable expenses incurred by KBRs in connection with a suspension, including, but not limited to, expenses for repossession, fee collection, demobilisation/remobilisation, and costs of storage during suspension. The schedule for KBRs' obligations shall be extended for a period of time reasonably necessary to overcome the effects of any suspension.
- 13.8 Either the Customer or KBRs may terminate the Contract (or the portion affected) upon twenty (20) Business Days advance notice in the Event of Force Majeure (as described in clause 15.4) lasting longer than one hundred and twenty (120) calendar days. In such case, the Customer shall pay KBRs amounts payable under clause 13.4, excluding the cancellation charge for uncompleted Goods; provided, however, in the event the excusable delay was caused by acts or omissions of the Customer or its contractors or suppliers, the cancellation charge for uncompleted Goods shall apply.
- 14. Changes**
- 14.1 KBRs may, as it deems necessary and/or from time to time, make engineering or specification changes with respect to the Goods and/or Services. If the engineering or specification change does not constitute a material change in form, fit or function, KBRs is authorised to deliver the Goods or perform the Services, as changed or modified, without notice to or consent from the Customer. If the engineering or specification change constitutes a material change in form, fit or function, KBRs must first notify the Customer and, if applicable, the parties shall negotiate an equitable adjustment in the Price and delivery of the Goods and/or Services (**Change Order**). KBRs shall have the right to suspend performance pending completion of such negotiation.
- 14.2 The Customer may propose changes to such engineering or specifications with respect to the Goods and/or Services by written change order to KBRs. Such engineering or specification changes proposed by the Customer will be subject to adjustment in Price and delivery of the Goods and/or Services under a Change Order. Unless otherwise specified by KBRs in writing, changes to such engineering and specifications proposed by the Customer not agreed to and accepted in writing by KBRs within eight (8) months prior to delivery of the Goods shall not apply to the Goods and/or Services.
- 14.3 In the event of any engineering or specification change required due to a change in applicable laws, rules and/or regulation that results in increased cost, expense, liability or risk to KBRs, KBRs shall be entitled to make reasonable adjustments in Price and delivery timing of the Goods and/or Services to compensate and accommodate KBRs for such increased obligations under a Change Order. In the event the parties fail to mutually agree to such reasonable adjustments, either party may refer the matter for resolution using the dispute resolution process set out in clause 16.
- 15. Miscellaneous**
- 15.1 If any of these Terms shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other Terms which shall remain in full force and effect. In such event, KBRs and the Customer shall in good faith attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.
- 15.2 These Terms and any Contract for the supply of Goods and/or Services between KBRs and the Customer constitute the entire agreement and understanding of KBRs and the Customer and supersede any prior agreement or understanding between KBRs and the Customer. The Customer and KBRs acknowledge that in entering into a Contract for the supply of Goods and/or Services and/or in becoming bound by these Terms, they do not rely on any statement, representation (other than a fraudulent misrepresentation), warranty, course of dealing, custom or understanding except for those expressly set out in writing in the Contract between KBRs and the Customer or these Terms. KBRs and the Customer irrevocably and unconditionally waive any rights and/or remedies they may each have to the fullest extent permitted by law in respect of any misrepresentation other than one which is expressly set out in these Terms or in writing in the Contract between KBRs and the Customer for the supply of Goods and/or Services or which was made fraudulently. All declarations of the Customer (including, without limitation, order acknowledgements, purchase orders and objections) shall be binding on KBRs only if made in writing and confirmed by KBRs in written form. No change shall be made to these Terms except in writing signed by the duly authorised representative of the Customer and KBRs.
- 15.3 The Customer may not, without the prior written consent of KBRs, assign, sub-contract or otherwise deal with these Terms or any Contract for the supply of Goods and/or Services between KBRs and the Customer or its rights or obligations thereunder.
- 15.4 Either party is entitled to suspend performance of its obligations under this Contract to the extent that such performance is impeded by any Event of Force Majeure. The party wishing to claim the benefit of this clause

must notify the other party in writing within seven (7) days of the Event of Force Majeure, and the suspension of obligations lasts only to the extent the Event of Force Majeure event. Failure to give notice under this clause will disentitle the party the benefit of the clause. No party is entitled to claim any costs from the other party arising out of an Event of Force Majeure.

15.5 The Customer shall do or procure to be done all such further acts and things and execute or procure the execution of all such other documents as KBRS may from time to time require for the purpose of giving KBRS the full benefit of the provisions of these Terms.

16. Governing Law & Dispute Resolution

16.1 English law shall govern the validity, interpretation and performance of these Terms and KBRS and, subject to the remaining provisions of this clause 16, the parties irrevocably submit to the exclusive jurisdiction of the English Courts in respect thereof.

16.2 Any dispute, controversy or claim arising out of or relating in any way to this Contract, whether in contract, tort, common law, statutory law, equity, or otherwise, including any question regarding its existence, validity, or scope, shall be resolved in accordance with this clause 16. If a dispute is not resolved by negotiations, either party shall, by giving written notice that summarises the nature of the dispute, refer the dispute to a meeting of appropriate higher management, to be held within thirty (30) Business Days after the giving of notice, or such later date as may be mutually agreed. If the dispute is not resolved at the senior management level, the parties shall, within thirty (30) Business Days of the management meeting, or such later date as may be mutually agreed, mediate the dispute in London with a single mediator appointed by agreement of the parties or, failing agreement, to be appointed by CEDR and shall follow the rules of CEDR in conducting such mediation. If the dispute is not resolved at the mediation, either party may commence arbitration or court proceedings.

Definitions

In this document, the following words shall have the following meanings:

“Authorised Representative”	shall mean the contact person who will serve as the authorised representative of one party and will be responsible for liaising directly with the contact person serving as the authorised representative on behalf of the other party;
“Business Day”	shall mean a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;
“Claim”	shall mean a claim made by a third party against the Customer alleging infringement of an Intellectual Property Right of the third party by the Goods supplied by KBRS or the work product of the Services performed by KBRS pursuant to a Contract for the supply of Goods and/or Services (as applicable) between the Customer and KBRS;
“Customer”	shall mean commercial companies, public law legal entities, special public funds or any other third party purchaser of goods or services from KBRS;
“Defect”	shall mean any failure of Goods and/or Services to comply with the requirements of any specification agreed between KBRS and Customer. “Defective” shall be construed accordingly;
“Defects Warranty Period”	shall mean the period of twelve (12) months commencing on the date the Goods are delivered by or on behalf of KBRS, the first date of the performance of the Services by KBRS or the date the Goods are collected by or on behalf of the Customer (as applicable);
“Delaying Factor”	shall mean all factors which cause the delivery of the Goods and/or the performance of the Services to be delayed until after the Delivery Date which are: (i) beyond the control of KBRS including, without limitation, failure of the Customer to provide timely collaboration or information to KBRS as necessary in order for KBRS to deliver the Goods and/or perform the Services or an Event of Force Majeure; or (ii) are caused otherwise than as a result of the negligence of KBRS;
“Delivery Date”	shall mean the date on which KBRS will deliver the Goods to the Customer, KBRS will perform the Services or the Customer will collect the Goods from KBRS (as applicable) as specified in the Order Confirmation or otherwise agreed in writing by KBRS and the Customer;
“Delivery Details”	shall mean the Place of Delivery and the Delivery Date;
“Documentation”	shall mean any data, proposals, operating instructions and instructions of assembly, documentation, plans, drawings, patterns, models, designs or other material furnished or made available to the Customer by KBRS pursuant to or in anticipation of a Contract for the supply of Goods and/or Services between the Customer and KBRS;

“Event of Force Majeure”	shall mean strikes, lock-outs or other industrial disputes (whether involving the workforce of the party so prevented or of any other party), epidemic, pandemic, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or default of suppliers or sub-contractors;
“Goods”	shall mean the products sold by KBRS to the Customer;
“Intellectual Property Rights”	shall mean any patents, any extensions of the exclusivity granted in connection with patents, registered designs, trade marks, service marks, applications for any of the foregoing (including, but not limited to, continuations, continuations-in-part and divisional applications), the right to apply for and be granted any of the foregoing, rights in trade names, business names, brand names, get-up, logos, domain names and URLs, copyrights, design rights, rights in know-how, trade secrets and confidential information and all other forms of intellectual property right having equivalent or similar effect to any of the foregoing which may exist anywhere in the world;
“Notification of Defects”	shall mean a notice setting out Defects in the Goods and/or Services identified by the Customer upon examination in accordance with clause 5.2;
“Order”	shall mean an order for Goods and/or Services placed by the Customer with KBRS;
“Order Confirmation”	shall mean any document issued by KBRS to the Customer confirming acceptance of the Order;
“Place of Delivery”	shall mean the place specified in the Order Confirmation (or otherwise agreed in writing by KBRS and the Customer) to which KBRS will deliver the Goods, at which KBRS will perform the Services or from which the Customer will collect the Goods (as applicable);
“Price”	shall mean the price for Goods and/or Services purchased by the Customer agreed to by KBRS and Customer set forth in the applicable Order Confirmation;
“Proposal”	shall mean a statement of work, quotation, Order or other similar document describing the Goods and/or Services;
“Services”	shall mean the services to be supplied by KBRS to the Customer;
“Supplier”	shall mean Knorr-Bremse Rail Systems (UK) Limited; and
“Terms”	shall mean the terms and conditions of supply set out in this document and any special terms and conditions agreed in writing signed by the duly authorised representative of KBRS.