

## 1. Definitions

The titles of the articles ("Articles") herein are inserted for convenience of reference only and shall not affect the interpretation of these Conditions. Unless otherwise defined, capitalised terms, singular or plural, used in these Conditions shall have the meaning set out below:

**"Conditions"** means the terms and conditions of purchase set out herein.

**"Delivery Date"** means the due date of delivery of the Item to the place of delivery as specified in the Order.

**"Excusable Delay"** has the meaning set out in Article 10.1 (Excusable Delay).

**"General Data Protection Regulation"** or **"GDPR"** means the European Union regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, as amended from time to time.

**"Item"** means any goods, material, work or service identified in the Order and as specified in the Specification forming part of the Order.

**"Order"** means LXS purchase order, any Specific Conditions, these Conditions and any attachments, which are incorporated by reference, and any amendments to the foregoing documents.

**"Parties"** means the Purchaser and the Supplier and **"Party"** shall be construed accordingly.

**"Personal Data"** means any information relating to an identified or identifiable natural person an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person (as defined in GDPR).

**"Purchaser"** or **"LXS"** means LuxSpace Sàrl, with registered seat at SES Business Center, 9 rue Pierre Werner, 6832 Betzdorf, Luxembourg, which places the Order and is identified on the front of the Order.

**"Specification"** means the requirements defining the Item, if any, issued by the Purchaser and incorporated in the Order.

**"Specific Conditions"** means the conditions negotiated and agreed between the Purchaser and the Supplier incorporated into and appearing on the Order including Specifications, if any.

**"Supplier"** means the company, person or entity upon whom the Order is placed and which is identified on the front of the Order.

**"VAT"** means Value Added Tax. **"VAT ID"** means European VAT Identification number.

## 2. Purpose and Scope

**2.1.** The Parties agree that these Conditions, as may be amended from time to time, together with the Order and all related documents are the only terms and conditions upon which LXS will accept goods or services from Supplier and LXS shall not be bound by any different or additional terms and conditions proposed by or purported to apply by Supplier, whether stated on any order acknowledgement or communicated by Supplier at the time of accepting the Order, starting work, delivering the Item or included in any other document, unless expressly agreed to by LXS in writing. This also applies if these Conditions are not explicitly recognised by Supplier.

**2.2.** Any amendment to these Conditions by LXS shall form an integral part of the contract between LXS and Supplier if Supplier agrees to this amendment or if Supplier does not raise an objection in writing to LXS within one month of being notified of the amendment.

**2.3.** In the case of ongoing business relations, these Conditions shall also apply to all future transactions.

**2.4.** Only written orders and agreements are deemed legally binding for LXS. Oral agreements and arrangements made by telephone must be confirmed in written form in the Order.

## 3. Orders and Order Acceptance

**3.1.** Within fourteen (14) calendar days of a submitted Order, Supplier undertakes to notify LXS of acceptance or refusal of the said Order by mail, fax or e-mail. Acceptance of the Order shall include all relevant data, in particular the precise description of the Item, quantities, delivery data and price.

**3.2.** The Order shall be deemed to be accepted without reservation by the Supplier after fourteen (14) calendar days, unless Supplier notifies LXS in writing of its refusal to accept the Order. If Supplier starts work based on the Order without returning an order acknowledgement, Supplier shall be deemed to have accepted the Order without reservation. If Supplier expressly refuses the Order, it shall be deemed withdrawn and the Parties may negotiate new terms. LXS may withdraw from any negotiations at any time prior to acceptance of an Order by Supplier and shall incur no liability whatsoever.

**3.3.** Amendments and alterations to the purchase order by the supplier shall only be effective if confirmed by LXS in writing.

**3.4.** In the event of any conflict between the documents forming part of the Order, they shall be interpreted in accordance with the following order of precedence (i) the Order, (ii) the Specific Conditions; (iii) these Conditions; (iv) the Specification; and (v) any other documents.

## 4. Delivery and Acceptance

**4.1.** Delivery shall be made in accordance with the requirements set out in the Order, in particular with the requirements detailed in the Specific Conditions and the Specification, if any, and time shall be of the essence in relation to the delivery dates set out in the Order.

**4.2. Import free of Customs Duties.** If Supplier is based within the EU, it confirms that material/components purchased from outside the EU have been imported free of duty and VAT under inward processing relief (or other customs regimes with the same effect) and that it is supplying the Item free of duty and indemnifies LXS from and against any consequences of its non-compliance with this Article.

**4.3. Packaging.** Supplier shall be obliged to package and ship the goods properly and comply with all applicable regulations relating to packaging and shipment. Supplier shall be liable for all damage and losses sustained by LXS as a result of incorrect or insufficient packaging. Each consignment shall be accompanied by shipping documents, e.g. delivery notes, packing notes, etc., indicating Order numbers and other data specified by LXS in the Order on all pertinent documents.

**4.4. Title and Risk.** Title to and risk in Items not involving installation or assembly on-site shall transfer to LXS upon delivery to the delivery address specified on the Order. Further retention of title by Supplier is excluded. In the case of a notification of rejection of the Item being given to Supplier by LXS due to the non-compliance by Supplier with the terms of the Order, title and risk to such Item shall automatically revert to Supplier. Where deliveries involve installation or assembly and where on-site work performances are provided, risk shall pass when the Items are accepted on site as agreed.

**4.5. Acceptance.** The transfer of title and risk does not constitute acceptance of the Item by LXS. Where acceptance tests are defined in the Order, acceptance of any Item delivered shall be subject to completion of the acceptance tests to the reasonable satisfaction of LXS. Where no acceptance tests are defined in the Order, LXS shall have the right to inspect the Item after delivery and acceptance shall take place if the Item is satisfactory to LXS on inspection or, if no inspection is made, the Item shall be accepted thirty (30) days after delivery or when it is taken into use by LXS, whichever occurs first. Acceptance of any Item shall not be conclusive of the absence of latent defect and shall be without prejudice to the rights of LXS under the Order or at law.

**4.6.** If the Item is not delivered in accordance with the Order, LXS shall inform Supplier in writing. Then LXS may at its sole discretion, exercise the following rights:

- (i) reject the delivered Item in whole or in part and require Supplier to refund any payment(s) made by LXS to Supplier; or
- (ii) set off the amount of any such payment(s) from any other amounts due to Supplier from Purchaser; or
- (iii) give notice to Supplier to promptly replace or repair the delivered Item at Supplier's expense and risk.

In addition, LXS may require Supplier to pay all its expenses, damages, losses incurred and additional costs arising from the failure to deliver the Item in accordance with the Order.

## 5. General Supplier Undertakings

**5.1. Compliance.** Supplier shall ensure its compliance and the compliance of all Items with all applicable laws and/or regulations as amended from time to time, including, but not limited to those in connection with:

(a) (i) environment, health, safety, packaging and labelling and (ii) the control, restriction, prohibition, recovery and/or elimination of inter alia, chemicals and/or hazardous substances, and in each case, provide such information as LXS may require in connection therewith; and

(b) transport, data protection, prohibition of corrupt practices, labour, employment.

**5.2. Anti-corruption.** Supplier, its executives, employees, agents and any individuals or companies that may be involved in the execution and/or the performance of the Order shall comply with all governmental statutes, laws, rules and regulations, including but not limited to all local and international anti-corruption laws applicable to the performance of its obligations and activities under this Order. Accordingly, in the performance of the Order, Supplier shall refrain from:

a) Offering, promising, arranging for or paying, either directly or indirectly, anything of value (including but not limited to monies, gifts and entertainment and special favours) to any individuals, including Public Officials, for the purpose of improperly inducing that individual to perform or fail to perform his/her official duties, or to assist Supplier or Purchaser in obtaining business, retaining business or securing any improper advantage;

b) Offering or paying unofficial payments to Public Officials to speed up or obtain routine governmental actions (including but not limited to obtaining permits, licenses, or other official documents; processing governmental papers, such as visas and work orders; providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or transit of goods across country);

c) Seeking, accepting, or paying for any confidential, non-public information regarding competitors, tenders and technical specifications, bids and bid prices.

**5.3. Data Protection.** In the event and to the extent that Personal Data is collected from LXS and processed or used by Supplier during and for the performance of the Order, Supplier shall at all times comply with the GDPR, as well as all applicable national Personal Data protection laws and regulations (together referred to as "Data Protection Laws and Regulations") in force during the term of the Order. The Parties mutually agree to enter into negotiations to determine appropriate measures to ensure compliance of the aforementioned laws when needed.

**5.4.** Supplier shall ensure that the foregoing provisions are included in all contracts to be entered into with its subcontractors according to Article 7 "Subcontracting" of the Order.

**5.5.** Supplier shall give notice immediately to LXS of any investigation or legal proceeding initiated against the Supplier by any public authority relating to an alleged violation of applicable laws and regulations with respect to the execution and/or the performance of the Order by itself or its affiliates, subsidiaries, executives, employees, agents or any individuals or companies that may be involved in the performance of the Order. Should Supplier fail to comply with such laws and/or regulations, Supplier shall indemnify and hold harmless LXS from and against all consequences of such failure.

**5.6.** If Supplier does not comply with its obligations under the foregoing provisions, LXS reserves the right to terminate the Order pursuant to Article 14.1 "Termination for Supplier's Default".

## 6. Duties of Instruction, Information and Care

**6.1.** Where LXS has informed Supplier about the intended use of the goods supplied, or where such use is apparent to Supplier without express mention, Supplier shall be obliged to inform LXS immediately if the Items provided by Supplier are not suitable for such intended use.

**6.2.** Supplier shall immediately notify LXS in writing of any changes or modifications in the composition of the materials used or in the engineering design. Any such changes or modifications shall require the written consent of LXS.

**6.3.** Supplier shall advise LXS of any specific treatment and waste disposal requirements of the Items, unless these standards are generally known.

**6.4. REACH Regulation.** (Chemicals/Hazardous Material): Where LXS receives chemicals falling under the REACH Regulation (EC Regulation 1907/2006/EC - REACH), which requires amongst other obligations prior registration, evaluation and authorization of chemicals, Supplier warrants that the materials intended for the Order are pre-registered and approved, and that the materials actually supplied are registered and approved for the specific use by LXS.

As far as Hazardous Material are to be supplied, which means, if raw materials, parts or equipment, which are subject to Articles 31(1) and 31(3) of the REACH Regulation are used for the Items under the Order, then an up-to-date version of the Material Data Safety Sheet in English language, in accordance with the terms of the aforementioned REACH Regulation, shall be provided to LXS and attached to each delivery.

**6.5. ROHS/WEEE.** In the case of electrical and electronic devices and components intended for use in terrestrial products, tools and infra-structural devices, Supplier shall supply in conformity with the EC Directives 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE) and 2002/96/EG on the Restriction of the use of certain Hazardous Substances (RoHS), as well as have the devices labelled accordingly.

**6.6.** Supplier is obliged to employ staff suitably qualified to perform its obligations under the Order.

## 7. Subcontracting

No substantial part of the work on the Order may be sub-contracted by Supplier without the prior written consent of LXS. Supplier shall remain fully responsible for the Item and shall ensure that its suppliers comply with all provisions of the Order relevant to any subcontracted work. Unauthorised subcontracting to third parties shall entitle LXS to terminate the Order pursuant to Article 14.1.

## 8. Export Control

**8.1.** Supplier shall identify any part of the Item which may be subject to export laws and regulations and shall provide LXS with all information concerning such applicable export regulations as well as with any assistance LXS may request in implementing such applicable export regulations. LXS reserves the right to request Supplier to provide a completed export form identifying any part of the Item which is subject to export laws and regulations.

**8.2.** Supplier shall, at its own expense and risk, procure all export and import licenses or other approvals by authorities and meet with all customs formalities required for the delivery of the Item to the delivery address specified in the Order, including if needed, permissions for transit through third countries. Supplier shall provide LXS, except if prohibited by the applicable export regulations, with a copy of all relevant official approvals, licenses and authorisation.

**8.3.** Notwithstanding any other provision of the Order or any other contract entered into with Supplier, Supplier shall be liable for all damages, losses and liabilities incurred by LXS as the result of Supplier's non-compliance with its obligations under this Article.

## 9. Customer-supplied Items (CFIs)

**9.1.** All documents, tooling, models, materials and other items supplied by LXS to Supplier shall remain the property of LXS. They must be used exclusively for carrying out the Order and must be treated in confidentiality and not be made available to third parties.

**9.2.** Supplier shall have no right of retention over any CFIs belonging to LXS, unless counterclaims are undisputed or legally enforceable. All unconsumed CFIs supplied by LXS shall be promptly returned after the Order has been carried out.

**9.3.** LXS shall be deemed product manufacturer, to the extent that any of its CFIs are processed, converted or transformed by Supplier to create a new movable product. Where a CFI is combined with or inseparably integrated into other objects, LXS shall acquire joint title and ownership in the said objects to the value of the CFI provided at the time of combination or integration. Where CFIs are combined or integrated in such a manner that Supplier's property shall be regarded as the primary product, LXS shall acquire co-ownership in proportion thereto. Supplier shall hold such products free of charge in joint ownership on behalf of LXS.

**9.4.** The Supplier shall, at its own expense, perform any maintenance and inspection work required and shall further take out adequate insurance cover against loss and deterioration for CFIs provided by LXS. Proof of such insurance cover must be furnished to LXS on request.

## 10. Delivery Dates and Delays

**10.1.** The date agreed in the Order for Supplier's performance of its obligations under the Order shall be binding. Where agreed delivery dates and periods are exceeded, Supplier is automatically deemed to be late in delivery without an extra reminder. Early and late deliveries are possible only with the written consent of Purchaser. LXS is under no obligation to accept partial deliveries.

Deliveries are considered timely when received at the address specified in the Order. Supplier shall immediately inform Purchaser when and as soon as it becomes evident that it is unable to meet the delivery date. Acceptance of a delayed delivery by LXS shall not be considered a waiver of any claims to compensation.

**10.2. Excusable Delay.** Neither Party shall be responsible for nor be deemed to be in default of its obligations under the Order to the extent that such default is caused by an "Excusable Delay" (defined as an event beyond the reasonable control of either Party, including without limitation, an act of God, fire, flood, explosion, earthquake, any act of government, war, insurrection or riot). The affected Party undertakes to mitigate the effects of the Excusable Delay. If an Excusable Delay occurs and causes or is likely to cause a delay in the performance by either Party of its obligations under the Order, such Party shall notify the other Party in writing immediately after becoming aware of such Excusable Delay and provide reasonable evidence of the Excusable Delay. Immediately after the Excusable Delay has ceased and subject to the provisions of Article 14.2, the affected Party shall, unless otherwise agreed in writing, resume the performance of its obligations.

**10.3. Non-Excusable Delay.** A delay by Supplier in the performance of its obligations under the Order, which does not qualify as an Excusable Delay, shall be a "Non-Excusable Delay". In such event, Purchaser shall be entitled to:

- (i) claim liquidated damages of one per cent (1%) of the net Order value for each week of delay commenced, up to an aggregate amount of ten percent (10%) of the Order value;
- (ii) claim, in the event that the amount of damages exceeds the total amount of the above liquidated damages, the full amount of such excess damages in respect of all losses, expenses, costs, claims and other damages incurred by LXS arising from the Non-Excusable Delay.

The penalty can be asserted, even after acceptance, until the final payment. LXS's right to claim liquidated damages and other damages is in addition to, and not in substitution of, any rights LXS may have under the Order or at law including the right of LXS to terminate the Order pursuant to Article 14.1.

## 11. Warranties

**11.1.** Without prejudice to any other warranties, Supplier warrants to Purchaser that the Item and/or any part thereof shall (i) be free from any defects and be suitable for their intended use and; (ii) comprise only materials and goods which are new, of recent manufacture, merchantable and of satisfactory quality and; (iii) be compliant with the quality requirements and with the Specification, if any, of Purchaser and; (iv) in the case of a service, be performed with all reasonable skill and care and in accordance with best industry practice.

**11.2.** Supplier shall, promptly repair or replace, at LXS's request, any defective or non-compliant Item, at no cost to LXS. The warranty will be for the period as specified in Order, but in any case, for a minimum period of twenty-four (24) months from the acceptance of the Item by LXS, as provided for in Article 4.5 or in the case of a service, from completion of such service. The outstanding warranty period, including the period under which the Item was under repair, shall apply to any repaired and/or replaced Item as from the date of its first use after such repair or replacement, or in the case of a service, on resumption of such service. Supplier shall be liable for all costs incurred by LXS, as a consequence of the defect or non-compliance of the Item or service, including but not limited to, removal, reinstallation, transport, certification and tests.

**11.3.** Where subsequent attempts at remedy by Supplier in the exercise of a remedy fails, or the remedy is in LXS view unreasonable,

where Supplier refuses to provide a remedy, or Supplier fails to provide a remedy within a reasonable period of time specified by LXS, LXS is entitled (i) to offset or withhold payment of an appropriate amount of the remuneration with due consideration to the defect or (ii) terminate the Order pursuant to Article 14.1.

**11.4.** This Article shall apply in addition and without prejudice to any other rights and remedies under the Order and/or available to Purchaser at law.

## 12. Price and Payment

**12.1. Price.** Unless otherwise specified in the Order, prices are fixed and firm and shall be based on the delivery of the Item, as per Article 4 "Delivery and Acceptance", to the place specified in the Order. No additional charge shall be made by Supplier for packing, insurance or delivery unless otherwise agreed by the Parties and set out in the Order. Where no prices have been agreed and noted at the date of the Order, but a commencement of work on the Order by Supplier is agreed by LXS, an invoice in respect of such work shall not be submitted by Supplier before the price has been agreed by the Parties and incorporated into the Order by an amendment in accordance with Article 2.2.

**12.2. Taxes.** Prices are exclusive of Value Added Tax, however including, and the Supplier shall be liable for and pay, all other relevant taxes, levies and duties in connection with the Item, if any.

**12.3. Invoices.** Invoices are to be submitted to LXS accounting department and must include all information requested in the Order. Each invoice shall include the designation, reference and quantity of Items, the Order and item numbers, the price, any specific terms or conditions and reference to a discount, if any, the actual delivery date, names and addresses of the Parties and for suppliers within EU, the Value Added Tax Identification (VAT ID) of the Parties and applicable VAT tax regimes. Invoices may be issued in an electronic format to the attention of [accounting@luxspace.lu](mailto:accounting@luxspace.lu).

**12.4. Payments.** Payments shall be made by electronic bank transfer to Supplier's nominated bank account, provided that the invoice received from the Supplier is valid, accurate and due. LXS will make payments only for those Items which have been delivered in accordance with the terms of the Order. In the event of a dispute between the Parties, LXS shall be entitled to withhold the payment of any disputed element of the invoice until resolution of such dispute. Unless otherwise agreed, payment by LXS shall be executed within 30 days after receipt of invoice. The date of payment is the date on which LXS order of payment is remitted to LXS bank.

**12.5.** Without prejudice to any other right or remedy of LXS, LXS is entitled to offset amounts payable to Supplier against any amount payable to Supplier in respect of an Order, or otherwise due from LXS to Supplier.

## 13. Liability

**13.1.** Supplier shall indemnify LXS in full against any losses, expenses, costs, claims or damages whatsoever (including without limitation legal costs) resulting from the negligence, willful misconduct, breach of contract or breach of statutory duty caused by the acts or omissions of Supplier, its employees, subcontractors or agents in performance of the Order or in connection with any defect in an Item.

**13.2.** Each Party shall be liable for, indemnify and hold harmless the other Party, its officers, directors, employees or insurers from and against any and all claims, losses, liabilities, suits, judgements, expenses and costs (including legal fees) or the like in any way connected with the death of or injury to any person whomsoever, or loss of or damage to any property of any person, entity or company (including the other Party) when arising out of, or having its origin in, the acts or omissions of the indemnifying Party in connection with the performance of the Order.

## 14. Termination

**14.1. For Supplier's Default.** In the event Supplier breaches or fails to comply with one or more of its obligations herein, LXS may give Supplier written notice of such breach or non-compliance at any time thereafter. Supplier shall remedy such breach or non-compliance within twenty-eight (28) days from the date of such notice. If Supplier does not remedy the breach or non-compliance within the said twenty-eight (28) days or if the breach is not capable of remedy, then LXS shall, without incurring any



liability whatsoever, have the right to immediately terminate the Order in progress (in whole or in part) by giving written notice of termination to Supplier to that effect, without prejudice to LXS's rights to claim damages and/or any other remedies which LXS may have at law and/or under the Order.

In case of termination for Supplier's fault, Supplier shall (i) refund all payments received from LXS under the Order (ii) be liable for all additional losses, expenses, costs, claims and damages incurred by LXS as a result of a breach by Supplier of this Order or of the Conditions.

**14.2. For Excusable Delay.** In the event that an Excusable Delay exceeds or is expected to exceed sixty (60) days following the occurrence of the cause thereof, each Party shall be entitled to terminate forthwith the Order, or any part thereof, by giving written notice of termination to the other Party, without incurring any liability whatsoever.

Purchaser and Supplier shall agree a fair and reasonable price for all work done and material purchased for the purpose of carrying out work on the Order up to the date of termination. In order to agree such price, Supplier shall submit an account to Purchaser within three (3) months from the date of termination in a form satisfactory to Purchaser. The agreed price, together with any sums paid or due to Supplier under the Order before the effective date of termination shall not exceed the total price of the Items under the Order and such payments shall be LXS's sole liability in respect of the termination.

**14.3. Termination without Supplier's Default/Cancellation of Order.** In the event of cessation of any of LXS's activities with respect to the project for which a specific Order is intended, LXS may reschedule the Order with immediate effect at no additional cost to LXS, or may terminate the Order (in whole or in part) by giving a thirty (30) day prior written notice of termination to Supplier, without incurring any liability whatsoever save that the provisions of Article 14.2 "For Excusable Delay" above shall apply.

**14.4. Termination Procedures.** As of the effective date of termination, Supplier undertakes to cease all further performance related to the cancelled Order (unless otherwise instructed by LXS) and Supplier shall comply with all directions or instructions regarding the Items which LXS provides to Supplier.

**14.5. Surviving Articles.** All Articles in the Order and these Conditions which by their nature should survive expiry or termination of the Order shall remain in full force and effect after such expiry or termination.

## 15. Intellectual Property, Infringements

**15.1.** Unless otherwise agreed, all intellectual property created as a result of the work undertaken by Supplier or its sub-contractors for the purpose of the Order shall vest in and be the sole property of LXS.

**15.2.** Supplier undertakes to execute any assignment or other documentation necessary to give effect to the transfer of the intellectual property created as a result of the work undertaken by Supplier or its sub-contractors for the purpose of the Order to LXS without delay.

**15.3.** Supplier hereby grants to LXS, at no additional charge beyond the price specified on the Order, for the duration of the rights, but as a minimum for the duration of the Order or the contract or agreement associated with the Order, a non-exclusive and worldwide license to use and have used, any of Supplier's background intellectual property disclosed by it to Purchaser under the Order, necessary for the performance of the Order or the use of the Item. Supplier grants Purchaser the right to sub-license all the above-mentioned rights.

**15.4.** In the case of bespoke Items or Items customized for LXS, such license granted by Supplier to LXS, shall include for LXS the right of reproduction in any form, language, format and medium, the right of distribution in part or in whole including the right to sell, loan, rent, distribute, download by any means and in any language, the right to modify, adapt, improve, correct and translate in any form and language, and interface with any other item. Supplier grants LXS the right to sub-license all the above-mentioned rights.

**15.5.** With respect to any third party claims, suits or actions relating to the infringement or alleged infringement of any intellectual property rights of a third party in relation to the Order, Supplier shall defend, fully indemnify and hold harmless Purchaser against any and all costs, losses, damages, liabilities, expenses (including legal fees), fines or other financial sanctions or loss of profit, which may be incurred as a result of any alleged or proven infringement.

**15.6.** Supplier shall promptly inform Purchaser of any dispute or claim (legal or otherwise) that arises with a third party and the substance of such dispute or claim. In defending unjustified claims raised by third parties, LXS shall adequately support Supplier and Supplier shall assume costs incurred by LXS in this regard.

## 16. Confidentiality and Publicity

**16.1.** Any and all information relating to the Order and communicated by Purchaser to Supplier, or to which Supplier may have access in connection with the Order, and/or any information in any form, on any medium, which is declared as being confidential or which reasonably may be regarded as confidential because it is by its nature commercially sensitive or is manifestly of a confidential nature, shall be referred to as "Confidential Information".

**16.2.** Supplier shall use Confidential Information exclusively for the purposes of the Order. Disclosure of Confidential Information to the Supplier's personnel shall be for the purpose of performance of the Order only and shall be on a strictly need-to-know basis. Supplier shall not disclose any Confidential Information to any third party without LXS's prior written consent.

**16.3.** Supplier shall be under no obligation of confidentiality if he can prove that the Confidential Information was (i) already publicly known when the Supplier gained access to it or (ii) that it became publicly known through no fault of the Supplier after he gained access to it or (iii) that the Supplier was able to lawfully gain access to the Confidential Information.

**16.4.** The obligations herein relating to confidentiality shall remain in full force and effect for the duration of the Order and continue for a period of five (5) years after the expiry or termination of the Order.

**16.5.** Neither Party shall make any news release or public announcement referring to the Order, nor use, reproduce or imitate for any purpose whatsoever any of the filed, registered or unregistered trademarks of the other Party, including its company names, associated logos, programme names or logos associated with its products or services, unless a prior written consent is given by the other Party.

## 17. Assignment

Supplier shall not assign or transfer any of its benefits, amounts payable, rights, remedies and/or obligations under the Order to a third party without the prior written consent of the Purchaser.

## 18. Spare Parts and Delivery

**18.1.** Supplier shall supply LXS on reasonable terms with spare parts required for a period that corresponds to the anticipated technical lifetime of the product or for at least five (5) years after the last delivery.

**18.2.** Where Supplier discontinues delivery of the Item after expiry of the delivery period according to the above, Purchaser shall be given the opportunity to place a final order.

## 19. Access to Supplier's Premises

LXS's representatives and those of official authorities or their delegates shall, at any time during normal business hours, have access to all premises in which work under the Order is carried out, irrespective of whether such work is performed at the Supplier's or its sub-supplier's premises, and shall have access to all pertinent and applicable records. This right of access shall, in particular, be granted to LXS's representatives responsible for monitoring and auditing and for investigations or controls relating to Supplier's qualifications and assurance of its obligations under Article 5.

## 20. Amendments

The Order including these Conditions shall not be amended except by specific agreement in writing (including changes and amendments to this Article), signed by duly authorised representatives of the Parties.

## 21. Independent Contractors

The relationship of the Parties under these Conditions shall be that of independent contractors. Neither Party shall have the right to contract or in any other way to enter into commitments on behalf of or in the name of the other Party.

## 22. No Joint and Several Liability

The Parties agree that LXS alone shall be exclusively liable to the Supplier for payment of all sums due in connection with the Order to the exclusion of all other OHB Companies.

## 23. Notices

Unless otherwise specified, all notices and communications between the Purchaser and the Supplier in respect of the Order shall be in writing and sent by hand, mail, electronic mail or courier to LXS's Procurement Department. The date of delivery of any such notice or communication shall be the date of despatch, if delivered by hand, electronic mail or courier, or five (5) days after mailing, if delivered by mail. Emails shall be sent to [procurement@luxspace.lu](mailto:procurement@luxspace.lu).

## 24. Whole Agreement

The Order constitutes the entire agreement between the Parties in relation to its subject matter. It replaces and extinguishes all prior agreements, draft agreements, arrangements, collateral warranties, collateral contracts, statements, assurances, representations and undertakings of any nature made by or on behalf of the Parties, whether oral or written, in relation to that subject matter.

## 25. Applicable Law

This Order shall be governed by and construed and shall take effect in accordance with the laws of the Grand Duchy of Luxembourg, excluding the application of the 1980 "United Nations Convention on Contracts for the International Sales of Goods". This Order shall confer no rights on third parties pursuant to the "Contracts (Rights of Third Parties) Act 1999" other than as expressly provided for herein. Place of Jurisdiction shall be Luxembourg.

## 26. Waiver

**26.1.** Failure or delay at any time by either Party to enforce any provision of the Order, or any part thereof, shall not constitute a waiver of such provision or affect the validity of the Order or any part thereof, nor prejudice the right of the affected Party to enforce such provision at a subsequent time.

**26.2.** Should any of the above provisions become void, illegal or unenforceable, the validity of the remaining provisions shall remain unaffected. In this case, an invalid provision shall be replaced by a valid provision that corresponds most closely to the factual, legal and commercial purpose of these Conditions in their entirety. The same shall apply where there is a gap in these Conditions.

## 27. Severability

Any provision of the Order prohibited by, or unlawful or unenforceable under the applicable law actually applied by any court of competent jurisdiction shall, to the extent required by such law, be severed from the Order and replaced with another provision having substantially the same effect without it modifying the remaining provisions.

## 28. Language

These Conditions have been drawn up in English and only this language version shall be deemed authentic. Any translation of these Conditions into a language other than English shall be for information purposes only. All notices, correspondence, communication and documentation to be issued, exchanged or delivered to either Party in connection with this Order shall be in English.