

**Zentia Profiles Limited**  
**Terms and Conditions of Purchase**

**1. DEFINITIONS**

In these Conditions the following words shall have the following meanings:-

- 1.1. "Affiliates" means any entity controlling, controlled by or under common control with a Party; with control meaning direct or indirect ownership; or control of securities; or interest conferring fifty per cent (50%) or more of the voting rights exercisable at general meetings; or right or power in fact to control or direct its management.
- 1.2. "Confidential Information" means any and all information relating to the Customer and/or any Customer Affiliate (and/or any of their associated companies) including, without limitation, its business affairs or plans, products or services, know-how, technical information, processes, suppliers, service providers, customers, and clients, any information that is marked or otherwise identified as confidential or proprietary however conveyed or obtained (whether before or after the date of a Contract) and in whatsoever medium created or held (whether now or subsequently invented).
- 1.3. "control" has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.
- 1.4. "Contract" means the contract between the Customer and the Supplier for the sale and purchase of the Goods and/or Services, incorporating these Conditions.
- 1.5. "Customer" means Zentia Profiles Limited a company incorporated and registered in England and Wales under company number 03316435 whose registered office is at Unit 401 Princesway Central, Team Valley Trading Estate, Gateshead, NE11 0TU, United Kingdom or such of its affiliates as are named in the Order.
- 1.6. "Goods" means any goods agreed in the Order to be supplied to the Customer by the Supplier.
- 1.7. "Insolvency Event" means, in respect of the Supplier, any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction
- 1.8. "Intellectual Property Rights" means patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and

rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

- 1.9. "Mandatory Policies" means the policies which the Customer requires its suppliers to comply with, as notified by the Customer to the Supplier from time to time, which includes as a minimum the Zentia Supplier Code of Conduct.
- 1.10. "Order" means the Customer's written instruction to supply the Goods and/or Services which is made subject to and incorporates these Conditions.
- 1.11. "Party" means either the Customer or the Supplier as the case may be and "Parties" shall mean the Customer and the Supplier together.
- 1.12. "Regulations" means all legislation, and all rules or regulations of any kind, including orders instructions or directions of a competent authority, and all related official guidance, whether enacted or enforced by any competent authority with whose decision or determination a highly skilled and experienced person in the same or similar circumstances would comply with, including without limitation the laws applicable at the place of business of the Supplier as well as the Customer.
- 1.13. "Services" means any services agreed in the Order to be supplied to the Customer by the Supplier.
- 1.14. "Supplier" means the Party which supplies the Goods and/or Services as set out in the Order.
- 1.15. "Warranty Period" means the period for which the Goods must be free from defect in design, materials and workmanship following acceptance of the Goods in accordance with Condition 4; such period being specified in the Order or in default of such specification being a period of one year from the date of acceptance of the Goods by the Customer.

## 2. **Formation of Contract**

- 2.1. These Conditions are the only conditions upon which the Customer is prepared to deal with the Supplier and they shall govern the Contract to the entire exclusion of all other terms or conditions. No terms or conditions endorsed upon, delivered with or contained in any documentation from the Supplier whatsoever shall form part of the Contract.
- 2.2. The Supplier will be deemed to have accepted the Order at the earlier of:
  - 2.2.1. its written acceptance of the Order; or
  - 2.2.2. taking any step to provide the Goods or Services which are the subject of the Order;and at that point the Contract shall be formed between the Parties on these Conditions.
- 2.3. Any variation to the Contract shall have no effect unless agreed in writing and signed by a duly authorised official of the Customer.

2.4. No Contract shall be formed in respect of any Goods and Services (or any of them) unless or until the Customer issues an Order in respect of such Goods and/or Services.

2.5. In the event of a conflict between the terms of an Order and these Conditions, the terms of the Order shall take precedence to the extent of the conflict.

3. **Quality**

3.1. The Supplier warrants, represents and undertakes that the Goods shall:

3.1.1. be new and unused;

3.1.2. be free from defect in design, materials and workmanship and remain so for the Warranty Period;

3.1.3. be of the best available design, of the best quality, material and workmanship;

3.1.4. be without fault;

3.1.5. be fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly in the Order or by implication;

3.1.6. conform in all respects with the Order and specification, quality and reliability standards and/or patterns supplied and advised by the Customer to the Supplier and otherwise meet the Customer's requirements;

3.1.7. comply with all laws including but not limited to the Regulations, codes of practice, industry standards or other industry norms laid down on a self-regulatory basis or to be reasonably expected by custom market and practice (and are manufactured, packaged and delivered in accordance therewith);

3.1.8. comply with the Supplier's proposal and/or Goods/Services description and all service levels indicated by the Customer (if any);

3.1.9. comply with any quotation or proposal provided to the Customer including all goods, supplies, works and labours required for the proper operation of the Goods and/or provision of the Services; and

3.1.10. comply with all other warranties implied or provided for by the laws applicable at the place of business of the Supplier and the Customer.

3.2. The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods and/or delivery of the Services.

3.3. Each of the warranties, representations and undertakings set out above shall constitute a separate and independent term and shall be treated as a condition of the Contract.

#### 4. **Delivery of Goods**

- 4.1. The Goods shall be delivered in accordance with the Order or as is otherwise agreed by the Customer in writing prior to delivery of the Goods.
- 4.2. The date for delivery of the Goods shall be as specified in the Order, such other date as may be agreed between the Parties in writing or (in the absence of an agreed date), in a timely manner to meet the Customer's requirements.
- 4.3. The Supplier shall ensure that each delivery is accompanied by a delivery note setting out the Order number.
- 4.4. Time for delivery of Goods and performance of Services shall be of the essence.
- 4.5. The Goods shall be delivered in the quantities stated in the Order or in such other quantities as may be agreed by the Customer in writing prior to delivery of the Goods. If the Supplier delivers less than the agreed quantity of Goods, the Customer may reject the whole or any part of the Goods and rescind the Contract or accept the partial delivery on the basis that the Supplier shall indemnify the Customer against all additional expenses, losses or liability it may suffer or incur as result of such partial delivery. If the Supplier delivers more than the agreed quantity of Goods, the Customer may either:-
  - 4.5.1. accept all of the Goods without liability to the Supplier for any additional payment; or
  - 4.5.2. reject the Goods which exceed the agreed quantity, which Goods shall be collected by the Supplier at its expense within 7 days of delivery.
- 4.6. Acceptance of all Goods shall be subject to inspection and test upon delivery. In the case of any Goods being found to be defective in any way or otherwise unable to meet the Customer's specifications, the Customer shall have the right to reject. In the event of rejection of any such Goods, the Supplier shall forthwith deliver replacement goods at no additional cost to the Customer. Payment by the Customer shall not constitute acceptance by the Customer that Goods or Services are in conformity with the Contract.
- 4.7. In addition to the rights of the Customer in Condition 4.6, in the case of any Goods being found to be defective in any way or otherwise unable to meet the Customer's specifications, the Customer shall also have the right to correct such Goods at the expense of the Supplier.
- 4.8. All Goods delivered by the Customer shall be properly packaged, marked and delivered at the Supplier's expense in accordance with the requirements of the Customer.
- 4.9. Delivery of the Goods shall be completed when the Goods pass into the possession of the Customer (or a third party acting on behalf of the Customer) at the agreed place of delivery.
- 4.10. When fulfilling its obligations under the Contract, the Supplier undertakes to comply with:
  - 4.10.1. all Regulations; and

4.10.2. the Mandatory Policies.

5. **Risk and Title**

- 5.1. The title in the Goods shall pass to the Customer upon payment of the price for the Goods or on acceptance of the Goods, whichever occurs first.
- 5.2. The Goods shall remain at the risk of the Supplier until delivery to the Customer is complete in accordance with Condition 4.9 and until the Customer has accepted that the Goods and/or Services are in accordance with the specifications of the Contract.

6. **Supply of Services**

- 6.1. The Supplier shall, from the date set out in the Order and for the duration of the Contract, provide the Services to the Customer in accordance with the terms of the Contract.
- 6.2. The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Customer.
- 6.3. In providing the Services, the Supplier shall:
  - 6.3.1. co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
  - 6.3.2. perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
  - 6.3.3. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient numbers to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
  - 6.3.4. ensure that the Services and products of any Services will conform with all descriptions and specifications set out in the Order, and that the products of any Services shall be fit for any purpose expressly or impliedly made known to the Supplier by the Customer;
  - 6.3.5. provide all equipment, tools and vehicles and such other items as are required to provide the Services;
  - 6.3.6. use the best quality goods, materials, standards and techniques, and ensure that the products of the Services, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
  - 6.3.7. obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
  - 6.3.8. observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;
  - 6.3.9. hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier ("Customer Materials") in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the

Customer Materials other than in accordance with the Customer's written instructions or authorisation;

- 6.3.10. not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;
- 6.3.11. in accordance with good industry practice and the Regulations, establish, maintain and document from time to time disaster recovery capabilities in relation to both the systems and practices it uses for the provision of the Goods and/or performance of the Services which shall enable the Supplier to resume provision of the Goods and/or performance of the Services in accordance with the Contract after such provision or performance is affected by a disaster or a material business interruption. The Supplier shall, on request, provide a copy of its plan(s) relating to disaster recovery arrangements and shall review and test such plan(s) on a regular basis and in any event no less than annually.

## **7. Price and Payment**

- 7.1. The price for the Goods and Services shall be the price stated in the Order and payable in the currency stated in the Order, or, if no currency is stated in the Order, shall be payable in GBP (unless stated otherwise in the Order) and shall be exclusive of value added tax (or the local equivalent of value added tax) but inclusive of all other charges and expenses.
- 7.2. The Supplier may invoice the price of the Goods or Services at the time stated in the Order or if no time is so stated after the delivery of the Goods or completion of the Services.
- 7.3. The Customer shall pay each invoice which is properly due and submitted to it by the Supplier in accordance with the terms specified in the Order, to a bank account nominated in writing by the Supplier
- 7.4. The Customer may set-off any amount owing at any time from the Supplier to the Customer against any amount payable by the Customer to the Supplier under the Contract.
- 7.5. Time for payment shall not be of the essence under the Contract.
- 7.6. No increase in price shall be made (whether by way of example and without limitation, on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) save in accordance with any price review process agreed in writing between the Parties.
- 7.7. If a payment is not made by the Customer by the due date for such Goods or Services that have been accepted by the Customer and the Goods or Services are not the subject of any dispute then the Customer shall, if required by the Supplier in writing, pay the Supplier interest at a rate of 4% per annum above the base rate of the Bank of England from the due date until payment is made.

## **8. Intellectual Property and Confidentiality**

- 8.1. In respect of the Goods and any goods that are transferred to the Customer as part of the Services under the Contract, the Supplier warrants, represents and undertakes as a condition of the Contract that it has full, clear and unencumbered title to all such items, and that the sale or use of the Goods and/or Services and/or the product of any Services in any part of the world will not infringe any Intellectual Property Rights of the Supplier or of any other person. The Supplier further warrants that the Supplier will at the Supplier's expense, upon demand by the Customer investigate and deal with any claim which may be made and that the Supplier will defend, protect and hold harmless the Customer, its successors, assigns, customers and the buyers or users of its products by reason of the use of the Goods and/or Services.
- 8.2. The Supplier hereby assigns to the Customer with full title guarantee any Intellectual Property Rights in any work, data and/or materials created by the Supplier in the performance of the Services ("Bespoke Materials") (where relevant by way of present assignment of future copyright and other Intellectual Property Rights) together with the exclusive right to take proceedings and recover damages and obtain all other remedies for past and future infringements in respect thereof. The Supplier hereby waives (and warrants, represents and undertakes that it shall procure that any third party shall waive) any and all moral rights which it may have in or to the Goods and/or the product of the Services. Any information of a confidential nature in the Bespoke Materials shall be the Customer's property and the Supplier agrees not to submit any design created by the Supplier during the delivery of Services to any third party without the Customer's prior written consent.
- 8.3. The Supplier shall, promptly at the Customer's request do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with Condition 8.2.
- 8.4. Any Intellectual Property Rights in any drawings, specifications, sample parts, or other products, materials, technical information and/or data whatsoever provided by the Customer to the Supplier are owned or controlled by the Customer ("Customer's Materials"). The Supplier is not permitted (without the prior written consent of the Customer) to make any copy of any such Customer's Materials. The Supplier shall not use in any manner any Customer's Materials except as permitted in writing by the Customer. Commercial relations with the Customer shall not be the subject of any direct or indirect advertising by the Supplier without the Customer's prior written consent.
- 8.5. If the Customer shall provide any technical information, tools and/or training to the Supplier under or in connection with a Contract, the Customer shall provide such technical information, tools and/or training pursuant to its then current Standard Terms for the Supply of Goods, Services and/or Technical Materials (as such terms may be amended from time to time).
- 8.6. The Supplier shall keep confidential all Confidential Information and shall take all necessary precautions to prevent loss, damage and access by unauthorised persons to such Confidential Information. The Supplier shall not:
  - 8.6.1. use; or

- 8.6.2. disclose (other than to employees or advisors of the Supplier who need to know and who are subject to equivalent obligations of confidentiality), any Confidential Information in each case other than as necessary for the purposes of performance of the Contract or to the extent required by any court of competent jurisdiction or by governmental or regulatory authority.
- 8.7. All technical information disclosed by the Supplier to the Customer shall be disclosed on a non-confidential basis unless otherwise agreed by the Parties in writing.

9. **Liability, Indemnity and Insurance**

- 9.1. The Supplier shall keep the Customer indemnified in full against all direct, indirect or consequential liability, loss and damages (including but not limited to any loss of profit and loss of reputation, injury, costs and expenses (including legal and other professional fees and expenses), interest and penalties awarded against or incurred or paid by the Customer as a result of or in connection with:
  - 9.1.1. any breach of any of the terms of the Contract by the Supplier, its employees, agents or subcontractors;
  - 9.1.2. any claim made against the Customer for any actual or alleged infringement of any third party's Intellectual Property Rights arising out of, or in connection with the use, manufacture or supply of the Goods and/or receipt, use or supply of the product of the Services, to the extent that the claim is attributable to the act, omission or negligent performance of the Supplier, its employees, agents or subcontractors;
  - 9.1.3. any claim made against the Customer in respect of any liability, loss, damage, injury, cost or expense sustained by Customer's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to, arises from or is attributable to the act, omission or negligent performance of the Supplier, its employees, agents or subcontractors;
  - 9.1.4. any cost, loss or liability the Customer may suffer or incur as a result of any action or omission of an employee, contractor or agent of the Supplier whilst on the Customer's premises; and
  - 9.1.5. any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods or the Services, to the extent that such claim arises out of the act, omission or negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.
- 9.2. The Supplier shall maintain such insurance cover in such amount and against such liabilities as the Customer may reasonably require from time to time and shall provide a copy of its insurance policy to the Customer on demand.
- 9.3. In no event and under no circumstances shall the Customer be liable for any:
  - 9.3.1. loss of profits, opportunity, contracts or goodwill (in each case no matter whether arising in the normal course of events and/or the possibility of such loss was known to the Customer); or



9.3.2. indirect, special or consequential loss suffered or incurred by the Supplier.

## 10. **Termination**

10.1. The Customer shall have the right at any time without prejudice to its other rights or remedies by giving notice in writing to Supplier to terminate the Contract immediately if:

10.1.1. the Supplier commits a material breach of any provision of the Contract;

10.1.2. any distress, execution or other process is levied upon any assets of the Supplier;

10.1.3. the Supplier's financial position deteriorates to such an extent that in the Customer's reasonable opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;

10.1.4. the Supplier suffers an Insolvency Event; or

10.1.5. there is a change of control in relation to the Supplier. The Supplier shall notify the Customer immediately of any such change of control.

10.2. The Customer shall have the right to terminate the Contract and/or the Order, in whole or in part, without cause, upon 7 days prior written notice to the Supplier.

10.3. All Customer's Materials, Confidential Information and any and all bespoke materials (together with any copies which have been made) must be returned to the Customer upon demand or upon termination of the Contract or completion of the Services (if earlier).

10.4. Following termination of the Contract, all work on the Contract shall be discontinued save that the Supplier shall provide free of charge such assistance to the Customer as the Customer may reasonably require in order to obtain the Goods and/or Services from a replacement supplier.

## 11. **Remedies**

11.1. In addition to any other rights and remedies the Customer may have either expressly or impliedly, where the Supplier has failed to comply with the terms and conditions of the Contract, the Customer may at any time:-

11.1.1. terminate the Contract;

11.1.2. refuse to accept further deliveries;

11.1.3. carry out rectification work (at the Supplier's expense);

11.1.4. give the Supplier the opportunity at the Supplier's expense either to remedy the defect in the Goods or Services or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;

11.1.5. return in whole or in part any Goods and be entitled to be reimbursed in full including delivery charges (if applicable) for the Goods to be returned;

11.1.6. claim such damages as the Customer has incurred in consequence of the breach; and

11.1.7. recover from the Supplier any expenditure reasonably incurred by the Customer in obtaining the Goods or Services from another supplier.

## 12. **Force Majeure**

12.1. Neither Party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control ("Force Majeure Event"). If the period of delay or non-performance continues for a period of time that negatively affects the business of the Party not affected, then the Party not affected may terminate the Contract by giving 7 days' written notice to the affected party.

12.2. The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.

## 13. **Assignment**

13.1. The Supplier may not assign, transfer, mortgage, charge, sub-contract, declare a trust over or deal in any manner with all or any of its rights or obligations under the Contract without the prior written consent of the Customer.

13.2. The Customer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

13.3. The Supplier shall provide the Customer with advance written notice listing the name and details of the subcontractors who it wishes to engage in providing any part of the Services or the Goods.

13.4. Any approved Subcontractor must comply with the terms and conditions of this Contract to the extent applicable to the Services and works performed or the Goods manufactured or supplied by the subcontractor. In particular, the Supplier shall ensure the Subcontractors' work is consistent with the performance and quality of the Supplier's work, and it meets the Customer's requirements. The Supplier is and shall remain liable for any and all Services performed by and any and all omissions of, its subcontractors to the same degree that the Supplier is liable for its own performance and omissions. There shall be no liability of the Customer (or any Customer's Affiliate) to subcontractors and nothing in this Agreement shall be construed as creating a direct legal relationship between the Customer (or any Customer's Affiliate) and the subcontractors.

13.5. The Customer or its representatives may, following reasonable prior notice, visit the premises of the Supplier or of any subcontractor at any time during normal business hours to examine its production process and quality control system in relation to this Contract and to audit any record, data, book, and document. exclusively related or pertaining to this Contract.

## 14. **General**

14.1. If any Condition is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If

such modification is not possible, the relevant Condition or part-Condition shall be struck out and the remainder of the Contract shall remain in effect. Any modification to or deletion of a Condition or part-Condition shall not affect the validity and enforceability of the remainder of the Contract.

- 14.2. The failure or delay of Customer to exercise or enforce any right or remedy under these Conditions shall not be deemed to be a waiver of that or any other right or remedy nor operate to bar the exercise or enforcement of any right or remedy at any time or times thereafter. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.
- 14.3. All notices under this Contract shall be in writing and shall be sent to such address as the recipient may have notified the sender from time to time. Any notice may be delivered personally, by post or by courier and shall be deemed to have been served if by hand when delivered, if by post 48 hours after posting, if by courier on the date and at the time that the courier's delivery receipt is signed.
- 14.4. The Supplier shall (and shall procure that any third party shall) at its own cost execute all documents and do all things and render all such assistance as may be reasonably necessary to give effect to the terms of the Contract.
- 14.5. The Parties shall contract as independent contractors. No Contract shall be so construed as to create or imply a partnership or joint venture between the Parties; that either of the Parties is the agent of the other; or that there is master and servant and/or employer and employee relationship between the Parties.
- 14.6. A person who is not a Party to the Contract shall not have any rights to enforce its terms.
- 14.7. The formation, existence, construction, performance, validity and all aspects of any Contract shall be governed by English law and the Parties hereby submit to the exclusive jurisdiction of the English courts.