

KBC BANK IRELAND PLC PURCHASING ORDER GENERAL TERMS AND CONDITIONS

1. Scope and Applicability

- 1.1 KBCI has requested and the Supplier has agreed to provide the Goods and Services set out in the attached Purchase Order.
- 1.2 Unless otherwise expressly agreed in writing by KBCI, entering into this Purchase Order shall not imply any commitment by KBCI to contract exclusively for the Goods or Services with the Supplier.
- 1.3 These Terms and Conditions shall be governed by the Sales of Goods Act 1893 and the Sale of Goods and Supply of Services Act 1980.
- 1.4 These Terms and Conditions shall only apply to a Purchase Order where no mutually executed agreement or contract exists between KBCI and the Supplier for the supply of the Goods and Services detailed in the Purchase Order. Where there is an agreement in place between KBCI and the Supplier for the supply of the Goods and Services then the Purchase Order is governed by the terms and conditions of the signed agreement between the parties.
- 1.5 If no other agreement is in place between KBCI and the Supplier then the issue of the Purchase Order will constitute an offer to purchase the goods and/or services on the terms and conditions set out herein. Acceptance by the Supplier of any Purchase Order, whether in writing or by conduct, shall constitute acceptance of these Terms and Conditions. For the avoidance of doubt each Purchase Order will constitute a separate contract between the parties. These Terms and Conditions will apply unless (and only to the extent that) the contrary is mutually agreed in writing and signed by an authorised representative of KBC I, notwithstanding anything to the contrary stated by the Supplier or any other terms and conditions proposed by the Supplier (whether set out in any proposal, delivery note, invoice or other document from the Supplier or otherwise) which shall be void and of no effect
- 1.6 Purchase Orders must be set out on the KBCI pre-set purchase order form (of which these Terms and Conditions form part), written in hard copy or electronic format. KBC I shall have no responsibility or liability in respect of any goods delivered or services supplied other than in response to and in compliance with a properly issued Purchase Order signed by an authorised representative of KBC I.

2. Pricing, Payment and Invoicing

- 2.1 The Supplier shall supply the Goods and Services at the price and or rates set out in the attached Purchase Order.
- 2.2 The Supplier shall submit an invoice to KBCI within six months of the supply of the Goods or the performance of the Services. Invoices must be forwarded to Accounts Payable, KBC Bank Ireland plc., Sandwith Street , Dublin 2 or electronically via emails to the following address invoices@kbc.ie or such other address as KBCI may advise the Supplier from time to time. KBCI records will serve as proof of date of receipt of the invoice subject to the Supplier's contrary evidence. Each invoice must state clearly KBCI's PO reference number as stated on the relevant Purchase Order.
- 2.3 KBCI reserves the right to request any additional supporting documentation from the Supplier to vouch any invoice submitted.
- 2.4 Value Added Tax, where applicable, shall be shown separately on all invoices. Unless otherwise agreed in writing , the invoice price shall be deemed to include all taxes (other than

VAT), levies and duties of every kind and, where applicable, all packing, carriage, freight and insurance.

- 2.5 Unless otherwise agreed in writing, invoices shall be paid and discharged by KBCI within 30 days provided that a) the Goods have been received and/or the Services are complete, and b) the invoices are correct and include all required supporting documentation.
- 2.6 KBCI may suspend payment of any disputed part or parts of any invoices subject to a bona fide dispute between the parties, for the duration of the dispute, including, but not limited to, those disputes relating to Goods and Services which are deemed to be of insufficient quality, as determined by KBCI, or termination of the Purchase Order KBCI shall, within a reasonable period, provide the Supplier with written notice of any dispute. Both parties shall work in good faith to resolve the dispute in accordance with the dispute resolution procedure set out in clause 10 below. Following resolution of the dispute the Supplier shall, either, withdraw the disputed invoice, or obtain payment of the sums suspended by KBCI, in whole or in part, as agreed between the parties.
- 2.7 KBCI reserves the right to deduct from or offset against any moneys due or becoming due to Supplier, in respect of the Purchase Order any moneys due from Supplier on any account howsoever arising.
- 2.8 All payments shall be made by KBCI in Euro

3 The Goods and Services

- 3.1 The title (excluding software) and property in the Goods shall pass to KBCI upon delivery or (in the case of delivery by instalments) upon delivery of each instalment, unless payment or part payment has been made prior to delivery in which event the property in any materials, components or goods purchased or allocated by the Supplier for the purpose of the Purchase Order shall immediately vest in KBCI.
 - 3.2 If any Goods or Services are delivered or provided which fail to comply with the provisions of the Purchase Order (however slight the failure to meet those requirements) by reason of quality, quantity or (without limitation) any other reason, or are delivered in error, without prejudice to any other rights, KBC I may at its sole discretion and at the Suppliers risk and expense either:
 - 3.2.1 return the Goods or any instalment or any part thereof on the basis that a full refund for such Goods shall be paid forthwith by the Supplier; or
 - 3.2.2 require immediate replacement or rectification by delivery of Goods or performance of Services which are in accordance with the Purchase Order; or
 - 3.2.3 require the immediate repair or remedy of any defects in the Goods or deficiency in the Services; or
 - 3.2.4 repair or remedy the defects or deficiencies itself or by others, at the Suppliers expense; or
 - 3.2.5 purchase equivalent Goods or Services elsewhere at no additional cost to KBCI; or
 - 3.2.6 refuse to accept any further delivery of Goods or performance of any further Services, without liability.
- KBC I shall have the right to claim compensation for all its resulting costs and expenses. The making of any prior payment shall not prejudice KBCI's right of rejection.
- 3.3 All consignments are to be addressed to KBCI at the correct location and forwarded to the delivery address shown in the Purchase Order. KBCI is under no obligation to accept delivery of Goods or performance of Services in advance of

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the delivery or performance dates shown in the Purchase Order.

- 3.4** Time shall be of the essence in relation to the delivery of Goods and the performance of the Services. This clause is applicable to the elements of the Goods and Services which are under the direct control or management of the Supplier.
- 3.5** For the purpose of supplying the Goods and performing the Services set out in the Purchase Order, the Supplier is an independent contractor and neither it nor its sub-contractors or its or their employees or agents/servants are the sub-contractor, agent or employee of KBCI, and they shall not hold themselves out to be so.
- 3.6** The Supplier shall comply with all applicable laws, ordinances, statutes, orders, rules and regulations of any governmental authority having jurisdiction (hereafter "Laws") and shall, unless otherwise agreed in writing, obtain and pay for all licences and permits necessary for the provision of the Goods and/or the performance of Services in accordance with such Laws.

4. Liability

- 4.1** Each party shall be liable to the other for direct loss. For the purposes of this clause 4 "direct loss" shall include, but shall not be limited to:
- 4.1.1** the proper and reasonable costs incurred in remedying the default in question; and
- 4.1.2** additional operational and/or administrative costs and expenses thereby incurred; and
- 4.1.3** any other loss which under Irish law would properly be considered as direct loss (direct loss for the avoidance of doubt excluding consequential loss for this purpose).
- 4.2** In no event will either party be liable for loss of profits or revenue, or indirect or consequential loss or damage.
- 4.3** In no event will KBCI's total liability for any damages and actions based on contract or tort arising out of or in connection with the Purchase Order exceed the amount remaining due to Supplier in accordance with the Purchase Order together with any interest thereon pursuant to the terms of the Purchase Order;

5. Data Protection

- 5.1** The parties agree to ensure that they will comply with any provisions and obligations imposed by the Data Protection Acts 1988 and 2003 in relation to the storing and processing of personal data and all personal data acquired by the Supplier from KBCI will be immediately returned to KBCI on request.
- 5.2** The Supplier hereby acknowledges the serious adverse effects which unauthorised disclosure of personal data relating to customers would have upon the operations of KBCI and the Supplier therefore agrees to indemnify KBCI in respect of any unauthorised disclosure of personal data by the Supplier.

6. Representations and Warranties

- 6.1** The Supplier hereby warrants and represents to KBCI that:-
- 6.1.1** it has the full capacity and authority and all necessary licences, permits and consents (including but not limited to, where its circumstances and procedures so require, the consent of its Parent Company) to enter into and to provide Goods and perform the Services under the Purchase Order

and any other documents to be entered into by it hereunder;

- 6.1.2** the Purchase Order is executed by a duly authorised representative of Supplier;
- 6.1.3** the Purchase Order constitutes valid, binding and enforceable obligations of Supplier in accordance with their terms;
- 6.1.4** the provision of the Goods and the supply of the Services and KBCI's use thereof shall not infringe any rights of any third party;
- 6.1.5** it shall discharge its obligations pursuant to the Purchase Order and these Terms and Conditions with all due skill, care and diligence including but not limited to good industry practice and (without limiting the generality of this clause) in accordance with its own established internal procedures;
- 6.1.6** the Goods shall be provided and Services shall be performed in compliance with all applicable laws, enactments, orders, regulations, and other similar instruments (including but not limited to all applicable health and safety legislation);
- 6.1.7** the Goods and Services supplied will comply with the Sale of Goods Act 1893 and the Sale of Goods and the Supply of Services Act, 1980 (as appropriate);
- 6.1.8** any Goods supplied to KBCI in connection with the Purchase Order shall be free from encumbrance;
- 6.1.9** it is not engaged in, or about to engage in, any litigation, or other legal or administrative proceedings, or arbitration which would adversely affect, in any material respect, its financial condition or operations, and to the best of its knowledge, information and belief, no such litigation or arbitration is pending threatened against it; and
- 6.1.10** it has not taken any corporate action nor have any other steps been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened against it for its winding-up, dissolution or re-organisation (in circumstances involving insolvency) or for the appointment of a receiver, examiner, administrator, trustee or similar officer over it or over any or all of its assets or revenues.
- 6.2** These warranties are deemed to be repeated by the Supplier on the issuing of the invoice to KBCI.
- 6.3** Except as expressly stated in these Terms and Conditions, all warranties and conditions, whether express or implied by statute, common law or otherwise (including but not limited to fitness for purpose and suitability) are hereby excluded to the extent permitted by law.

7. Patent Indemnity

- 7.1** If the Supplier is notified in writing of any action brought against KBCI based upon a claim that any Goods and/or Services provided or a modification made to any product by the Suppliers infringes any patent, trade mark, copyright or other intellectual property right of any party, the Supplier will defend such action at its expense and pay any costs and damages awarded and any expenses incurred by KBCI in connection with the claim (including legal and other expert fees). Supplier shall have sole control of the defence of any such action and all negotiations for its settlement or compromise.
- 7.2** If as a result of such claim, KBCI is prohibited from using or otherwise unable to use the Goods or Service or if such a

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claim is likely to be made, Supplier will either procure for KBCI the right to continue using the Goods or Service, or replace or modify the infringing parts without detracting from the Goods or Services overall performance so that it becomes non-infringing. The Supplier shall indemnify KBCI against any loss of use during such modification or replacement.

7.3 The Supplier will not have any liability to KBCI under any provision of this clause if the infringement, or claim thereof is based upon any modification of any item of product by a party other than Supplier (other than in accordance with Supplier's instructions).

8. Confidentiality

8.1 The Supplier agrees to maintain in confidence and not disclose, reproduce or copy any commercially sensitive information, materials, documentation or specification, which are provided to Supplier by KBCI in connection with the Purchase Order. The Supplier shall take all reasonable steps to ensure that its employees, agents and sub-contractors are bound by the same obligation.

8.2 The Supplier agrees to hold in confidence and will at all times keep secret the affairs and concerns of KBCI, its subsidiaries and its respective transactions in business with each of its customers and the nature and particulars of the accounts of such customers and any other information of a confidential nature relating to the business of KBCI, its subsidiaries and its customers and shall take all reasonable steps to ensure that its employees, agents and sub-contractors comply with this undertaking. Supplier will indemnify KBCI from and against all action, proceedings, claims and demands which may be brought or made against it and all losses, costs, charges, damages and expenses which KBCI may incur or sustain for which KBCI may become liable by reason of any breach by Supplier of this undertaking.

8.3 Confidential information will only be revealed to those employees or contractors who need to know such information for the delivery of the Goods or the performance of the Services under the Purchase Order.

9. Cancellation and Termination

9.1 KBC I shall have the right to cancel any PO in whole or in part prior to shipment of the Goods or delivery of the Services without cost or liability where notice of cancellation is given fifteen or more days prior to the scheduled shipment date. Where notice is given less than fifteen in advance then the Supplier shall be exclusively entitled to reimbursement of its purchase price of PO-specific components and its actual cost of then already incurred in manufacturing PO-specific deliverables (where such components or deliverables are not usable in the Supplier's other operations or deliverable to the Supplier's other customers), provided no such reimbursement shall exceed seven-and-a-half (7½%) per cent of the price of the Goods as stated on the PO. Where the PO consists of or includes Services then the Supplier shall be exclusively entitled to payment equal to the first five days of Services or, if less, one quarter of the Services price detailed in the PO where the Supplier can't reallocate resources to another project or client.

9.2 Without prejudice to any other remedies either party may immediately terminate the Purchase Order at any time by giving notice in writing to the other if:

9.2.1 the other party fails to fulfil or comply with any of its obligations hereunder and, where such failure is remediable, and should the Supplier fail to remedy such failure within 14 days of notice in writing, given in accordance with Clause 19 hereof, (or such longer period as the party giving notice may grant).

9.2.2 the other party ceases to carry on business in the normal course, commits an act of bankruptcy or is adjudicated bankrupt or enters into liquidation, whether compulsory or voluntary other than for the purposes of amalgamation or reconstruction, or compounds with its creditors generally or has a receiver or manager appointed over all or any of its assets.

9.3 KBCI may without prejudice to any other rights it may have, terminate the Purchase Order by giving the Supplier 10 working days notice in accordance with Clause 11 below.

9.4 For the avoidance of doubt, if the Purchase Order is terminated, without prejudice to any other provision of these Terms and Conditions, the Supplier shall not be entitled to payment for any costs incurred or Goods or Services supplied after the effective date of termination. Neither shall KBCI be held liable for damages howsoever arising or loss of anticipated profits on account of such termination.

9.5 For the avoidance of doubt, if the Purchase Order is terminated, without prejudice to any other provision, the Supplier shall not be entitled to destroy any KBCI goods or materials without prior written consent from KBCI.

9.6 Any termination of the Purchase Order shall not affect the respective obligation of either Party to maintain the confidentiality of any information provided under this agreement and all materials provided in accordance with this Agreement will be returned immediately to the other party upon termination or written request of KBCI.

9.7 On termination of the Purchase Order the Supplier shall co-operate with and provide all necessary assistance to facilitate the transfer of the Services to KBCI or a replacement supplier nominated by KBCI.

10. Dispute resolution

10.1 It is agreed that any disputes between KBCI and Supplier in connection with the Purchase Order and or these Terms and Conditions which cannot be resolved at an operational level to the mutual satisfaction of both parties will be referred to the Chief Executive of KBCI and the Managing Director of the Supplier and failing resolution shall be referred to mediation. Both parties acting in good faith shall agree a Mediator who shall be acceptable to both parties.

10.2 Any disputes will be notified to the other party in writing as soon as reasonably practicable.

11. Notices

11.1 Any demand, notice or communication shall be deemed to have been duly served:

11.1.1 If delivered by hand, when left at the proper address for service (except that where such delivery is not on a working day service shall be deemed to occur on the next following working day).

11.1.2 If given or made by prepaid post, two working days after being posted.

11.2 Any demand notice or communication shall be made in writing to the Supplier at the address set out in the Purchase

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Order, or in the case of KBCI, Sandwith St., Dublin 2 (or such other address as may be notified in writing from time to time) and shall be marked for the attention of the Company Secretary.

12 Governing Law and Jurisdiction

- 12.1** The Purchase Order and these Terms and Conditions shall be governed by, and construed in accordance with, the laws of Ireland.
- 12.2** The Courts of the Republic of Ireland shall have exclusive jurisdiction to settle any dispute arising out of or in connection with the Purchase Order and/or these Terms and Conditions. Any proceeding, suit or action arising out of or in connection with the Purchase Order and/or these Terms and Conditions shall therefore be brought in the Irish courts. Each party agrees that this jurisdiction agreement is irrevocable and that it is for the benefit of the other party.

13. Miscellaneous

13.1 Force Majeure

No delay or failure in performance by either party hereto shall constitute default hereunder if such delay or failure is caused by Force Majeure. Unless otherwise instructed by KBCI, the Supplier shall recommence performance as soon as possible after the Force Majeure has ceased.

13.2 Waiver

The waiver or forbearance or failure of a party in insisting in any one or more of instances upon the performance of any provisions of the Purchase Order and/or these Terms and Conditions shall not be construed as a waiver or relinquishment of that party's rights to future performance of such provision and the other party's obligation in respect of such future performance shall continue in full force and effect.

13.3 Severance

If any part of these Terms and Conditions or the Purchase Order is found by a court of competent jurisdiction, or other competent authority to be invalid, unlawful or unenforceable, then such part shall be severed from the remainder of the Purchase Order and/or Terms and Conditions which will continue to be valid and enforceable to the fullest extent permitted by law.

13.4 Amendments

Neither party shall be entitled to rely on any change in any provision of these Terms and Conditions or the Purchase Order unless the same has been affected in writing and executed by a duly authorised representative of each of the parties.

13.5 Assignment

Neither the rights nor obligations of the Supplier under these Terms and Conditions or the Purchase Order may be assigned, transferred, novated, sub-contracted or otherwise disposed of, in whole or in part without the prior written consent of KBCI. No attempted assignment shall relieve the Supplier of any of its obligations hereunder without the

written consent of KBCI. KBCI may at any time assign its rights and obligations hereunder.

13.6 Entire Agreement

The Purchase Order and these Terms and Conditions represents the entire agreement and understanding between the parties hereto in relation to the supply of the Goods and Services and supersedes all previous statements, representations, agreements and understandings between KBCI and the Supplier relating to the Goods and Services.

13.7 Agency/joint venture excluded

The entry into the Purchase Order on these Terms and Conditions shall not operate so as to create a partnership, or joint venture or agency relationship of any kind between the Supplier and KBCI.

13.8 Anti Corruption

Neither party shall make an offer, gift or payment, consideration or benefit of any kind, which constitutes an illegal or corrupt practice, to anyone, either directly or indirectly, as an inducement or reward for the award or execution of the Purchase Order or any other inducement to do something which is dishonest, illegal or a breach of trust in the conduct of the contracting party's business. Any such practice will be grounds for terminating the Purchase Order or taking any corrective action as required. The parties agree that any form of corruption whether public or private, bribery or illegal payment engaged in by or with the contracting party shall constitute a reason to terminate the Purchase Order.

14. Definitions and interpretation

For the purposes of these Terms and Conditions:-

Force Majeure shall mean an occurrence beyond the control and without the fault or negligence of the party affected and which the said party is unable to prevent or provide against by the exercise of reasonable diligence including, but not limited to: - acts of God or the public enemy; expropriation or confiscation of facilities; any form of Government intervention; war, hostilities, rebellion, terrorist activity, local or national emergency, sabotage or riots; floods, unusually severe weather conditions which could not reasonably have been anticipated; fires, explosions or other catastrophes; national or district strikes or any other concerted acts of workmen or other similar occurrences other than strikes or concerted acts of Supplier's workforce.

Goods shall mean the goods more particularly identified and specified in the Purchase Order

KBCI shall mean KBC Bank Ireland plc.

Purchase Order or PO shall mean the order form in KBCI standard format which sets out in detail the goods and services to be supplied.

Services shall mean the services more particularly identified and specified in the Purchase order.

Supplier shall mean the person or entity described as such on the Purchase Order.

Terms and Conditions means the KBC Bank Ireland Purchasing Order General Terms and Conditions.