

**J.F. McKenna Limited
Order Form (Project Work)**

This Order specifies the goods and services to be supplied by J.F. McKenna Limited (company number NI015435) whose registered office is at 66 Cathedral Road, Armagh, Northern Ireland, BT61 8AE (“**Company**”) to you (“**Buyer**”) which shall be supplied subject to the Company’s standard Terms & Conditions of Sale (Goods only) (“**Standard Terms**”) and the Supplemental Terms & Conditions below (“**Supplemental Terms**”).

This order shall be non-binding and no contract will exist (nor be deemed to exist) until such times as the Buyer provides the duly signed order and the First Instalment (as defined below) to the Company AND the Company signs the order whereupon the contract (“**Contract**”) will exist. The Buyer may retain the duplicate copy of this order for its records.

Contract Price:

The contract price means \$_____ US Dollars (exclusive of VAT) (“**Contract Price**”) and shall be payable to the Company in the following instalments:

- 40% (the “**First Instalment**”) with this signed order;
- 40% no later than 10 working days prior to delivery of the Goods; and
- 20% within 30 days of the date of delivery of the Goods or completion of the Services (whichever is the earlier).

All payments shall be made by way of bank transfer to the following account:

Bank: Danske Bank, 78 Scotch Street, Armagh, Co Armagh, Northern Ireland,
BT61 7DJ
Swift/BIC: DABA GB 2B
IBAN: GB06 DABA 9502 0690 1187 02
Account name: J F McKENNA LTD
Account number: 950206 90118702

Agreed and accepted:

For and on behalf of Company by:

For and on behalf of Buyer by:

(Signature)

(Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

(Date)

(Date)

JF McKenna - Supplemental Terms and Conditions
Project Work

INTERPRETATION

1. (a) In the Supplemental Terms:

Goods” means any goods (in whole or part) agreed in the Contract to be supplied to the Buyer by the Company;

“Deliverables” means the Goods and Services agreed in the Contract to be supplied to the Buyer by the Company;

“Intellectual Property Rights” means any and all intellectual property rights including patents, copyright and related rights, design rights, trade marks, service marks, trade, business and domain names, know-how and confidential information and any other intellectual property rights whether registered or unregistered which may exist anywhere in the world, and shall include any applications for any of the foregoing; and

“Services” means any services (in whole or part) agreed in the Contract to be supplied to the Buyer by the Company, as set out in the later of (1) the Company’s quotation for the services duly signed by the Buyer, or (2) if the Company’s quotation has been modified or amended by the Company as a result of negotiations with the Buyer, the Company’s order confirmation duly signed by the Buyer.

(b) The Supplemental Terms supplement the Standard Terms, and together with the relevant Company’s quotation or order confirmation form the Contract between the parties PROVIDED THAT in the event of either any Supplemental Term restating a Standard Term or of any inconsistency, conflict or ambiguity between the Supplemental Terms and the Standard Terms, the Supplemental Terms shall prevail. Any terms not defined within the Supplemental Terms have the meaning given to them in the Standard Terms.

DELIVERABLES

2. (a) The Deliverables shall be agreed in the following manner:

(i) the Buyer shall provide the Company with a request for a quotation, setting out the requirements and specifications of the Deliverables which it is requesting from the Company, including a description of what work is to be done and the dates by which it is requested to be started and finished and such other information as the Company may request to allow the Company to prepare a quotation;

(ii) the Company shall, as soon as reasonably practicable, provide the Buyer with a quotation; and

(iii) once the Buyer has signed the quotation and it has been returned to the Company a Contract shall be formed. In the event that the Company’s quotation is modified or amended as a result of negotiations with the Buyer, the Company shall provide the Buyer with an amended quotation in the form of an order confirmation, which once signed by the Buyer and returned to the Company, shall become subject to these Supplemental Terms. The Contract Price shall be the price agreed in this quotation or order confirmation (as appropriate), as modified from time to time in accordance with the terms of the Contract, and clause 2(b) of the Standard Terms shall be modified accordingly.

(b) Once the quotation or order confirmation (as appropriate) has been agreed and signed by the Buyer in accordance with Condition 2 (a) (iii) no amendment or variation to it shall be valid unless it is in writing and signed by or on behalf of each of the Buyer and the Company.

PAYMENT

3. (a) Any contract price quoted by the Company excludes VAT (which shall be payable by the Buyer at the prevailing rate as and when due) and shall be paid in US Dollars (the Buyer bearing the cost of any fluctuation in the currency exchange rate).

(b) The Company reserves the right to vary the Contract Price by notice in writing in the event that the supply of any of the Deliverables is delayed for any reason beyond the reasonable control of the Company (including without limitation, due to delays on-site or adverse site conditions).

(c) The Company reserves the right to suspend and/or cease supply of the Deliverables in the event that the Buyer fails to meet any and all due dates for payment of the Contract Price.

(d) For the avoidance of doubt, unless otherwise agreed by the Company, the Contract Price excludes:

(i) the supply of any goods and/or services other than the Deliverables;

(ii) electrical, plumbing or construction work as part of the Services;

(iii) the hire of specialised tools and/or equipment (including without limitation, a scissor-lift); and

(iv) the provision of any specialised machinery and/or equipment required by local Health & Safety legislation or other applicable local laws and regulations; as well as

(v) any excluded Deliverables set out in the quotation or order confirmation.

BUYER'S OBLIGATIONS

4. (a) The Buyer shall:

(i) co-operate with the Company in all matters relating to the Deliverables and appoint the Buyer's manager in relation to the Deliverables, who shall have the authority contractually to bind the Buyer on matters

relating to the Deliverables;

(ii) provide, for the Company, its agents, sub-contractors and employees, in a timely manner and at no charge, access to the Buyer's premises, office accommodation, data and other facilities as requested by the Company;

(iii) provide, in a timely manner, such documents, materials and other information as the Company may request and ensure that it is accurate in all material respects;

(iv) be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the Deliverables;

(v) inform the Company in advance of all health and safety rules and regulations and any other reasonable security requirements that apply at the Buyer's premises;

(vi) ensure that all Buyer's equipment which the Company needs to operate or use in provision of the Deliverables is in good working order and suitable for the purposes for which it is used and conforms to all relevant United Kingdom and local standards or requirements; and

(vii) obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to receipt of the Deliverables (if any), in all cases before the date on which the Deliverables are to be provided.

(b) The Buyer shall not, at any time from the date of the Contract to the expiry of twelve months after the termination of the Contract, solicit or entice away from the Company or employ or attempt

to employ any person who is, or has been, engaged as an employee or sub-contractor of the Company in the provision of the Deliverables.

(c) The Buyer shall provide the Company with accurate and complete drawings, designs and specifications as required to allow the

Company to provide the Deliverable and the Company shall not be liable for any fault or failure in Deliverables attributable to the Company's failure to do so.

BUYER'S ACKNOWLEDGEMENTS

5. (a) The Buyer acknowledges that:

(i) it has using its own skill and judgement, assessed for itself the suitability of the Deliverables for its requirements (including without limitation, any technical requirement or requirement in relation to power supplies and/or weather conditions), and as such, the Company does not warrant that the Deliverables will be suitable for such requirements;

(ii) it is solely responsible for ensuring that the Deliverables comply with all applicable local laws and regulations; and

(iii) the Goods are at the risk of the Buyer from the time of delivery, and as such, the Buyer is solely responsible for the security and insurance of the Goods from the time of delivery.

DELIVERY

6. The times and/or dates for supply of the Deliverables specified provided by the Company are estimates for planning purposes only and time of delivery shall not be, or be made of, the essence by notice or otherwise.

INTELLECTUAL PROPERTY RIGHTS

7. Save as otherwise specified in these Supplemental Terms, as between the Buyer and the Company, all Intellectual Property Rights arising from or in connection with the provision of the Deliverables shall be owned by the Company.

CONFIDENTIALITY AND THE COMPANY'S PROPERTY

8. (a) The Buyer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Buyer by the Company, its employees, agents or sub-contractors and any other confidential information concerning the Company's business or its products which the Buyer may obtain. The Buyer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Buyer's obligations to the Company, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Buyer.

(b) All materials, equipment and tools, drawings, specifications, information and data supplied by the Company to the Buyer shall, at all times, be and remain the exclusive property of the Company, but shall be held by the Buyer in safe custody at its own risk and maintained and kept in good condition by the Buyer until returned to the Company, and shall not be disposed of or used other than in accordance with the Company's written instructions or authorisation.

LIABILITY

9. (a) The Company shall not be liable to the Buyer for any direct, indirect, special or consequential loss or damage incurred by the Buyer or any third party, or be deemed to be in breach of the Contract, by reason of any delay in performing or any failure to perform any of the Company's obligations in relation to supply of the Deliverables if the delay or failure was due to:

(i) any act or omission of the Buyer (or any third party engaged by the Buyer) or any other cause beyond the Company's

reasonable control (including without limitation, on-site delays or inclement weather or site conditions); or

(ii) any suspension and/or cessation pursuant to Condition 3(c) above.

(b) The Company warrants to the Buyer that it will perform the Services with reasonable care and skill. All other warranties, conditions and other terms implied by statute or common law, save as set out in the Standard Terms, shall, to the fullest extent permitted by law, be excluded from the Contract.

(c) Nothing in these Supplemental Terms limits or excludes the liability of the Company:

(i) for death or personal injury resulting from negligence; or

(ii) for any damage or liability incurred by the Buyer as a result of fraud or fraudulent misrepresentation by the Company.

(d) The Company shall not be liable for loss of profits, loss of business, depletion of goodwill and/or similar losses, loss of anticipated savings, loss of goods, loss of contract, loss of use, loss or corruption of data or information or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses arising out of or in connection with supply of the Deliverables.

(e) Other than in relation to Condition 9(c), the entire liability of the Company in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the Deliverables or under or in connection with the Contract shall not exceed an amount equal to the Contract Price.

TERMINATION

10. (a) The Contract shall terminate automatically on completion of the Services or delivery of Goods (whichever is later) in

accordance with the Company's quotation or confirmation of order (as appropriate).

(b) Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:

(i) the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or

(ii) an order is made or a resolution is passed for the winding up of the other party, or an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or such an administrator is appointed, or documents are filed with the Court for the appointment of an administrator, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying charge holder (as defined in the Insolvency (Northern Ireland) Order 1989), or a receiver is appointed of any of the other party's assets or undertaking, or circumstances arise which entitle the Court or a creditor to appoint a receiver or manager or which entitle the Court to make a winding-up order, or the other party takes or suffers any similar or analogous action in consequence of debt.

(c) Any termination of the Contract shall be without prejudice to the Company's right to payment under Condition 3(a).

SURVIVAL

11. Conditions 1, 7, 8, 9 and this Condition 11 shall survive the termination or expiry of the Contract, however arising.