

THESE TERMS AND CONDITIONS OF PURCHASE FORM THE CONTRACT BETWEEN YOU (THE “SUPPLIER”) AND COMFORBAIRT (GAILLIMH) REFERRED TO ON THE PURCHASE ORDER AS AER ARANN. GENERAL CONDITIONS OF PURCHASE OF GOODS AND SERVICES (“Conditions”)

AER ARANN will only do business with the Supplier on the basis of AER ARANN’s Purchase Order and these Conditions. When AER ARANN places an order with the Supplier it is placed subject to these Conditions only. The terms and conditions of the Supplier will not apply unless expressly agreed by AER ARANN in writing. No course of dealing or business between AER ARANN and the Supplier will be relevant to explain or supplement any condition save as provided for in accordance with these conditions.

1. GENERAL

1.1 In these general conditions of purchase (“Conditions”) the following words have the following meanings:-

- (a) **“Contract”** means a contract between **AER ARANN** and the Supplier for the supply of goods (**“Goods”**) and/or services (**“Services”**), incorporating these Conditions, the relevant Purchase Order and any other document(s) referred to therein;
- (b) **“Working Days”** means days excluding Saturdays, Sundays and public holidays

- (c) **“Purchase Order”** means an order for the Goods and/or Services placed by **AER ARANN** on **AER ARANN’s** standard form;
- (d) **“Supplier”** means the supplier of the Goods and/or Services specified on the Purchase Order; and
- (e) **“Delivery Address”** means the address specified for delivery of the Goods and/or Services on the Purchase Order.

2. ACCEPTANCE

- 2.1 **AER ARANN** will not be liable for any order or commitment unless it is issued or confirmed in a Purchase Order with an official purchase order number (**“Purchase Order Number”**).
- 2.2 Acceptance of the Purchase Order will take place if the Supplier accepts the Purchase Order in writing within 3 Working Days of receipt; or if, with **AER ARANN’s** agreement, the Goods are manufactured, shipped or delivered by the Supplier or its duly authorised sub-contractors to **AER ARANN**; or if, with **AER ARANN’s** agreement, the Services are performed by the Supplier or its duly authorised sub-contractors.

3. WARRANTIES, LIABILITY AND INSURANCE

- 3.1 The Supplier warrants that all Goods supplied to **AER ARANN** will:
 - (a) be free from faulty design (unless **AER ARANN** provides the design);
 - (b) be of the best workmanship and of proper material;
 - (c) comply with and perform in accordance with the Purchase Order and any applicable specifications;
 - (d) be fit for their intended purpose; and
 - (e) where specified on the Purchase Order, meet **AER ARANN’s** requirements in all respects.

This warranty will continue (excluding fair wear and tear) for either 24 months from the date when the Goods are first used by **AER ARANN** or 30 months from the date of delivery whichever period expires first. The Supplier will replace or repair any Goods not conforming with these warranties at its cost entirely, and if it fails to do so **AER ARANN** may do so and charge the Supplier the cost.

- 3.2 The Supplier shall provide the Services:

- (a) using reasonable skill care and diligence using suitably skilled experienced and qualified staff and where staff are named in the Purchase Order shall not use any other staff to provide the Services unless agreed by **AER ARANN** in writing.
 - (b) using the best workmanship and materials;
 - (c) in compliance with the Purchase Order and any applicable specifications;
 - (d) to meet **AER ARANN's** requirements in all respects.
- 3.3 The Supplier warrants that all Goods and Services will comply with or be performed in accordance with all applicable laws, regulations and codes of practice.
- 3.4 The Supplier warrants that it and its employees shall comply with content of **AER ARANN's** applicable site safety and security rules (available on request).
- 3.5 The warranties set out herein which are in addition to any statutory or other applicable warranties will apply for the benefit of **AER ARANN** its, successors, assignees and customers.
- 3.6 The Supplier will indemnify **AER ARANN** in full against all claims, liability, loss, damages, costs and

expenses (including legal expenses) awarded against or incurred or paid by **AER ARANN** as a result of or in connection with:-

- (a) breach of any warranty given by the Supplier;
- (b) any claim that the Goods or Services infringe, or their importation, use or resale infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person anywhere in the world, except to the extent that the claim arises from compliance with any specification supplied by **AER ARANN**;
- (c) any liability to consumers in respect of the Goods or Services; and
- (d) any act or omission by the Supplier or its employees, agents or sub-contractors in supplying, delivering or installing the Goods or performing the Services.

3.7 The supplier shall maintain in force a Policy of Insurance satisfactory to **AER ARANN** in respect of its liabilities under the Contract and will provide **AER ARANN** with evidence of such insurance on request.

4. **INSPECTION AND TESTING**

- 4.1 **AER ARANN** shall be entitled to send an inspector, representative or agent to test or inspect the Goods and/or Services at any reasonable time at the Supplier's or it's sub-contractor's facilities ("**AER ARANN Inspections**"), and to repeat **AER ARANN** Inspections with such frequency as **AER ARANN** may, at its complete discretion, determine.
- 4.2 The Supplier will give reasonable notice to **AER ARANN** of its testing of the Goods and/or Services ("**Supplier Tests**") and **AER ARANN** or its representatives may attend Supplier Tests. The Supplier will provide **AER ARANN** with such test certificates as **AER ARANN** may reasonably require with respect to any Supplier Tests.
- 4.3 **AER ARANN** Inspections and/or Supplier Tests and/or test certificates provided pursuant to Supplier Tests do not relieve the Supplier of any liability, nor does it imply acceptance of the Goods and/or Services concerned by **AER ARANN**.

5. **DELIVERY/TRANSPORT/PACKING**

- 5.1 The delivery/completion date specified in the Purchase Order must be met, and time is of the essence. **AER ARANN** does not waive its rights with respect to a delay in delivery or completion unless specifically agreed in writing. The

Supplier shall comply with all delivery or performance instructions notified to it, failure to do so may result in the delivery of Goods and/or the provision of Services being refused, and the Supplier will be responsible for any additional costs resulting.

- 5.2 All Goods will be delivered to the Delivery Address.
- 5.3 The Supplier shall ensure that all Goods supplied shall be properly protected against damage and deterioration in transit and delivered DDP (Incoterms), and shall bear the description, the quantity of the contents and the Purchase Order Number on each package.
- 5.4 Unless otherwise stated in the Purchase Order, the Supplier will make no charge for containers, packaging material, crating, boxing, or storage.
- 5.5 Unless agreed prior to delivery **AER ARANN** assumes no obligation for Goods shipped in excess of the quantity ordered in the Purchase Order. Shipments in excess of the quantity ordered and not accepted by **AER ARANN** may be returned to the Supplier, and the Supplier will pay **AER ARANN** for all expenses incurred in connection with such shipments.

6. DOCUMENTATION

- 6.1 The Supplier will provide **AER ARANN** free of charge with all working drawings, operating instructions, plans, specifications and information reasonably necessary to enable **AER ARANN** to use the Goods or the Services for their intended purpose. The Supplier will also provide **AER ARANN** with all certificates of origin, quantity, quality, insurance and compliance with industry requirements or standards and in such form as **AER ARANN** may from time to time reasonably request.
- 6.2 The Supplier will:
 - (a) send on the day of delivery for each consignment a separate advice note and invoice for each delivery including details of the Goods supplied to the Delivery Address;
 - (b) send on the day of completion of the Services provided a separate advice note and invoice for each Service (as itemised in the Purchase Order) including details of the Services provided; and
 - (c) mark clearly the Purchase Order Number on each package, packing notes, invoices, monthly statements and all other correspondence

or documents relating to the Purchase Order.

- 6.3 The documents referred to in Conditions 6.1 and 6.2 are herein collectively referred to as "Delivery Documents".

7. TITLE AND RISK OF LOSS

- 7.1 Risk of loss or damage to the Goods will not pass to **AER ARANN** until the Goods have been delivered into **AER ARANN's** possession and are confirmed by **AER ARANN** to be in accordance with the Contract, a Purchase Order and/or these Conditions.
- 7.2 Title to the Goods will pass to **AER ARANN** when the Goods are delivered to the Delivery Address, unless payment is made prior to delivery in which case title shall pass upon payment being made. The Supplier shall immediately upon receipt of payment, appropriate the Goods to **AER ARANN** and shall keep them separate from all other goods in the possession of the Supplier and shall clearly mark the Goods as the property of **AER ARANN**. Passing of title shall not in respect of the goods prejudice any right of rejection or other right, which **AER ARANN** may have.

8. PRICE AND PAYMENT

- 8.1 The price shall be as stated in the Purchase Order and unless otherwise

stated shall be exclusive of applicable value added tax. No additional charges will be paid unless agreed by **AER ARANN** in writing in advance. Any variation of the price requires the prior written agreement of **AER ARANN**.

- 8.2 All payments are contingent upon the Goods and/or the performance of the Services conforming with the Purchase Order and receipt of the Delivery Documents to the satisfaction of **AER ARANN**.
- 8.3 Payment will be made in accordance with the Purchase Order.
- 8.4 **AER ARANN** assumes no payment obligations in addition to those contained in the Contract for goods and/or services provided in a quantity or to a specification in excess of the Goods and/or Services ordered in the Purchase Order, save where **AER ARANN** has agreed to the provision of such goods and/or services in writing.
- 8.5 Payments will be made at the end of the month following the month of invoice or at intervals agreed with the Supplier against the Goods and/or Services delivered. All payments will be made without prejudice to **AER ARANN** rights should the Goods or performance of the Services prove unsatisfactory or are not in accordance with the Contract, the Purchase Order or these Conditions.

8.6 **AER ARANN** shall have the right to set-off any amounts which may become payable by it to the Supplier against any amounts the Supplier may owe to **AER ARANN**.

9. INTELLECTUAL PROPERTY

9.1 The Supplier acknowledges that in connection with the provision of any Goods or Services to **AER ARANN**, the Supplier may develop works and/or materials, including documents, models, prototypes, software, data, formulae, specifications, inventions, concepts, processes, techniques, analyses, compilations, studies, reports, graphic designs, three dimensional designs, moulds, photographs, names or logos (“**Works**”).

9.2 In connection with all Works:

- (a) the Supplier hereby assigns to **AER ARANN**, with full title guarantee and without restriction, the legal and beneficial ownership of all intellectual property rights (including, but not limited to, copyright, database rights and design rights by way of an assignment of future rights) subsisting in or relating to any Works (collectively the “**Intellectual Property**”);
- (b) to the extent that any Intellectual Property is not capable of being assigned at the date of any Purchase

Order, the Supplier hereby agrees to assign to **AER ARANN**, with full title guarantee and without restriction all Intellectual Property at **AER ARANN**’s request ; and

- (c) the Supplier agrees, at **AER ARANN**’s request and cost, to do all such things as may be necessary or desirable to vest in **AER ARANN** the full benefit of all Intellectual Property subsisting in or relating to any Works.

9.3 **AER ARANN**, or where relevant its affiliates, are and will be deemed to be the proprietor of all **AER ARANN** trade marks and all associated goodwill. The Supplier hereby acknowledges that the Supplier will not gain any right, title or interest in such trade marks or goodwill and shall not make any use of the same without **AER ARANN**’s prior written approval.

9.4 Any permission to reproduce the trade marks on any Goods, Services or Works is solely related to the purpose/s connected with the Contract and will expire once the Contract is fulfilled or cancelled whichever occurs earlier.

9.5 Any Goods, Services or Works created in connection with the provision of the Goods or Services supplied to **AER ARANN** by the Supplier incorporating

AER ARANN trade marks or trade marks belonging to **AER ARANN** affiliates are supplied on a sole and exclusive basis. The Supplier shall not supply the same or similar goods or works to any other party or dispose of them in any way whatsoever other than to **AER ARANN**, unless otherwise specified in the Purchase Order.

- 9.6 The Supplier warrants that the provision of the Goods and/or Services shall not infringe any third party intellectual property rights.
- 9.7 The Supplier will not do anything calculated or likely to damage any of **AER ARANN**'s trade marks or **AER ARANN**'s name or reputation or those of its products.
- 9.8 The Supplier shall procure that its employees and subcontractors shall waive all of their moral rights described in the Copyright and Related Rights Act, 2000 in respect of any of the Works.
- 9.9 Any excess Goods produced bearing **AER ARANN** names, trade marks or logos which are not supplied to **AER ARANN** must be promptly notified to **AER ARANN** and destroyed, unless otherwise agreed by **AER ARANN** in writing.

10. **OUR PROPERTY**

All tools or materials, dies, jigs, fixtures, patterns or other items of equipment

(“**Equipment**”) and all drawings, specifications and other data or papers (“**Documents**”) provided commissioned or owned by **AER ARANN** or created for **AER ARANN** in connection with the Contract, together with all copies or reprints will remain the property of **AER ARANN** at all times. Equipment will be marked as belonging to **AER ARANN**. Equipment and Documents shall be used solely for the purpose of fulfilling the Contract and handed over to **AER ARANN** on completion, cancellation or termination of the Contract. The Supplier will from that date on make no further use, either directly or indirectly of any Documents, or of any information that comes from Documents without **AER ARANN**'s written consent.

11. **CONFIDENTIALITY**

11.1 The existence and terms of the Contract and any other information and materials relating to **AER ARANN** or its business disclosed to the Supplier by or on behalf of **AER ARANN** (“**Confidential Material**”) prior to or after the entering into of the Contract shall be confidential information of **AER ARANN** and shall not be used or disclosed by the Supplier to any third party. This does not apply to information in the public domain through no breach or fault of the Supplier. The Supplier shall return all such Confidential Material to **AER ARANN** on request and shall cease all further use thereof.

11.2 The Suppliers obligations set out in this Condition 11 shall continue in force after the date of the performance

of the Contract and thereafter in perpetuity.

11.3 The Supplier shall take all necessary precautions to ensure the security of all Confidential Material and shall comply with **AER ARANN**'s directions in relation to all Confidential Material.

11.4 The Supplier shall ensure that Confidential Material is disclosed only to those of its employees who need to know it for the purpose of performing the obligations of the Supplier under the Contract, the Purchase Order and/or these Conditions and who are bound by appropriate and legally binding confidentiality and non-use obligations. The Supplier shall be fully responsible for any unauthorised disclosure or use of Confidential Material by its employees.

11.5 All documents, files and other items (in whatever format or medium) which contain or record Confidential Material shall remain or become the property of **AER ARANN**, and the Supplier shall deliver them to **AER ARANN** upon request, together with all copies thereof.

11.6 The Supplier shall not, and shall ensure that its employees shall not, in any way publicise its relationship with **AER ARANN** and its associated companies without the express written agreement of **AER ARANN**.

12. **BREACH, TERMINATION ETC.**

12.1 If the Goods or Services are not supplied or performed in accordance with the Contract **AER ARANN** may, without prejudice to any other remedy, require the Supplier to supply replacement Goods or reperform Services within 7 days; alternatively or if the Supplier fails to do so **AER ARANN** may cancel the Contract, require repayment of any part of the Contract price already paid and claim damages for any losses and costs incurred by **AER ARANN**.

12.2 **AER ARANN** may terminate the Contract immediately, by written notice without any liability to the Supplier, if:-

- (a) the Supplier makes any arrangement with its creditors, becomes subject to an administration order or goes into bankruptcy, liquidation, or receivership;
- (b) a receiver, trustee or liquidator is appointed over any of the Supplier's property or assets;
- (c) anything or step equivalent to the matters referred to in Conditions 12.2.(b) or 12.2(c) above occurs in any other jurisdiction;

(d) the Supplier becomes unable to pay its debts generally as they become due, or ceases or threatens to cease to carry on business; or

(e) **AER ARANN** reasonably considers that any of the events set out in Conditions 12.2(a) to (d) is about to occur to the Supplier.

12.3 On cancellation/termination of the Contract by **AER ARANN**, the Supplier will immediately return to **AER ARANN**, any of **AER ARANN**'s property held by the Supplier. **AER ARANN** may enter the Supplier's premises to recover such property.

12.4 The rights set out in this Condition 12 are in addition and without prejudice to **AER ARANN**'s other legal rights and remedies.

13. **CANCELLATION**

AER ARANN may at its option cancel the Contract in whole or in part with respect to any undelivered Goods or Services not performed to completion. **AER ARANN**'s only obligation for cancelling the Contract covering standard stock Goods will be to pay for Goods shipped prior to cancellation. If **AER ARANN** cancels the Contract covering Goods made to its specification or for Services part-performed and initiated at its request, and the Supplier is not in breach of the Contract, the Purchase Order or these Conditions subject to delivery and/or performance of the same, **AER ARANN**

will pay the Supplier the agreed unit price for Goods completed and/or Services part-performed calculated as a reasonable percentage of the agreed completed Services price, and also the direct and proven costs arising from the manufacture of the Goods incurred by the Supplier before the Supplier received notice of cancellation. Under no circumstances will the total payment upon cancellation exceed the total Contract price. **AER ARANN** will not be liable for prospective or anticipated profits by reason of such cancellation or other economic or consequential loss.

14. **ASSIGNMENT AND SUBCONTRACTING**

14.1 **AER ARANN** may assign the Contract and its rights and obligations to any other company directly or indirectly owned and/or controlled by Aer Arann .

14.2 The Contract is personal to the Supplier and the Supplier may not without **AER ARANN**'s prior written consent assign, mortgage, charge or dispose of any of its rights or obligations, or sub-contract or otherwise delegate performance of its obligations. The Supplier will remain fully responsible for any Services or an/or Goods provided by a sub-contractor.

14.3 The Supplier will on request provide **AER ARANN** with full details of any suppliers to the Supplier of goods or services which are or are intended to be incorporated in the Goods and/or Services supplied to **AER ARANN**.

15. **MISCELLANEOUS**

- 15.1 Nothing in this Agreement will create, or be deemed to create, a partnership or the relationship of principal and agent or employer and employee between **AER ARANN** and the Supplier.
- 15.2 The Contract contains the entire agreement between the parties with respect to its subject matter, and may only be modified by a written document signed by duly authorised representatives of both parties.
- 15.3 **AER ARANN** may from time to time alter these Conditions in such manner as it determines. Such alteration will, however, not affect any Contract that **AER ARANN** may have entered into with the Supplier prior to the alteration.
- 15.4 The Supplier acknowledges that, in entering into the Contract, the Supplier does not do so on the basis of, nor rely on, any representation, warranty or other provision except as expressly set out in the Purchase Order.
- 15.5 If any provision of the Contract is held by any court or other competent authority to be void or unenforceable in whole or part, the Contract will continue to be valid as to its other provisions.
- 15.6 A reference to a condition in these Conditions is a reference to a clause of these Conditions

16. **NOTICES**

- 16.1 Any notice required or authorised under these Conditions to be given by a party to the other will be given by delivering it by hand or sending it by pre-paid recorded delivery post to the other party at its registered office and marked for the attention of the Company Secretary or to such other address as may be agreed from time to time, or sending it by facsimile transmission.
- 16.2 Any notice sent by facsimile will be deemed to have been received immediately provided that the transmission slip is retained and the original is sent by recorded delivery post (as set out in Condition 16.1) within 24 hours of transmission.

17. **GOVERNING LAW**

- 17.1 These Conditions and any Contract of which these Conditions form part will be governed by Irish law, and subject to the exclusive jurisdiction of the Irish Courts.

March 2007