

Terms & Conditions

1 Interpretation

Definitions. In these Conditions, the following definitions apply:

'Acceptance' means that Authorised Officer's acceptance that the Goods and / or Services meet the requirements of the Contract.

'Acceptance Date' means the date on which the Authorised Officer has accepted the Goods and / or Services in accordance with clause 2.4 below.

'Agreement Manager' shall have the meaning as set out in clause 3.

'Articles' means all tools, materials, drawings, specifications and other equipment and data provided or loaned to the Supplier by the Buyer.

'Authorised' means signed by one of the Buyer's Authorised Officers.

'Authorised Officer' means the Buyer's employee authorised either generally or specifically by the Buyer to enter into the Contract and act on behalf of the Buyer in relation to the Contract.

"Building Regulations": the Building Regulations 2010 (as amended from time to time).

"Business Day": a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

"Business Hours": the period from 9.00am to 5.00pm on any Business Day.

"Buyer": shall mean the University of Suffolk, Waterfront Building, Neptune Quay, Ipswich, IP4 1QJ, or any wholly owned or associated subsidiary thereof as stated on the Order.

"CDM Regulations": the Construction (Design and Management) Regulations 2015.

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.

"Conditions": the terms and conditions set out in this document as amended from time to time in accordance with clause 40.6.

"Contract": the contract between the Buyer and the Supplier for the supply of Goods and/or Services in accordance with these Conditions.

"Data Protection Legislation": all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications).

"Deliverables": all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data specification and reports.

"Delivery": as set out in clause 5 and **'Deliver'** shall be construed accordingly.

"Delivery Note": as set out in clause 5.1(c).

'Delivery Date' means the date set out in the Specification.

'Delivery Instructions' means the instructions set out in the Contract for the provision of the Goods and/or Services, including any other information the Buyer considers appropriate to the provision of the Goods and/or Services.

"Domestic Law": the Laws of the United Kingdom or a part of the United Kingdom.

"Goods": the goods (or any part of them) set out in the Order.

'Good Industry Practice' means the exercise of such degree of skill, diligence, care and foresight which would reasonably and ordinarily be expected from a skilled and experienced Supplier engaged in the supply of Goods and Services similar to the Goods and Services under the same or similar circumstances as those applicable to the Contract.

"Goods Specification": any specification for the Goods, including any related plans and drawings, that is set out by the Buyer to the Supplier.

'Installation' means the installation of the Goods in the designated location and into the operating environment specified by the Buyer at the site and 'Install' shall be interpreted accordingly.

'Intellectual Property Rights' means patents, copyright, registered and unregistered design rights, utility models, trade marks (whether or not registered), database rights, rights in know-how and confidential information and all other intellectual and industrial property rights and similar or analogous rights existing under the laws of any country and all rights to apply for or register such rights.

'Key Personnel' means those individuals nominated by the Buyer as being of importance to the completion or performance of the Services.

'Law' means any law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body or any approval of any local authority or statutory undertaker having jurisdiction in relation to the Contract and/or the Goods and / or Services or with whose systems the Goods are, or are to be, connected including, for the avoidance of doubt, the CDM Regulations and Building Regulations.

"Order": in the Buyer's purchase order form or overleaf, as the case may be.

'Order Amendment' means an issued and Authorised order amendment from the Buyer or series of Order Amendments. As set out in clause 15.

'Packaging' means any type of package including bags, cases, carboys, cylinders, drums, pallets, tanks, wagons and other containers.

'Premises' means the location(s) where the Goods and Services are to be Delivered or performed.

'Replacement Supplier' means the person or firm who replaces the Supplier in the provision of any part or parts of the supply of the Goods and/or Services to the Buyer.

'Request' has the meaning set out in the Freedom Of Information Act 2000, (FOIA), and the Environmental Information Regulations 2004 (EIR).

"Services": the services, including without limitation any Deliverables, Installation, and consequential connection, testing, commissioning or training to be provided by the Supplier under the Contract as set out in the Service Specification.

'Service Levels' means those levels of performance set out in the Service Specification.

"Service Specification": the description or specification for Services, that is set out by the Buyer to the Supplier.

"Specification": any Goods Specification together with any Services Specification.

"Supplier": the person or firm from whom the Buyer purchases the Goods and/or Services.

"Supplier Code of Conduct": the Buyer's code of conduct for suppliers as amended by notification to the Supplier from time to time.

'TUPE' means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

"UK GDPR" has the meaning given in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

Construction. In these Conditions, unless the context requires otherwise, the following rules apply:

A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

A reference to a party includes its personal representatives, successors or permitted assigns.

A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

A reference to **writing** or **written** includes faxes.

2 Basis of contract

2.1 The Supplier acknowledges and agrees that:

- (a) these Conditions apply to the Contract to the exclusion of any other terms and conditions that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing;
- (b) any Order:
 - (i) constitutes an offer by the Buyer to purchase the Goods and/or Services in accordance with these Conditions; and
 - (ii) must bear the Buyer's order number and be Authorised to be valid;

- (c) any terms issued by the Supplier in response to the Order, or which the Supplier seeks to impose or incorporate in connection with the Goods and/or Services, shall not apply to the Goods and/or Services (and shall be superseded by these Conditions); and
- (d) no other terms and conditions are incorporated or implied into the Contract unless expressly accepted in writing in advance by the Buyer.

2.2 The Contract shall comprise any Order, these Conditions and the Specification(s). In the event of any conflict between the provisions they shall be read in the following order of precedence:

- (a) Clauses 21, 22, 25, 26, 27, 28, 29, 30, 31 of the Conditions
- (b) The Order
- (c) Any attachments to the Order
- (d) The Specification(s)
- (e) Clause 39 of the Conditions (where applicable)
- (f) The rest of the Conditions

2.3 The Contract may be varied by way of an Order Amendment in accordance with clause 15. Each Order Amendment shall have precedence over any earlier Order Amendment.

2.4 The Order shall be deemed to be accepted on the earlier of:

- (a) the Supplier issuing a written acceptance of the Order; or
- (b) the Supplier doing any act consistent with fulfilling the Order, at which point the Contract shall come into existence.

2.5 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

3 Agreement and Account Management

The Supplier shall nominate an Agreement Manager who shall have sufficient authority to ensure that required Service Levels are met, to ensure sufficient resources are allocated to the Contract, and to maintain performance to the Specification, to pro-actively co-ordinate and communicate relevant orders and to provide comprehensive support and links between the Buyer and the Supplier.

4 Supply of Goods

4.1 The Supplier shall ensure that the Goods shall:

- (a) be free from defects in design, material and workmanship, correspond with their description and any applicable Goods Specification and shall remain so for 12 months after Acceptance;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Buyer expressly or by implication, and in this respect the Buyer relies on the Supplier's skill and judgement;
- (c) be new (unless otherwise specified on the Purchase Order); and

- (d) comply with all applicable Laws.

4.2 Supplier warrants to the Buyer that that the Goods will be provided:

- (a) in a proper, skilful and workmanlike manner.
- (b) by a sufficient number of appropriately qualified, trained and experienced personnel with a high standard of skill, care and due diligence and in accordance with Good Industry Practice
- (c) in accordance with the Contract.
- (d) to the reasonable satisfaction of the Authorised Officer.

4.3 The Supplier will make good through repair or replacement (as appropriate) at its expense any defect in the Goods that the Buyer discovers under proper usage during the first 12 months of actual use or 18 months from the date of Acceptance by the Buyer whichever period shall expire first.

4.4 Any samples or rejected Goods shall be removed from the Buyer's Premises promptly upon notice from the Buyer.

4.5 For the avoidance of doubt, clauses 4.1 – 4.4 shall apply to repairs and replacements of the Goods except that the Supplier's obligation under clause 4.3 shall only apply for a period of 12 months from Acceptance by the Buyer.

5 Delivery of the Goods

5.1 The Supplier shall ensure that:

- (a) the Goods will be properly packaged to survive transit and storage without damage, clearly and legibly labelled and addressed. The Buyer will not be liable to pay for any Packaging in which the Goods are supplied. All Packaging must be clearly marked to show to whom it belongs. Any Packaging that the Supplier requires returning will be done so at the Supplier's cost and risk;
- (b) unless the Goods are proprietary goods of the Supplier's design intended for general sale the Supplier shall not without the Buyer's written consent mark the Packaging or the Goods with any tradename or device whatsoever, but shall mark them as directed by the Buyer.
- (c) each Delivery of the Goods is accompanied by a Delivery Note which shows the date of the Order, the Buyer's Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being Delivered by instalments, the outstanding balance of Goods remaining to be Delivered; and
- (d) if the Supplier requires the Buyer to return any Packaging to the Supplier, that fact is clearly stated on the Delivery Note. Any such Packaging shall be returned to the Supplier at the cost of the Supplier.

5.2 The Supplier shall deliver the Goods:

- (a) on the date specified in the Order, or, if no such date is specified, within 3 Business days of the date of the Order;
- (b) to the location of Delivery stated in the Order, or as instructed by the Buyer prior to Delivery; and
- (c) during the Buyer's normal business hours, or as instructed by the Buyer.

- 5.3 Time of Delivery shall be of essence of the Contract.
- 5.4 The Supplier shall not Deliver the Goods in instalments without the Buyer's prior written consent. Where it is agreed that the Goods are to be Delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to Deliver any one instalment on time or at all or any defect in an instalment shall entitle the Buyer to the remedies set out in clause 17.1.
- 5.5 Except where otherwise provided in the Contract, Delivery shall include the uploading or stacking of the Goods by the Supplier at such places as the Buyer may direct.
- 5.6 The issue by the Buyer of a receipt note for the Goods shall not constitute any acknowledgement of the condition or nature of those Goods. The Buyer shall not be deemed to have accepted any Goods other than in accordance with clause 6.

6 Acceptance

- 6.1 The Buyer shall be deemed to have accepted the Goods or Services on the earlier of:
- (a) providing written notice of Acceptance to the Supplier; or
 - (b) making payment for or use of the Goods or Services following a reasonable opportunity to fully inspect and test them provided that payment or use prior to the Buyer having had such an opportunity shall not constitute Acceptance.

7 Consumables

- 7.1 The Buyer reserves the right to procure consumables to be used on or with the Goods from the Supplier or such other source as the Buyer deems appropriate. Such procurement of consumables from a source other than Supplier shall not invalidate the Buyer's rights under the Contract and in no way affect the provisions of clauses 4.1 and 4.2 or otherwise provided that the consumables utilised meet the minimum standards as published by Supplier or the manufacturer of the Goods, or where no published standards are available, the standards generally accepted as being appropriate to the consumable supplies for use on or with the Goods concerned.
- 7.2 In the event that the Supplier shall claim that the use of specific consumables is adversely affecting the standards of performance of the Goods and/or increasing the cost to Supplier of meeting its obligations to provide repair or maintain the Goods it shall be for Supplier to prove that the consumables do not meet the requisite minimum standards, and are affecting the Goods and/or increasing the Supplier's costs. If the Supplier shall prove that the consumables do not meet the requisite minimum standards the Buyer shall cease using the consumables concerned and procure alternative consumables which meet the standards required.

8 Spares

- 8.1 The Supplier shall make available to the Buyer, or any nominated third party maintenance provider, on request, with reasonable dispatch and at reasonable prices, all spares and replacement parts for the Goods as the Buyer shall require.
- 8.2 The Supplier shall, at the Supplier's cost, maintain a supply of such spares or replacement parts for a period of seven (7) years from the date of Delivery or the Acceptance Date, whichever is the latest.
- 8.3 Such spares or replacement parts shall be fully compatible with, and maintain as a minimum the same levels of performance as the Goods originally supplied, but need not be identical to those items.

9 Operating manuals and as-fitted drawings

- 9.1 The Supplier shall supply to the Buyer all operating manuals and other documentation necessary for the satisfactory operation of the Goods, and in any event all documentation so requested.

10 Attachment to the Goods

- 10.1 The Buyer shall have the right to attach to, or install into or onto the Goods any other items or goods (including but not limited to software) which the Buyer considers to be appropriate and necessary to enable the Goods to be utilised to the fullest extent as required by the Buyer. If the Buyer attaches or installs such items or goods then this shall not relieve Supplier from meeting its obligations under the Contract provided that:-

- (a) the goods attached or installed are not specified in any of the Supplier's and/or the manufacturer's published specifications as having the effect of degrading the standards of performance or invalidating the Buyer's rights under the Contract; and
- (b) the Supplier has not otherwise notified the Buyer in writing that the attachment or installation of specific goods will degrade the standards of performance or invalidate the Buyer's rights under the Contract; and
- (c) the goods have in all material respects been attached or installed in accordance with the published instructions of Supplier.

11 Hazardous Goods and Safety

- 11.1 Where the Goods comprise or include substances hazardous to health, the Supplier will supply to the Buyer on or before Delivery with all data necessary to allow the Buyer to form a suitable and sufficient assessment of the attendant risks and of the steps that need to be taken in order to meet the requirements of all applicable Laws.

12 Supply of Services

- 12.1 The Supplier shall from the date set out in the Order and for the duration of this Contract provide the Services to the Buyer in accordance with the terms of this Contract.
- 12.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Buyer.
- 12.3 In providing the Services, the Supplier shall:
- (a) co-operate with the Buyer in all matters relating to the Services, and comply with all instructions of the Buyer;
 - (b) perform the Services in accordance with Good Industry Practice;
 - (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;
 - (d) ensure the Services and the Deliverables will conform with all descriptions and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Buyer;
 - (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;

- (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Buyer will be free from defects in workmanship, installation and design;
- (g) obtain and at all times maintain all necessary licences and consents and comply with all applicable Laws;
- (h) not do or omit to do anything which may cause the Buyer 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 Buyer may rely or act on the Services; and
- (i) provide the Services via the Key Personnel (if any) who shall not be released from providing the Services to the Buyer, except for reason of sickness, maternity leave, paternity leave, termination of employment (in which case the Supplier shall notify the Buyer of such circumstances without undue delay) or because they have been requested to do so by the Buyer.

13 Progress and Inspection

- 13.1 The Buyer shall have the right to check progress at the Supplier's manufacturing facilities or offices (including home working) or the offices (including home working) of the Supplier's sub-contractors at all reasonable times to inspect and to reject Goods and Services that do not comply with the Contract. The Supplier's sub-contracts shall reserve such rights for the Buyer. Any inspection or approval shall not relieve the Supplier from its obligations under the Contract.

14 Work on the Premises

- 14.1 If the Contract involves any Goods and Services which Supplier Delivers or performs on the Premises then the following clauses shall apply:
- (a) the Supplier shall ensure that the Supplier and their employees, sub-contractors and their employees and any other persons associated with the Supplier will adhere in every respect to all applicable Laws;
 - (b) the Supplier shall ensure that the Supplier and their employees, sub-contractors and their employees and any other person associated with the Supplier will comply with any regulations that the Buyer may notify to the Supplier in writing; and in any event (and without prejudice to the foregoing), the Buyer's access protocols, and information technology policies;
 - (c) when required, the Supplier and their employees, sub-contractors and their employees shall comply with any security requirements including a right to search when entering or leaving the Premises; and
 - (d) before accessing the Premises the Supplier will gain permission from the Buyer's estates management unit.
- 14.2 The Supplier shall make no Delivery of materials, plant or other things nor commence any work on the Premises without obtaining the Buyer's prior consent.
- 14.3 Access to the Premises shall not be exclusive to the Supplier but only such as shall enable the performance of the Contract concurrently with the execution of work by others. The Supplier shall co-operate with such others as the Buyer may reasonably require.
- 14.4 The Buyer shall have the power at any time during the duration of the Contract to order in writing:
- (a) the removal from the Premises of any materials which in the Buyer's opinion are either hazardous or not in accordance with the Contract; and;

- (b) the substitution of improper and unsuitable materials used in providing the Goods or Services for proper and suitable materials.

- 14.5 On completion of the Contract the Supplier shall remove their plant, equipment and unused materials and shall clear away from the Premises all rubbish arising out of the Contract and leave the Premises in a neat and tidy condition within the timescales instructed to the Supplier by the Buyer.
- 14.6 Any land or Premises made available from time to time to the Supplier by the Buyer in connection with the Contract shall be made available to Supplier on a non-exclusive basis free of charge and shall be used by the Supplier solely for the purpose of performing its obligation under the Contract. The Supplier shall have the use of such land or Premises as licensee and shall vacate the same on completion, termination or abandonment of the Contract.
- 14.7 The Supplier shall limit access to the land or Premises to such personnel as is necessary to enable it to perform its obligations under the Contract.
- 14.8 The Buyer's decision as to whether any person is to be refused access to any Premises occupied by or on behalf of the Buyer shall be final and conclusive.
- 14.9 The Supplier shall bear the cost of or costs arising from any notice, instructions or decision of the Buyer under this clause 14.
- 14.10 The Supplier shall ensure that its personnel and all personnel of any subcontractors display identification at the direction of the Buyer.

15 Variation & Substitution

- 15.1 The Buyer shall have the right, before Delivery, to send the Supplier an Order Amendment adding to, deleting or modifying an Order's requirements. If the Order Amendment will cause a change to the price, or Delivery Date then the Supplier must suspend performance of the Contract and notify the Buyer without delay, calculating the new price, Delivery Date immediately at the same level of cost and profitability as the original price. The Supplier must allow the Buyer at least ten (10) Business Days to consider any new price or Delivery Date. The Order Amendment shall take effect when, but only if, the Authorised Officer accepts it in writing. Subject to other provisions of the Contract, if the Authorised Officer fails to confirm the Order Amendment within the time stipulated then performance of the Agreement shall immediately resume as though the Order Amendment had not been issued.

16 Service Improvement and Technology Refresh

- 16.1 Where required, the Supplier shall, at its own cost, submit a report to the Buyer within 30 Business Days of the end of each year of the term of the Contract which shall identify the emergence of new and evolving relevant technologies and processes which could improve the Goods and Services. Such report shall be provided in sufficient detail to enable the Buyer to evaluate properly the benefits of the new technology or process
- 16.2 The Buyer may benchmark the performance of the Supplier against other providers in the marketplace. In doing so, the Supplier will provide all information to facilitate the process. If the benchmarking reveals there are areas where an alternative provider can offer an improved price, quality or performance the Supplier will be given an opportunity to match such improvements. In the event that no match is available, the Buyer may terminate the Contract without liability.

17 Remedies

- 17.1 If the Supplier fails to Deliver the Goods on the Delivery Date and/or perform the Services by the applicable date(s), or if the Goods do not comply with the requirements set out in clause 4, or the Services do not meet the requirements set out in clause 12 then, without limiting any of its other rights or remedies, the Buyer shall have the right to any one or more of the following remedies:
- (a) to terminate the Contract with immediate effect;
 - (b) to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
 - (c) to require the Supplier, at the Buyer's sole discretion, to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
 - (d) to require re-performance of the Services at the Supplier's expense;
 - (e) to recover from the Supplier any costs incurred by the Buyer in obtaining substitute goods and/or services from a third party; and
 - (f) to claim damages for any other costs, loss (whether direct or indirect) or expenses incurred by the Buyer which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.
- 17.2 The Contract shall apply to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 17.3 The Supplier shall keep the Buyer indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and legal and other professional fees and expenses awarded against or incurred or paid by the Buyer as a result of or in connection with:
- (a) any claim made against the Buyer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services;
 - (b) any claim made against the Buyer by a third party arising out of, or in connection with, the supply of the Goods or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and
 - (c) the provision of the Goods and Services, including advice and recommendations made and accepted by the Buyer; and
 - (d) any Installation or anything done or omitted to be done under, or in connection with the Contract by the Supplier; and
 - (e) any damage to the Buyer's property or Premises (including any materials, tools or patterns sent to Supplier for any purpose).
- 17.4 Clause 17.3 shall survive termination of the Contract.
- 17.5 The Buyer's rights and remedies under the Contract are in addition to its rights and remedies implied by statute and common law.

- 17.6 The Supplier must take out and maintain insurance adequate to cover the risks set out in the Contract and for a period of 6 years thereafter and in any event shall take out and maintain:
- (a) Product Liability Insurance coverage of not less than two million pounds sterling (£2,000,000) for any one, or series of related claims that may arise; and
 - (b) Professional Indemnity Insurance coverage of not less than five million pounds sterling (£5,000,000) for any one, or series of related claims that may arise; and
 - (c) Public Liability Insurance coverage of not less than two million pounds sterling (£2,000,000) for any one, or series of related claims that may arise; and
 - (d) Employer Liability Insurance coverage of not less than five million pounds sterling (£5,000,000) for any one, or a series of related claims that may arise.

18 Liability

- 18.1 This clause sets out the Buyer's entire financial liability (including any liability for the acts or omissions of its employees, agents, consultants and sub-contractors) to the Supplier in respect of any breach by the Buyer of the Contract and any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 18.2 Nothing in the Contract limits or excludes the Buyer's liability:
- (a) for death or personal injury resulting from the Buyer's negligence;
 - (b) for any damage or liability incurred by the Supplier as a result of fraud or fraudulent misrepresentation by the Buyer; or
 - (c) for undisputed invoices issued by the Supplier in accordance with clause 20.4.
- 18.3 The Buyer shall not be liable for:
- (a) loss of profits; or
 - (b) loss of business; or
 - (c) loss of contract; or
 - (d) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 18.4 The Buyer's total liability 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 Contract or in respect of any correspondence between the parties (including any competitive process) shall be limited to and shall not exceed £10,000 unless otherwise agreed between the parties.

19 Title and risk

- 19.1 Title and risk in the Goods shall pass to the Buyer on completion of Delivery.

20 Price and payment

- 20.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date the Contract came into existence.

- 20.2 The price of the Goods shall be inclusive of the costs of insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Buyer.
- 20.3 The price of the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Buyer, these charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 20.4 The Supplier may invoice the Buyer after Acceptance. Each invoice shall include such supporting information required by the Buyer to verify the accuracy of the invoice, including but not limited to the relevant Order number.
- 20.5 All prices and costs shall be fixed for the first 12 months of the Contract. Any proposed increase in price thereafter must be justified and agreed by the Buyer at least 30 Business Days before implementation.
- 20.6 The Buyer shall pay correctly rendered invoices within 30 Business Days of receipt of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier.
- 20.7 Despite any delays in payment no prompt payment discount shall be forfeited by the Buyer if the Buyer disputes an invoice or if the Supplier fails to mark the Order number on the Delivery Note, statements, packing notes and all other correspondence.
- 20.8 All amounts payable by the Buyer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time ("**VAT**"). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Buyer, the Buyer shall on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 20.9 If a party fails to make any payment due to the other under the Contract by the due date for payment ("due date"), then the defaulting party shall pay interest on the overdue amount at the rate of 2% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments the defaulting party disputes in good faith.

21 Compliance with applicable Laws

- 21.1 Each party shall, in connection with the performance of its obligations and the exercise of its rights under this agreement, comply with all applicable laws, regulations and codes of practice in force from time to time in any jurisdiction relevant to the performance of this agreement.
- 21.2 Each party shall promptly notify the other if it becomes aware that any term of this agreement or any activity carried out in connection with it may conflict with applicable law or regulation.
- 21.3 Neither party shall require, encourage or condone any act or omission by the other party that would cause that other party to breach applicable law.
- 21.4 The Supplier shall (at no additional cost to the Buyer) at all times carry out and provide the Goods and Services in compliance with all Laws. The Supplier shall maintain such records as are necessary pursuant to such Laws and shall promptly on request make them available for inspection by any relevant authority that is entitled to inspect them and by the Buyer (or its authorised representative). The Supplier shall promptly notify the Buyer if

it becomes aware that any term of the Contract or any activity carried out in connection with it may conflict with any Law.

- 21.5 The Supplier shall neither be relieved of its obligations to supply the Goods and Services in accordance with the terms of the Contract nor be entitled to an increase in the price as the result of any modifications to the Laws.
- 21.6 Without prejudice to the rest of this clause 21, the Supplier shall use all reasonable endeavours to minimise any disruption caused by any changes in applicable Laws.
- 21.7 If the Services contain any element which is notifiable for the purposes of the CDM Regulations then the Supplier shall be the principal contractor under the CDM Regulations in respect of those Services.
- 21.8 Insofar as is applicable to the provision of the Services, the Supplier shall comply with the obligations of a contractor under the CDM Regulations and/or Building Regulations and (where the Supplier is a principal contractor under the CDM Regulations and/or Building Regulations under this Contract) the obligations of a principal contractor under the CDM Regulations and/or Building Regulations as applicable.
- 21.9 Insofar as is applicable to the provision of the Services, the Supplier shall comply with the obligations of a designer under the CDM Regulations and/or Building Regulations and (where the Supplier is a principal designer under the CDM Regulations and/or Building Regulations under this Contract) the obligations of a principal designer under the CDM Regulations and/or Building Regulations as applicable.
- 21.10 Insofar as is applicable to the provision of the Services, the Supplier warrants that it is competent, shall allocate sufficient resources to, and shall comply with, its obligations under the CDM Regulations, Building Regulations and guidance issued by the Health and Safety Executive, the Building Safety Regulator or any other applicable statutory body including in its role as contractor, designer and (unless not appointed as Principal Contractor under this Contract) principal contractor under the CDM Regulations and Building Regulations. If the Supplier is appointed as a principal designer, it further warrants that it is competent to fulfil that role for the purposes of the CDM Regulations, Building Regulations and guidance issued by the Health and Safety Executive, the Building Safety Regulator or any other applicable statutory body and that it will allocate adequate resources to perform its duties in that role.
- 21.11 The Supplier shall promptly notify the Buyer of any health and safety hazards, which may arise in connection with the performance of the Contract. The Buyer shall promptly notify the Supplier of any health and safety hazards that may exist or arise at the Premises and that may affect the Supplier in the performance of the Contract.
- 21.12 While on the Premises, the Supplier shall comply with any health and safety measures implemented by or on behalf of the Buyer in respect of Staff and other persons working on those Premises; including (but not limited to) ensuring all personnel to work on the Premises view the Buyer's estates management health & safety video before commencing work.
- 21.13 Breach of this clause 21 shall be deemed a material breach under clause 32.2(a).

22 Environment

- 22.1 In performing its obligations under the Contract, the Supplier shall meet the requirements of applicable Laws regarding the environment (namely, any air, water and land and any ecosystems or organisms (including humans, animals and plants) supported by those media), energy efficiency, climate change or health and safety ("**Environmental Laws**") including those relating to;
- (a) hazardous substances or waste;

- (b) producer responsibility;
- (c) monitoring, recording and reporting of greenhouse gas emissions and/or energy efficiency;
- (d) natural resources and the abstraction of water;
- (e) deforestation and protected species and habitats;
- (f) accidents, injuries, illnesses and diseases affecting humans; and
- (g) fire safety.

22.2 The Supplier shall monitor its, and to the extent practicable or required by law, its supply chain's compliance with Environmental Laws and if the Supplier becomes aware of any breach in its own operations or those of its suppliers, it shall immediately notify the Buyer in writing.

22.3 Breach of this clause 22 shall be deemed a material breach under clause 32.2(a).

23 Confidential information

23.1 A party ("receiving party") shall keep in strict confidence all technical or commercial know-how, Specifications, inventions, processes or initiatives which are disclosed to the receiving party by the other party ("disclosing party"), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products, its services or the existence of the Contract which the receiving party may obtain. Subject to any express provisions of the Contract, the receiving party shall only disclose such confidential information to those of its employees, agents or subcontractors who need to know the same for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors shall keep such information confidential.

24 Intellectual Property

24.1 All Intellectual Property Rights in any Specifications, instructions, plans, data, drawings, databases, patents, patterns, models, designs or other material:

- (a) provided to the Supplier by the Buyer shall remain the Buyer's property absolutely, subject to any contrary provisions in any agreement entered into by the parties effecting transfer of any such Intellectual Property Rights;
- (b) prepared by or on behalf of the Supplier specifically for the Buyer in the performance of the Contract shall belong to the Buyer; and
- (c) pre-existing at the commencement of the Contract and owned or licensed by the Supplier shall be licensed to the Buyer insofar as it is necessary for the Buyer to exercise its rights under the Contract. Such a license shall be perpetual, worldwide, irrevocable, royalty-free and capable of sub-license on those terms.

25 Data Protection

25.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 25.1 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

- 25.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor. Clause 25.6 sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject.
- 25.3 Without prejudice to the generality of clause 25.1, the Buyer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier and/or lawful collection of the Personal Data by the Supplier on behalf of the Buyer for the duration and purposes of the Contract.
- 25.4 Without prejudice to the generality of clause 25.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:
- (a) process Personal Data only on the Buyer's documented written instructions from time to time unless the Supplier is required by Domestic Law to otherwise process that Personal Data. Where the Supplier is relying on Domestic Law as the basis for processing Personal Data, the Supplier shall promptly notify the Buyer of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits the Supplier from so notifying the Buyer;
 - (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Buyer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
 - (d) promptly comply with any written request from the Buyer requiring the Supplier to delete or return Personal Data and copies thereof to the Buyer on termination of the Contract unless required by Domestic Law to store the Personal Data;
 - (e) not transfer the Personal Data outside the UK unless the prior written consent of the Buyer has been obtained and the following conditions are fulfilled:
 - (i) the Buyer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Buyer with respect to the processing of the Personal Data;
 - (f) notify the Buyer without undue delay on becoming aware of a Personal Data Breach. The Supplier will restore such Personal Data at its own expense;

- (g) notify the Buyer without undue delay if it receives a request from a Data Subject for access to that person's Personal Data;
- (h) at the Supplier's cost, provide the Buyer with full co-operation and assistance in relation to:
 - (i) any request made by a Data Subject to have access to that person's Personal Data; and
 - (ii) ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (i) maintain complete and accurate records and information to demonstrate its compliance with this clause 25.4(a) and allow for audits by the Buyer or the Buyer's designated auditor and immediately inform the Buyer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation; and
- (j) not engage any third party Processor to carry out its processing obligations under the Contract without obtaining the Buyer's prior written consent and, where such consent is given, procuring by way of a written contract that such third party Processor will, at all times during the engagement, be subject to data processing obligations equivalent to those set out in this clause and may upon request provide evidence of the same to the Buyer within three working days.

25.5 The Supplier agrees to indemnify, keep indemnified and defend at its own expense the Buyer against all costs, claims, damages or expenses incurred by the Buyer or for which the Buyer may become liable due to any failure by the Supplier or its employees, subcontractors or agents to comply with any of its obligations under this clause 25.1 and/or the Data Protection Legislation.

25.6 Unless otherwise detailed in the service specification, the following particulars apply:

- (a) Processing by the Supplier:
 - (i) **Scope:** Provision of the services under the Agreement
 - (ii) **Nature of processing:** Collection, recording, organisation, storage, retrieval, use, disclosure, transmission, hosting, support, maintenance and deletion of Personal Data
 - (iii) **Purpose of processing:** To provide, administer and support the services under the Agreement and to comply with applicable legal and regulatory obligations; and
 - (iv) **Duration of processing:** For the duration of the Agreement and any applicable retention period required by law or the Agreement.
- (b) Types of Personal Data:
 - (i) Names, job titles, business contact details, email addresses, telephone numbers, user account information, identification numbers, correspondence and other Personal Data provided in connection with the services.
 - (ii) Categories of Data Subject: Employees, workers, contractors, customers, suppliers, authorised users, students and other individuals whose Personal Data is processed in connection with the services.

26 Competition Law

- 26.1 Each party shall comply with all applicable competition Laws, including (without limitation) the Competition Act 1998, the Enterprise Act 2002, the Digital Markets Competition and Consumers Act 2024, and, where applicable, Articles 101 and 102 of the Treaty on the Functioning of the European Union, and any equivalent legislation in any jurisdiction in which the relevant party operates and any amendment, modification, extension, consolidation, re-enactment or replacement of such legislation from time to time.
- 26.2 Without limiting this clause, neither party shall:
- (a) enter into or participate in any agreement, arrangement or concerted practice that has as its object or effect the restriction, prevention or distortion of competition, including price-fixing, market-sharing or bid-rigging; or
 - (b) engage in any conduct constituting an abuse of a dominant position in any relevant market.
- 26.3 Breach of this clause 26 shall be deemed a material breach under clause 32.2(a). Any obligation to notify the other party in the event of such a material breach shall be subject to any applicable legal or regulatory requirements.

27 Anti-Bribery

- 27.1 For the purposes of this clause, the meaning of "**adequate procedures**," "**foreign public official**," and "**associated persons**" shall be interpreted in accordance with sections 7(2), 6(5), 6(6), and 8 of the UK Bribery Act 2010, along with any guidance issued under section 9 of that Act.
- 27.2 The Supplier shall during the term of the Contract:
- (a) comply with all applicable Laws in force from time to time, relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (the "**Anti-Bribery Laws**");
 - (b) not engage in any conduct, act, or practice that would constitute an offence under sections 1, 2, or 6 of the UK Bribery Act 2010, were such conduct, act, or practice to occur within the United Kingdom;
 - (c) establish, implement, and maintain where possible throughout the term of the Contract its own policies and procedures, including, but not limited to, adequate procedures, to ensure compliance with the Anti-Bribery Laws and the obligations set forth in this clause. The Supplier shall enforce these procedures where appropriate;
 - (d) promptly notify the Buyer in writing if it becomes aware of any breach of clause 27.2(a) or 27.2(b), or has reason to believe that it has received a request or demand for any undue financial or other advantage in connection with the performance of the Contract;
 - (e) immediately notify the Buyer (in writing) if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier and the Supplier warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of the Contract; and
 - (f) if so requested by the Buyer, provide annual written certification, executed by one of its officers, confirming its compliance with this clause, as well as the compliance of all its associated persons.
- 27.3 The Supplier shall ensure that its agents, consultants, contractors, subcontractors and any other persons engaged in performance of the Supplier's obligations under the Contract do so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in

this Clause 27 (the “**Relevant Terms**”). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Buyer for any breach by such persons of any of the Relevant Terms.

27.4 The Supplier warrants and represents that, except as otherwise disclosed in writing prior to the execution of the Contract, neither it nor any of its directors, officers, employees, representatives, or agents has, during the ten (10) years preceding the date of the Contract:

- (a) breached any Anti-Bribery Laws or been subject to any criminal investigation in relation to bribery or corruption; or
- (b) been listed by any government department or agency as being suspended, debarred, otherwise prevented or proposed for suspension or debarment from participating in public procurement programmes or otherwise been excluded from a public procurement procedure within the last five years on grounds relating to bribery, corruption, fraud offences or misconduct.

27.5 Breach of this clause 27 shall be deemed a material breach under clause 32.2(a).

28 Anti-Fraud and General Conduct

28.1 The Supplier shall during the term of the Contract:

- (a) not engage in any activity, practice or conduct which would constitute fraud, including but not limited to a fraud offence under section 199(6) of the Economic Crime and Corporate Transparency Act 2023;
- (b) promptly notify the Buyer (in writing) if it becomes aware of any suspected or actual breach of clause 28(a), or has reason to believe that it has received a request or demand to commit a fraud offence within the meaning of section 199(6) of the Economic Crime and Corporate Transparency Act 2023, in connection with the performance of the Contract;
- (c) establish, maintain and enforce its own policies and procedures including but not limited to reasonable procedures to prevent the commission of fraud and to ensure compliance with clause 28(a);
- (d) if requested, co-operate with and provide reasonable assistance to the Buyer, at the Buyer's reasonable cost, to enable the Buyer to investigate, or respond to any requests from a relevant government department or agency to investigate, an alleged offence under section 199 of the Economic Crime and Corporate Transparency Act 2023;
- (e) Where required, within 3 months of the date of the Contract, and annually thereafter, certify to the Buyer in writing signed by an officer of the Supplier compliance with this Clause 28 by the Supplier. The Supplier shall provide supporting evidence of compliance as the Buyer may reasonably request;
- (f) ensure that any of its agents, consultants, contractors, subcontractors or other persons engaged in performance of the Supplier's obligations under the Contract do so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 28; and
- (g) conduct its business in an ethical manner and shall comply with recognised standards of business integrity and ethical conduct applicable to the Services.

28.2 Breach of this clause 28 shall be deemed a material breach under clause 32.2(a).

29 Tax Evasion

- 29.1 For the purposes of this clause, "**CFA 2017**" refers to the Criminal Finances Act 2017 and any amendment, modification, extension, consolidation, re-enactment or replacement thereof from time to time. The terms "**Prevention Procedures**" and "**Associated**" shall be interpreted in accordance with the provisions of the CFA 2017. '**Party Associated Persons**' means all or any persons associated with a party, involved in the performing of obligations in relation to the Contract. "**Tax Evasion Laws**" refers to any Laws enacted within the United Kingdom from time to time to prevent the facilitation of tax evasion including the CFA 2017.
- 29.2 Neither party shall, nor shall it procure or permit any Party Associated Persons to, engage in any act or omission that would constitute, facilitate, or contribute to the commission of an offence under the Tax Evasion Laws, in connection with the performance of the Contract.
- 29.3 Each party shall, and shall ensure that all Party Associated Persons, implement and maintain adequate prevention procedures designed to prevent any breach of the obligations set forth in this clause 29. Each party shall provide the other party with copies of such procedures upon request and shall promptly notify the other party of any material changes to such procedures as they occur.
- 29.4 Each party represents and warrants to the other that neither it, nor any Party Associated Person, has:
- (a) been subject to any investigation, or charged with any offence, under the Tax Evasion Laws; or
 - (b) received any court orders, warrants, or notices, whether oral or written, from any governmental or prosecuting authority concerning any actual or alleged violation of the Tax Evasion Laws.
- 29.5 Each party shall notify the other party in writing as soon as it becomes aware of any allegations, investigations, evidence, or reports that suggest a breach, or potential breach, of any of the obligations set forth in this clause.
- 29.6 Breach of this clause 29 shall be deemed a material breach under clause 32.2(a).

30 Anti-Slavery and Human Trafficking

- 30.1 The Supplier shall (and shall procure that its subcontractors shall):
- (a) comply with all applicable anti-slavery and human trafficking Laws from time to time in force including the Modern Slavery Act 2015;
 - (b) not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct had been carried out in England or Wales;
 - (c) upon reasonable request, provide written confirmation of its ongoing compliance with the Modern Slavery Act 2015 and shall furnish such additional information as the Buyer may reasonably require in connection with such compliance;
 - (d) Comply with the Supplier Code of Conduct
 - (e) Where required, prepare and deliver to the Buyer, by the agreed date, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.
 - (f) implement due diligence procedures for its subcontractors or any part of its supply chain performing obligations under the Contract to ensure that there is no slavery or human trafficking taking place;

- (g) include in its contracts with its subcontractors anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 30.1(g);
- (h) notify the Buyer in writing as soon as it becomes aware of, or has reasonable grounds to suspect, any actual or potential breach of the obligations set out in this clause 30 by itself or by any of its directors, officers, employees, agents, or representatives. Such notice shall include comprehensive and detailed particulars of the relevant facts and circumstances; and
- (i) maintain a complete set of records to trace the supply chain of all Goods and Services provided to the Buyer in connection with the Contract; and permit the Buyer and its third party representatives to inspect the Supplier's premises, records, and to meet the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause 30.

30.2 The Supplier hereby represents, warrants, and undertakes that neither it, nor any of its directors, officers, employees, shareholders, agents, or representatives:

- (a) has committed any offence under the Modern Slavery Act 2015 (an “**MSA Offence**”);
- (b) has been or received notice that it is the subject of any investigation or proceedings in respect of an alleged MSA Offence; or
- (c) is aware of any matter or circumstance within its supply chain which may reasonably give rise to such an investigation or proceedings.

30.3 Breach of this clause 30 shall be deemed a material breach under clause 32.2(a).

31 Anti-Discrimination

31.1 The Supplier shall, in connection with the performance of its obligations under the Contract, comply with:

- (a) any and all applicable anti-discrimination Laws, including but not limited to the Equality Act 2010 (the “**Anti-Discrimination Legislation**”);
- (b) the Buyer’s Policy Statement on Equality and Diversity as may be amended from time to time (the current version can be found on the Buyer’s website); and
- (c) all other applicable equality and diversity policies of the Buyer as may be amended from time to time, copies of which will be provided by the Buyer to the Supplier.

31.2 The Supplier shall use reasonable endeavours, and inform the Buyer of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation) when performing its obligations under the Contract.

31.3 The Supplier shall provide evidence, on written request, of its compliance with the Anti-Discrimination Legislation in provision of the Services, in order to satisfy the Buyer that the Supplier takes all reasonable steps to promote equality and diversity in provision of the Goods and/or Services.

31.4 The Supplier shall monitor its, and to the extent practicable, its supply chain’s compliance with such legislation and policies and if the Supplier becomes aware of any breach in its own operations or those of its suppliers, it shall immediately notify the Buyer in writing.

31.5 Breach of this clause 31 shall constitute a material breach of the Contract under clause 32.2(a).

32 Termination

32.1 Without limiting its other rights or remedies the Buyer may terminate the Contract:

- (a) in respect of the supply of Services, by giving the Supplier 2 weeks' written notice; and
- (b) in respect of the supply of Goods, at any time before Delivery with immediate effect by giving the Supplier written notice, in which case the Buyer shall pay the Supplier fair and reasonable compensation for work-in-progress at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss. No compensation shall be payable where the Supplier fails to make adequate progress against the Order.

32.2 A party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material or persistent breach of the Contract and (if such breach is remediable) fails to remedy that breach within 7 days of receipt of notice in writing of the breach;
- (b) the other party suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom the foregoing applies;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on, all or substantially the whole of its business;
- (d) the other party's financial position deteriorates to such an extent that in the innocent party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (e) (being an individual) the other party dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

33 Consequences of Termination

33.1 On termination of the Contract for any reason:

- (a) where the Services are terminated, the Supplier shall, subject to any instructions to the contrary from the Buyer, immediately Deliver to the Buyer all Deliverables, whether or not then complete, and return the Articles. If the Supplier fails to do so, then the Buyer may without limiting its other rights or remedies enter the Supplier's premises and take possession of them. Until they have been returned or Delivered, the Supplier shall solely be responsible for their safe keeping and will not use them for any purpose not connected to this Contract;
- (b) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and
- (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

34 Force majeure

- 34.1 Neither party shall be liable to the other for any delay or failure in performing its obligations under the Contract to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable, provided that the Supplier shall use all reasonable endeavours to notify the Buyer of the event without undue delay and cure any such event or circumstances and resume performance under the Contract. If any events or circumstances prevent the Supplier from carrying out its obligations under the Contract for a continuous period of more than 30 Business Days, the Buyer may terminate this Contract immediately by giving written notice to the Supplier.

35 Freedom of Information and Environmental Information Regulations

- 35.1 The Supplier acknowledge that the Buyer is subject to the requirements of the Freedom Of Information Act 2000, (FOIA), and the Environmental Information Regulations 2004 (EIR) and the Supplier agrees to assist and cooperate with the Buyer (at the Supplier's expense) as mandated by the Buyer in relation to these Laws.
- 35.2 Any Requests received by the Supplier shall be forwarded to the Buyer immediately.
- 35.3 The provisions of this clause 35 shall extend to sub-contractors and the Supplier shall ensure compliance with this requirement.

36 Articles on Loan

- 36.1 All Articles loaned by the Buyer to the Supplier in connection with the Contract shall remain always the Buyer's property and shall be surrendered to the Buyer upon demand in good and serviceable condition (fair wear and tear allowed) and are to be used by the Supplier solely for the purpose of completing the Contract.

37 Re-tendering and Handover

- 37.1 Within twenty one (21) days of being so requested by the Buyer, the Supplier shall provide and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Buyer to issue invitations to tender for the future provision of the Goods and Services.
- 37.2 Where, in the opinion of the Buyer, TUPE is likely to apply to the Contract on its termination or expiration, the information to be provided by the Supplier under clause 37.1 shall include, as applicable, accurate information relating to the employees who would be transferred under the same terms of employment under TUPE, including in particular (but not limited to): -
- (a) the number of employees who would be transferred, but with no obligation on the Supplier to specify their names; and
 - (b) in respect of each of those employees, their dates of birth, sex, salary, length of service, hours of work and rates, and any other factors affecting redundancy entitlement, any specific terms applicable to those employees individually and any outstanding claims arising from their employment;
 - (c) the general terms and conditions applicable to those employees, including probationary periods, retirement age, periods of notice, current pay agreements and structures, special pay allowances, working hours, entitlement to annual leave, sick leave, maternity and special leave, injury benefit, redundancy rights, terms of mobility, any loan or leasing agreements, and any other relevant collective agreements, facility time arrangements and additional employment benefits; and

(d) any information required to be given under regulation 11 of TUPE

- 37.3 The Supplier shall indemnify the Buyer and any Replacement Supplier against any claim made against the Buyer at any time by any person in respect of the liability incurred by the Buyer arising from any deficiency or inaccuracy in information, which the Supplier is required to provide under clause 37.1.
- 37.4 The Supplier shall co-operate fully with the Buyer and any Replacement Supplier during the handover arising from the completion or earlier termination of the Contract. This co-operation, during the setting up operations period of the Replacement Supplier (if any), shall extend to allowing full access to, and providing copies of all documents, reports, summaries and other information necessary in order to achieve an effective transition.

38 TUPE

- 38.1 The Supplier shall indemnify and keep indemnified the Buyer and any Replacement Supplier against any loss incurred by the Buyer and/or any Replacement Supplier connected with or arising from any claim or proceedings by any trade union, elected employee representative or staff association made against the Buyer and/or any Replacement Supplier in respect of any or all of the Supplier's staff or employees or any other employee of the Supplier or its sub-contractors and which arises from or is connected with any failure by the Supplier to comply with its legal obligations in relation thereto whether under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, Employment Rights Act 2025 or TUPE.
- 38.2 The Supplier shall indemnify and keep indemnified the Buyer and any Replacement Supplier against any loss incurred by the Buyer connected with or arising from the contract of employment or any policy applicable to, or any collective agreement in respect of any of the Supplier's staff or any other person at any time employed by (or engaged as a consultant by) the Supplier or its sub-contractors made against the Buyer at any time for breach of such contract, policy or redundancy, pay, sex, race or disability discrimination, equal pay, unlawful deductions, loss of earnings, industrial or personal injury or otherwise relating to their employment by the Supplier and which results from any act, fault or omission of the Supplier or such other person was employed by the Supplier, save to the extent that the liability arises from any wrongful act by the Buyer or its employees
- 38.3 Except with the proper written consent of the Buyer, the Supplier shall not vary any terms and conditions of employment of any employee or any policy collective agreement applicable to any employee then assigned by the Supplier or its sub-contractors to the discharge of the Contract (provided always that this provision shall not affect the right of the Supplier to give effect to any pre-existing contractual obligation to any such employee) nor remove or replace any particular employee so assigned (unless requested by such employee or upon the resignation of such employee in which case the Supplier shall replace such person with another person of similar skills, qualifications and experience) after the Buyer has served notice of the termination of the Contract or after the Supplier shall have otherwise become aware of the proposed termination or re-tendering of the Contract or any Contract for the provision by it of the Goods and Services.

39 International matters

- 39.1 This clause shall apply where the Supplier is based outside of the United Kingdom and / or where the Goods and or Services are provided from outside the United Kingdom or where the Buyer (at its sole discretion) elects that the provisions of this clause 39 shall apply to the Contract, but not otherwise.
- 39.2 Subject to clause 39.3, if a dispute arises out of or in connection with the Contract or the performance, validity or enforceability of it (**Dispute**) then the parties shall follow the procedure set out in this clause 39.2:

- (a) either party shall provide to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the parties shall attempt in good faith to resolve the Dispute;
- (b) if the parties are for any reason unable to resolve the Dispute within 14 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute, requesting mediation. A copy of the ADR notice should be sent to CEDR Solve. The parties will arrange for mediation to start as soon as reasonably practicable after the date of the ADR notice. If the mediation secures a settlement, that settlement shall be binding on the parties; and
- (c) the Buyer may elect to join the Dispute to any mediation already underway, or to join other disputes to a mediation concerning this Contract at its absolute discretion.

39.3 If a Dispute concerns clauses 4, 5, 12, 17, 20 or 39.4 to 39.7 then the Buyer may elect (at its sole discretion) to refer the matter to an expert for determination. The expert shall be appointed by agreement, or failing agreement by nomination of the president of the law society of England & Wales. The expert will resolve or settle such Dispute in such matter as he shall in his absolute discretion see fit. The expert shall be requested to reach his decision within thirty (30) days of the matter being referred to him. Any decision of the expert shall be final and binding on the parties. The cost of the expert in settling or determining such matter or dispute shall be borne equally by the Parties unless the expert otherwise determines.

39.4 The Supplier shall bear and pay all taxes, duties, levies and charges assessed on the Supplier, its subcontractors or their employees by all municipal, state or national government authorities in connection with the Contract.

39.5 The Supplier shall bear and promptly pay all customs and export duties as well as other local taxes, imposed by the law of the country where the Supplier is located or as may otherwise apply to the Goods and / or Services.

39.6 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in the country where the Supplier or Buyer are located, the Supplier shall use its best endeavours to enable the Buyer to benefit from any such tax savings to the maximum allowable extent.

39.7 For the purpose of the Contract, it is agreed that the price specified is based on the taxes, duties, levies and charges prevailing at the date twenty-eight (28) days prior to the date of Contract formation. If any rates of tax or duty are increased or decreased, or taxes or duties are introduced or abolished or any change in interpretation or application of any tax or duty occurs in connection with the Contract, which was or will be assessed on the Supplier, subcontractors or their employees, an equitable adjustment of the price shall be made to fully take into account any such change by addition to the price or deduction therefrom, as the case may be.

40 General

40.1 Assignment and subcontracting.

- (a) The Buyer may at any time assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract.
- (b) The Supplier may not assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract without the Buyer's prior written consent.

40.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address or email to the Authorised Officer as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered by hand, or sent by pre-paid first class post or other next working day delivery service, or email.
- (b) Any notice shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address; or
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (iii) if sent by email, at the time of transmission or, if this time falls outside Business Hours, when Business Hours resume.

40.3 Severance.

If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

40.4 Waiver.

A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by Law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

40.5 Third party rights.

Except as set out in the Contract, a person who is not a party to the Contract shall not have any rights under or in connection with it.

40.6 Variation.

Except as set out in the Contract, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the parties.

40.7 Governing law and jurisdiction.

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

Reviewed: September 2026