

VJT TECHNOLOGY

TERMS AND CONDITIONS OF PURCHASE

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1. Definitions:

- 1.1.1. **Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- 1.1.2. **Business Hours:** the period from 9.00 am to 5.00 pm on any Business Day.
- 1.1.3. **Commencement Date:** has the meaning given in clause 2.2.
- 1.1.4. **Completion:** the date specified in the Order as the date for practical completion (as adjusted in accordance with these Conditions).
- 1.1.5. **Conditions:** these terms and conditions as amended from time to time in accordance with clause 19.10.
- 1.1.6. **Confidential Information:** shall mean all information of a secret and confidential nature in whatever form (including without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to a party, its group or their affiliated companies (or any of their suppliers, customers, clients, agents, distributors, shareholders, employees, management or business contacts) (as applicable) including without limitation: information relating to the business, affairs, plans, opportunities and intentions, operations and, confidential Intellectual Property Rights, organisational structure, products, product information and product lists, services, affairs and finances, trade secrets, commercially sensitive information, technical data and know-how, specifications, methods, design, formulae, technology, whether or not such information (if in anything other than oral form) is marked confidential. It shall not include information that is or becomes generally available to the public (other than as a result of its disclosure by the Receiving Party in breach of this agreement) or was available to the Receiving Party on a non-confidential basis before disclosure by the Disclosing Party.
- 1.1.7. **Contract:** the contract between the Customer and the Supplier for the supply of Goods or Services or Goods and Services, comprising the Order and these Conditions.
- 1.1.8. **control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be interpreted accordingly.
- 1.1.9. **Customer:** VJ Technology Limited registered in England and Wales with company number 11254760.
- 1.1.10. **Customer Materials:** has the meaning set out in clause 5.3.10.
- 1.1.11. **Defects Period:** within 6 months following Completion of the Works or as otherwise specified in the Order.
- 1.1.12. **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 (including any Goods as part of any Works) in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
- 1.1.13. **Delivery Date:** the date specified in the Order.
- 1.1.14. **Delivery Location:** the address for delivery of Goods as set out in the Order.
- 1.1.15. **Disclosing Party:** shall have the meaning set out in clause 17.1.
- 1.1.16. **Force Majeure:** means any circumstance not within a party's reasonable control including acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; nuclear, chemical or biological contamination or sonic boom; any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, lockdown; collapse of buildings, fire, explosion or accident; any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party); non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and interruption or failure of utility service.
- 1.1.17. **Goods:** the goods (or any part of them) set out in the Order.
- 1.1.18. **Goods Specification:** any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.
- 1.1.19. **Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- 1.1.20. **KPIs:** shall mean the key performance indicators specified in the Appendix to these Conditions.
- 1.1.21. **Order:** in the Customer's purchase order form, or in the Customer's written acceptance of the Supplier's quotation, or overleaf, as the case may be.
- 1.1.22. **Payment Period:** shall mean the periods for payment of the Goods and/or Services as specified in the Order or in the absence of an Order within 90 days' of receipt of the Supplier's invoice.
- 1.1.23. **Receiving Party:** shall have the meaning set out in clause 17.1.

- 1.1.24. **Services:** the services, including any Deliverables, to be provided by the Supplier under the Contract as may be more particularly set out in the Service Specification and, shall include, where applicable, the Works.
- 1.1.25. **Service Specification:** a description or specification for Services agreed in writing by the Customer and the Supplier.
- 1.1.26. **Standards:** BS 8000-0 2014 (in relation to Works).
- 1.1.27. **Supplier:** the person or firm from whom the Customer purchases the Goods or Services or Goods and Services.
- 1.1.28. **Works:** Services that amount to construction work including without limitation any installation of Goods to be supplied at sites.

1.2. Interpretation:

- 1.2.1. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.2. A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- 1.2.3. Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- 1.2.4. A reference to **writing** or **written** excludes fax but not email.

2. Basis of contract

- 2.1. The Order constitutes an offer by the Customer to purchase Goods or Services or Goods and Services from the Supplier in accordance with these Conditions.
- 2.2. The Order shall be deemed to be accepted on the earlier of:
 - 2.2.1. the Supplier issuing written acceptance of the Order; or
 - 2.2.2. any act by the Supplier consistent with fulfilling the Order, at which point and on which date the Contract shall come into existence ("**Commencement Date**").
- 2.3. These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.4. 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.
- 2.5. The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

3. Supply of Goods

- 3.1. The Supplier shall ensure that the Goods shall:
 - 3.1.1. correspond with their description and any applicable Goods Specification;
 - 3.1.2. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement; where they are manufactured products, be free from defects in design, materials and workmanship; and
 - 3.1.4. comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 3.2. The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.
- 3.3. The Customer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.4. If following such inspection or testing the Customer considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5. The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.

4. Delivery of Goods

- 4.1. The Supplier shall ensure that:
 - 4.1.1. the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - 4.1.2. each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the 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
 - 4.1.3. if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 4.2. The Supplier shall deliver the Goods:
 - 4.2.1. on the Delivery Date;
 - 4.2.2. at the Delivery Location; and
 - 4.2.3. during Business Hours or as instructed by the Customer.
- 4.3. Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.4. If the Supplier:
 - 4.4.1. delivers less than 95% of the quantity of Goods ordered, the Customer may reject the Goods; or
 - 4.4.2. delivers more than 105% of the quantity of Goods ordered, the Customer may at its sole discretion reject the Goods or the excess Goods, and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.
- 4.5. The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are 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 Customer to the remedies set out in clause 6.1.

- 4.6. Title and risk in the Goods shall pass to the Customer on completion of delivery, save where the Goods are supplied as part of Works. Where the Goods are supplied as part of Works, risk and title shall pass on Completion of the Works.
- 5. Supply of Services**
- 5.1. The Supplier shall from the date set out in the Order and for the duration set out in the Order supply the Services to the Customer in accordance with the terms of the Contract.
- 5.2. The Supplier shall meet any performance dates for the Services specified in the Order (including without limitation in respect of Works, the date of Completion) or that the Customer notifies to the Supplier and time is of the essence in relation to any of those performance dates.
- 5.3. In providing the Services, the Supplier shall:
- 5.3.1. co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
- 5.3.2. perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- 5.3.3. in relation to the Works, comply with the Standards;
- 5.3.4. 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 the Contract;
- 5.3.5. ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
- 5.3.6. provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- 5.3.7. 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 Customer, will be free from defects in workmanship, installation and design;
- 5.3.8. obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- 5.3.9. observe all health and safety rules and regulations and any security requirements that apply at any sites at which the Services are performed and where applicable, comply with the Construction (Design and Management) Regulations 2005;
- 5.3.10. hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier ("Customer Materials") in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
- 5.3.11. not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services; and
- 5.3.12. comply with any additional obligations as set out in the Service Specification.
- 5.4. In respect of Works, the parties acknowledge and agree:
- 5.4.1. the Customer shall have the right to be consulted throughout the Works and to input as to whether the Works have been completed in accordance with the Order;
- 5.4.2. Practical completion of the works shall take place when the Customer issues a certificate of practical completion;
- 5.4.3. If there are any disputes regarding the determination of whether the Works have been completed in accordance with the Order, they shall be determined in accordance with clause 19.1.2.
- 6. Customer remedies**
- 6.1. If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, the Customer shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:
- 6.1.1. to terminate the Contract with immediate effect by giving written notice to the Supplier;
- 6.1.2. to refuse to accept any subsequent performance of the Services or delivery of the Goods which the Supplier attempts to make;
- 6.1.3. to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods or services from a third party;
- 6.1.4. to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided or Goods that it has not delivered; and
- 6.1.5. to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates
- 6.2. If the Goods are not delivered by the applicable date, the Customer may, at its option, claim or deduct 5% of the price of the Goods for each week's delay in delivery of the Goods, by way of liquidated damages, until the earlier of delivery of the Goods or termination or abandonment of the Contract by the Customer, up to a maximum of 50% of the total price of the Goods.
- 6.3. If the Services are not performed by the applicable date, the Customer may, at its option, claim or deduct 5% of the price of the Services for each week's delay in performance of the Services, by way of liquidated damages, until the earlier of performance of the Services or termination or abandonment of the Contract by the Customer, up to a maximum of 50% of the total price of the Services.
- 6.4. If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:
- 6.4.1. to terminate the Contract with immediate effect by giving written notice to the Supplier;
- 6.4.2. to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- 6.4.3. to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- 6.4.4. to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- 6.4.5. to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute goods from a third party; and
- 6.4.6. to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 3.1.
- 6.5. If the Supplier has supplied Services that do not comply with the requirements of clause 5.3.5 then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies:
- 6.5.1. to terminate the Contract with immediate effect by giving written notice to the Supplier;
- 6.5.2. to return the Deliverables to the Supplier at the Supplier's own risk and expense;
- 6.5.3. to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
- 6.5.4. where the Services are Works, to require the Supplier to rectify any defects in the Works that the Customer has identified (including without limitation, any defects identified within the Defects Period) by the end of periods specified by the Customer, taking into account any dates for completion of the Works set out in the Order;
- 6.5.5. to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
- 6.5.6. to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute services or deliverables from a third party; and
- 6.5.7. to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to comply with clause 5.3.5.
- 6.6. Without prejudice to the general remedies set out in this clause 6, the Supplier shall in the supply of Goods and/or Services comply with the KPIs. In the event the Supplier fails to comply with the KPIs, the Customer shall have the remedy applicable to such KPI.
- 6.7. These Conditions shall extend to any substituted or remedial services or repaired or replacement goods supplied by the Supplier.
- 6.8. The Customer's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.
- 7. Customer's obligations**
- 7.1. The Customer shall provide such necessary information for the provision of the Services as the Supplier may reasonably request.
- 8. Charges and payment**
- 8.1. The price for the Goods:
- 8.1.1. shall be the price set out in the Order; and
- 8.1.2. shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Customer.
- 8.2. The charges for 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 Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services. The foregoing shall be subject to the following:
- 8.2.1. In the event the Supplier reasonably believes that the scope of the Services have changed, such that the Supplier wishes to charge additional amounts for any such changes ("Changed Services"), it shall prior to performance of any such Changed Services, notify the Customer and discuss with it any additional charges the Supplier wishes to apply ("Additional Charges"). The Customer shall not be liable to pay any additional charges for Changed Services unless it has approved in writing such Changed Services and agreed the Additional Charges in writing, in accordance with this clause;
- 8.2.2. Without prejudice to the Customer's remedies under clause 6, in the event that the Customer believes that any Works have not been completed as per the Order, it shall issue a notice specifying the basis for its determination and its calculation of the value of the Works ("Pay Less Notice"). The Pay Less Notice shall be taken into account in assessing the amounts due at the relevant date for payment set out in the Order and in the production of any final accounts for the Works. For the avoidance of doubt, the Customer shall not be in breach of these Contract (and liable to pay any interest or penalty under these Conditions) in the event it pays less than the charges specified in the Order for the Works where it has issued a Pay Less Notice. Any disputes concerning the relevant Pay Less Notice and/or deductions shall be determined in accordance with clause 19.1.1.
- 8.3. The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.
- 8.4. Unless otherwise agreed in the Order:
- 8.4.1. in respect of the Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery;
- 8.4.2. in respect of Services, the Supplier shall invoice the Customer on completion of the Services and where those Services constitute Works, on Completion of those Works; and in each case, each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant purchase order number.
- 8.5. In consideration of the supply of Goods and/or Services by the Supplier, the Customer shall pay the invoiced amounts within the Payment Period, provided the Supplier has issued a correctly rendered invoice to the Customer in accordance with these Conditions.
- 8.6. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued 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 Customer, the Customer 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 or Services or both, as applicable, at the same time as payment is due for the supply of the Goods or Services.
- 8.7. If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when the base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from the due date until payment.
- 8.8. The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Customer may convert either

- liability at a market rate of exchange for the purpose of set-off. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.
- 9. Intellectual property rights**
- 9.1.** Unless otherwise stated in the Order, Intellectual Property Rights in or arising out of or in connection with the supply of the Goods and/or Services (other than Intellectual Property Rights in any Customer Materials) shall be owned by the Supplier.
- 9.2.** The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding Customer Materials) for the purpose of receiving and using the Services and the Deliverables.
- 9.3.** The Supplier acknowledges that all rights in the Customer Materials are and shall remain the exclusive property of the Customer.
- 10. Indemnity**
- 10.1.** The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with:
- 10.1.1.** any claim made against the Customer 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 Goods and/or Services (excluding the Customer Materials);
- 10.1.2.** any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, the Services or defects in the Goods, as delivered, or the Deliverables, to the extent that the defects in the Goods or Deliverables are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
- 10.1.3.** any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the 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.
- 10.2.** This clause 10 shall survive termination of the Contract.
- 11. Limitation of liability**
- 11.1.** The Customer's entire liability to the Supplier under or in connection with this Contract (whether in contract, tort (including negligence), breach of statutory duty or otherwise) shall not exceed the amount paid by the Customer to the Supplier under this Contract in the 12 months preceding a claim. Notwithstanding the foregoing:
- 11.1.1.** the Customer shall in no event be liable for to the Supplier for loss of business, loss of contracts, loss of savings, loss of revenue or any indirect or consequential losses; and
- 11.1.2.** nothing in this Contract shall limit or exclude the liability of the Customer for death or personal injury, for fraud or fraudulent misrepresentation or any other liability which cannot be limited or excluded by law.
- 12. Insurance**
- 12.1.1.** During the term of the Contract and for a period of 3 years afterwards, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract with a cover of no less than five million (£5,000,000) per event each, and shall produce to the Customer on demand both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- 13. Compliance with relevant laws and policies**
- 13.1.** In performing its obligations under the Contract, the Supplier shall:
- 13.1.1.** comply with all applicable laws, statutes, regulations and codes from time to time in force; and
- 13.1.2.** comply with the Customer's policies.
- 14. Data protection**
- 14.1.** The following definitions apply in this clause 14:
- 14.1.1. Processor, Personal Data, processing:** as defined in the Data Protection Legislation.
- 14.1.2. Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.
- 14.1.3. UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
- 14.2.** Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 14 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 14.3.** Both parties acknowledge and agree that neither party shall act as a Processor on behalf of the other party under or in connection with this Contract. To the extent that either party will process Personal Data on behalf of the other party, the parties shall prior to any such processing, enter into a data processing agreement compliant with the Data Protection Legislation.
- 15. Termination**
- 15.1.** Without affecting any other right or remedy available to it, the Customer may terminate the Contract:
- 15.1.1.** with immediate effect by giving written notice to the Supplier if:
- 15.1.1.1.** there is a change of control of the Supplier; or
- 15.1.1.2.** the Supplier commits a breach of clause 13.1.
- 15.2.** Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 15.2.1.** the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- 15.2.2.** the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 15.2.3.** the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 15.2.4.** the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 16. Consequences of termination**
- 16.1.** On termination of the Contract, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 16.2.** Termination or expiry of the Contract shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 16.3.** Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 17. Confidentiality**
- 17.1.** Each party receiving Confidential Information ("Receiving Party") of the other party ("Disclosing Party") undertakes that it shall not at any time use or disclose to any person any of the Disclosing Party's Confidential Information, except as permitted by this clause 17.
- 17.2.** The Receiving Party may disclose the Disclosing Party's Confidential Information:
- 17.2.1.** to its employees, officers, representatives, contractors, subcontractors or advisers ("Representatives") who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement, provided:
- 17.2.1.1.** they are informed of the confidential nature of the Confidential Information;
- 17.2.1.2.** are bound by equivalent confidentiality obligations to this clause;
- 17.2.1.3.** at all times the Receiving Party remains responsible and liable for its Representatives' failure to comply with this clause.
- 17.2.2.** As may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, provided to the extent legally permissible, it notifies the Disclosing Party of such requirement and takes into account its requests regarding the content of disclosure.
- 17.3.** The Receiving Party shall not use any Disclosing Party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.
- 17.4.** The Receiving Party shall protect the Disclosing Party's Confidential Information in the same manner as it protects its own Confidential Information, which shall be of no less than a reasonable standard of care.
- 18. Force majeure**
- 18.1.1.** Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from Force Majeure. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 14 days, the party not affected may terminate the Contract by giving 7 days' written notice to the affected party.
- 19. General**
- 19.1. Disputes**
- 19.1.1.** In the event there is a dispute concerning the Contract, Goods and/or Services supplied, the parties shall prior to commencing any formal dispute resolution procedure, enter into good faith negotiations to resolve the dispute. In the event the dispute is not resolved within 14 days, either party may commence whatever dispute resolution procedure it wishes, subject to clause 19.1.2.
- 19.1.2.** In the event of any dispute regarding Works the parties shall first attempt to resolve the matter by good faith negotiations in accordance with clause 19.1.1 and failing that may refer the matter to adjudication in accordance with the Scheme for Construction Contracts (England and Wales) Regulations 1998 and in respect of the same, the nominated members shall be the Royal Institute of Chartered Surveyors or their successors.
- 19.2. Assignment and other dealings.**
- 19.2.1.** The Customer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.
- 19.2.2.** The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Customer.
- 19.3. Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.
- 19.4. Notices.**
- 19.4.1.** Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
- 19.4.1.1.** delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- 19.4.1.2.** sent by email to the latest email address provided to the other party.
- 19.4.2.** Any notice shall be deemed to have been received:
- 19.4.2.1.** if delivered by hand, at the time the notice is left at the proper address;
- 19.4.2.2.** 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
- 19.4.2.3.** if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

- 19.4.3. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 19.5. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 19.5 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 19.6. **Waiver.**
- 19.6.1. A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 19.6.2. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 19.7. **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 19.8. **Entire agreement.**
- 19.8.1. The Contract constitutes the entire agreement between the parties.
- 19.8.2. Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 19.9. **Third party rights.**
- 19.9.1. The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 19.9.2. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 19.10. **Variation.** Except as set out in these Conditions, the Customer may vary the Conditions at any time upon written notice to the Supplier (which such notice may be placed on the Customer's website) but no such variation shall have effect on any Orders already placed at the date of service of such notice.
- 19.11. **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 19.12. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

		REMEDY IN THE EVENT OF FAILURE]
Quality	Requirement	Goods / Services to meet the quality standards set out in the Order ("Quality Standards")
	Measurement	Random sampling/auditing of Goods/Services periodically.
	Target	98% of Orders measured must meet the Quality Standards
	Remedy	[INSERT DETAILS OF REMEDY IN THE EVENT OF FAILURE]
Communication and Responsiveness	Requirement	Timeliness and effectiveness of the Supplier's response to Customer enquiries, concerns, or requests for information.
	Measurement	Tracking response times to enquiries through documented communication channels.
	Target	Supplier to acknowledge and respond to enquiries within 24 hours.
	Remedy	[INSERT DETAILS OF REMEDY IN THE EVENT OF FAILURE]
Inventory Management	Requirement	Accuracy of inventory levels provided by the Supplier and availability of Goods and/or Services as per Orders.
	Measurement	Regular audits of inventory levels and comparison against agreed-upon thresholds
	Target	Maintain inventory levels within ±5% of agreed-upon thresholds.
	Remedy	[INSERT]

Appendix – KPIs

On Time	Requirement	Goods and Services to be delivered on or before the Delivery Date in the case of Goods and Performance Dates in the case of Services (together "On Time Performances").
	Measurement	Calculated each calendar month, based on the total number of On Time Performances in that month versus the total number of Orders placed in that month.
	Target	95% of Orders in the calendar month must be On Time Performances.
	Remedy	[INSERT DETAILS OF