

PROCUREMENT CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following words and expressions shall have the following meanings:

Anti-Bribery Laws	means any and all statutes, statutory instruments, by-laws, orders, directives, treaties, decrees and laws which relate to anti-bribery and/or anti-corruption, including the Bribery Act;
Bribery Act	means the Bribery Act 2010;
Business Day	means any and all days from Monday to Friday (inclusive) in any week but excluding English bank holidays or public holidays;
Commencement Date	means the date on which the Contract comes into force, as more particularly defined in Condition 2.3;
Conditions	means the terms and conditions of purchase set out in this document;
Confidential Information	means any commercial information, Protected Data (as defined in Condition 11), or technical information in whatever form which is disclosed (whether before, on or following the date of the Order, and whether in writing or orally) by one party to the other party and which is identified as being confidential at the time of disclosure or which would be regarded as being confidential by a reasonable business person, including, without limitation, all business, statistical, financial, marketing and personnel information, customer or supplier details, know-how, designs, operations, processes, plans, intentions, product information, prices, market opportunities, transactions, affairs, trade secrets or software of the disclosing party and/or its customers, suppliers, or clients;
Contract	means any contract between the Customer and the Supplier for the purchase of the Products by the Customer and/or the receipt of the Services by the Customer as more particularly defined in Condition 2;
Control	means as defined in section 1124 of the Corporation Tax Act 2010;
Customer	means the legal entity so described in the Order which shall include any successors and assignees;
Delivery Address	means the address stated on the Order;
End Customer	means the customer of the Customer, or the relevant member of the Customer Group;
Group	means any and all Parent Undertakings or Subsidiary Undertakings of the Customer and each and any subsidiary of a Parent Undertaking of the Customer. Parent Undertaking and Subsidiary Undertaking shall have the meanings given to them in section 1162 of the Companies Act 2006 and references to the Customer Group shall be construed accordingly;
Intellectual Property Rights	means all intellectual and industrial property rights including patents, know-how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trade marks, rights to prevent passing off for unfair competition, copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions;
ITEPA	means Income Tax (Earnings and Pensions) Act 2003;
Normal Working Hours	means 9.00am to 5.30pm on any Business Day;
Off Payroll Working Rules	means Part 2 Chapter 10 of ITEPA, and the Social Security Contributions (Intermediaries) Regulations 2000 (SI 2000 No 727);
Order	means the Customer's purchase order (whether submitted via a portal, by email, paper form or otherwise) or other document which is placed by the Customer on the Supplier and to which these Conditions apply;
Price	means the price payable for the Products and/or Services as specified on the Order;
Personal Resource	means an individual who is involved in the performance of the Services through an intermediary (the Supplier, a subcontractor to the Supplier, or any similar entity in the Supplier's supply chain) and such intermediary satisfies one of the conditions A to and including C of the Off Payroll Working Rules;
Products	means the products (including any instalment of the products or any part of them) specified on the Order to be supplied to the Customer by the Supplier;
Services	means the services (if any) which the Customer receives from the Supplier and which are specified on the Order;
Service Point	means (if applicable) the place at which the Services are to be performed as specified on the Order;
Service Recipient	means the Customer, the relevant member of the Customer Group, or the End Customer as applicable;
Specification	means those plans, drawings, data, requirements or other information as specified on the Order and with which the Products and/or Services are required to comply;
Supplier	means the person or legal entity so described on the Order; and
Value Added Tax or VAT	means value added tax as defined in the Value Added Tax Act 1994.

1.2 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

1.3 a reference to a statute or statutory provision is a reference to such statute or statutory 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;

1.4 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; and

1.5 any reference to writing or written excludes fax and email.

2. BASIS OF PURCHASE

- 2.1 These Conditions shall apply to all Contracts for the purchase of Products and/or Services by the Customer to the exclusion of all other terms and conditions including any terms or conditions referred to at any website or which the Supplier may purport to apply under any quotation, sales offer, acknowledgement of order, delivery note, invoice or similar document.
- 2.2 The Order constitutes an offer by the Customer to purchase Products and/or Services from the Supplier in accordance with these Conditions.
- 2.3 The Order shall be deemed to be accepted upon the earlier of:
 - 2.3.1 the Supplier signing the Order; or
 - 2.3.2 any act by the Supplier which is consistent with fulfilling the Order, at which point a Contract shall come into existence (the **Commencement Date**).
- 2.4 In the event of any conflict or inconsistency between the documents which constitute the Contract, the following descending order of precedence shall apply:
 - 2.4.1 the Order (excluding any documents referred to on the Order);
 - 2.4.2 these Conditions; and
 - 2.4.3 any other documents referred to on the Order.

3. THE PRODUCTS AND/OR SERVICES

- 3.1 The Supplier shall ensure that the quantity, quality and description of the Products and/or Services shall be as specified in the Contract. Precise conformity of the Products and/or Services with the Contract is of the essence and any breach of this Condition by the Supplier may be deemed by the Customer (in its absolute discretion) to be a material breach which is not capable of remedy for the purposes of Condition 9.
- 3.2 Any specification supplied by the Customer to the Supplier, or specifically produced by the Supplier for the Customer, in connection with the Contract (including the Specification), together with all Intellectual Property Rights in it, shall be the exclusive property of the Customer and/or the relevant member of the Customer Group and to the extent that any such rights vest in the Supplier shall be deemed to be and will be assigned to the Customer or the relevant member of the Customer Group. The Supplier shall not disclose to any third party or use any such Specification except as required for the performance of the Supplier's obligations under the Contract. Any Intellectual Property Rights belonging to, licensed to or supplied by the Customer or any member of the Customer Group to the Supplier shall be used by the Supplier only for the supply of the Products or Services to the Customer or any member of the Customer Group and in accordance with the instructions of the Customer or any member of the Customer Group.
- 3.3 The Supplier assigns to the Customer (with full title guarantee) all Intellectual Property Rights in any invention, idea, discovery, development, improvement or innovation made by the Supplier in the provision of the Products and/or Services, whether or not patentable or capable of registration, and whether or not recorded in any medium, as well as all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software, and all other materials in whatever form, including but not limited to hard copy and electronic form, prepared and/or developed by the Supplier (including without limitation its directors, employees and contractors) in the provision of the Products and/or Services (as well as all such materials embodying such rights) to the extent permissible under applicable law. Insofar as the Intellectual Property Rights do not so vest automatically by operation of law or under the Contract, the Supplier holds legal title in such Intellectual Property Rights on trust for the Customer. The Supplier warrants, represents and undertakes that it has procured the waiver by any directors, employees, agents, contractors or other personnel used in the provision of the Products and/or Services of any moral rights in any Intellectual Property Rights to be assigned pursuant to this Condition 3.3 to which they are now or may at any future time be entitled under Chapter IV of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction, including (but without limitation) the right to be identified, the right of integrity and the right against false attribution. The Supplier also warrants, represents and undertakes to the Customer that such directors, employees, agents, contractors and other personnel have agreed not to institute, support, maintain or permit any action or claim to the effect that any treatment, exploitation or use of such Intellectual Property Rights or related materials, infringes their moral rights.
- 3.4 The Supplier shall comply with all applicable standards, regulations and laws concerning the manufacture, packaging and delivery of the Products and the provision of the Services.
- 3.5 The Customer will have the right to inspect and test the Products during manufacture, processing or storage at the premises of the Supplier or any third party prior to despatch, and the Supplier shall provide the Customer with all facilities reasonably required for inspection and testing.
- 3.6 If as a result of inspection or testing the Customer is not satisfied that the Products will comply in all aspects with the Contract, and the Customer so informs the Supplier within 7 days of inspection or testing, the Supplier shall take, at the Supplier's cost, all such steps as are necessary to ensure compliance. Notwithstanding any such inspection or testing, the Supplier will remain fully responsible for the Products and any such inspection or testing will not diminish or otherwise affect the Supplier's obligations under the Contract.
- 3.7 The Customer may at any time make changes in writing relating to the Order including changes to any Specifications, methods of shipment, quantities, packing or time or place of delivery. If such changes result in an increase in cost of, or time required for, performance of the Contract an equitable adjustment will be made to the Price, delivery schedule or both. Any such claim or adjustment must be approved by the Customer in writing before the Supplier proceeds with such changes.
- 3.8 In respect of the Products and Services, the Supplier will maintain and observe quality control and supplier quality assurance standards in accordance with the requirements of the Customer and statutory and regulatory bodies.
- 3.9 Where applicable, the Supplier shall maintain detailed quality control and manufacturing records for the period of six (6) years from the date of supply of Products and/or performance of Services.
- 3.10 The Products shall be marked in accordance with the instructions of the Customer and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition.
- 3.11 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 Products and Services.
- 3.12 The Supplier shall observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer Group's premises; and
- 3.13 The Supplier shall not do or omit to do anything which may cause the Customer or any member of the Customer Group 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 and any member of the Customer Group may rely or act on the Services.
- 3.14 The Supplier shall from the date of acceptance of the Order and continuing for a period of 6 years (or such longer period as may be specified in the Order) from the date of last supply of the Products or Services in the Order (or if later any connected Order),

on reasonable prior notice, during the Supplier's normal business hours, afford the Customer, its customers, or its or their appointed representatives such access to the Supplier's records and premises as may be required to confirm the Supplier's compliance with the Order (including these Conditions).

4. PRICE OF THE PRODUCTS AND/OR SERVICES

- 4.1 The Price shall be:
- 4.1.1 exclusive of any applicable VAT (which shall be payable by the Customer at the appropriate rate subject to receipt of a VAT invoice); and
 - 4.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Products to the Delivery Address and any taxes, duties, imposts or levies other than VAT;
 - 4.1.3 inclusive of all royalties, licence fees or similar charges levied against or by the Supplier in respect of the making, use or exercise by the Supplier of any invention or design for the purpose of fulfilling the Contract; and
 - 4.1.4 inclusive of providing all documents, manuals, working instructions, reports and any information in the form and format which the Customer considers necessary.
- 4.2 If the Customer is required by any relevant authority or applicable law to pay withholding tax or make any deduction in relation to the price of any Items, the Customer will be entitled to deduct such sums and pay the Supplier the price net of the required withholding or deduction.
- 4.3 No increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Customer in writing.
- 4.4 The Customer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier.
- 4.5 The Customer may at any time benchmark the Supplier's pricing against the prices for similar goods or services on the open market. The Supplier shall provide all co-operation necessary and provide access to all records and premises necessary for the bench-marker to perform the benchmark. In the event that the results of the benchmark find that the Supplier's Price is higher than that available on the open market, the Supplier shall lower the Price to the lowest price for the goods or services identified by the bench-marker as available on the open market.

5. TERMS OF PAYMENT

- 5.1 Subject to the Supplier performing its obligations in accordance with the terms of the Contract, the Customer shall pay the Price to the Supplier in accordance with this Condition 5.
- 5.2 The Supplier shall be entitled to invoice the Customer for the Price of the Products following either the acceptance of the Products by the Customer or completion of the Services to the Customer's satisfaction (as applicable) in accordance with Condition 6.6.
- 5.3 Each invoice shall be a valid VAT invoice, and shall be sent on the date it is rendered and contain the following information:
- 5.3.1 the date of the invoice;
 - 5.3.2 the purchase order number;
 - 5.3.3 a description and quantity of the Products and/or Services to which the invoice relates;
 - 5.3.4 contain such other information as the Customer may reasonably request; and
- shall be sent to the Customer at Accounts Payable, at the address stipulated in the Order for delivery of invoices or such other address as notified by the Customer from time to time.
- 5.4 Subject to Condition 5.5, and unless otherwise stated in the Order, the Customer shall pay the Price of the Products and/or the Services within 60 days after the end of the month of receipt by the Customer of a valid invoice.
- 5.5 All invoices must be received within 180 days of delivery of the Products or Services to which such invoice relates, after which time the Customer will have no liability to the Supplier to pay such late invoice.
- 5.6 The Customer may retain or set off any amount owed to it by the Supplier against any amount due to the Supplier whether such liability is present or future, liquidated or unliquidated, whether or not such liability arises under this Contract.
- 5.7 Subject to Condition 5.5, but without prejudice to any other rights and remedies of the Customer, if any sum payable under the Contract is not paid on or before the due date for payment the Supplier shall be entitled to charge the Customer simple interest on that sum at three percent (3%) per annum above the base lending rate from time to time of Royal Bank of Scotland plc from the due date until the date of payment (whether before or after judgment). The parties agree that this Condition 5.7 is a substantial remedy for late payment of any sum payable under the Contract, for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998. The Supplier's right to charge the interest as set out in this Condition 5.7 is its sole and exclusive remedy for any late payment by the Customer.
- 5.8 No payment made by the Customer shall constitute acceptance by the Customer of the Products or Services or otherwise prejudice any rights or remedies which the Customer may have against the Supplier including the right to recover any amount overpaid or wrongfully paid to the Supplier.

6. DELIVERY OF THE PRODUCTS AND/OR SERVICES

- 6.1 The Products shall be delivered to the Delivery Address and any Services shall be performed at the Service Point on the date (or within the period stated in the Order) and during Normal Working Hours. The Supplier will off-load the Products at its own risk as directed by the Customer.
- 6.2 Where the date of delivery of the Products, or of performance of the Services is to be specified after the placing of Order, the Customer shall give the Supplier reasonable notice of the specified date.
- 6.3 Subject to 6.2, the time of delivery of the Products and of performance of the Services is of the essence.
- 6.4 A packing note quoting the number of the Order must accompany each delivery or consignment of the Products and must be displayed prominently.
- 6.5 If the Products are to be delivered, or the Services are to be performed in instalments, and if the Supplier fails to deliver or perform any instalment or stage by the time required by the Order, the Customer shall have the right (but not the obligation) to treat the entire Contract as repudiated or to reject any or all subsequent instalments due under the Contract.
- 6.6 The Customer shall be entitled to reject any Products delivered and/or Services performed if they are not fully in accordance with the Contract. Acceptance of Products and Services shall only occur upon written confirmation from the Customer that the Products and Services are fully in accordance with the Contract.

- 6.7 Products rejected under Condition 6.6 above shall be removed by the Supplier at its own risk and expense within six (6) Business Days from the date of the receipt of notice in writing that the Products have been rejected and if the Supplier fails to remove them within the period (or such other period as the Customer shall agree in writing with the Supplier), the Customer may: (i) return the rejected Products or any of them at the Supplier's risk and the cost of carriage shall be recoverable from the Supplier, or (ii) If such Products cannot be returned to the Supplier, the Customer shall be entitled to destroy the Products, and recover from the Supplier its reasonable costs (including any agent's costs) of such destruction. The Supplier shall not be entitled to the Price for any Products disposed of in accordance with this Condition 6.7.
- 6.8 The Supplier shall, within five (5) Business Days of the date of the notice of rejection, repair, replace or re-perform (as applicable), at its own cost the non-conforming Products or Services, and re-present the same for acceptance by the Customer.
- 6.9 The Customer shall not be obliged to return to the Supplier any packaging or packing materials for the Products, whether or not the Products are accepted by the Customer.
- 6.10 If the Products are not delivered and/or the Services are not performed by the date required on the Order, without prejudice to any other remedy, the Customer shall be entitled to deduct from the price the amount(s) set out on the Order by way of liquidated damages for delay (and not as a penalty).

7. RISK AND PROPERTY

- 7.1 Risk of damage to, or loss of, the Products shall pass to the Customer upon acceptance of the Products by the Customer.
- 7.2 The title in the Products shall pass to the Customer upon delivery in accordance with Condition 6.1, unless payment for the Products is made prior to delivery, in such case it shall pass to the Customer once payment has been made.

8. WARRANTIES, INDEMNITY AND LIABILITY

- 8.1 The Supplier warrants and represents to the Customer and all members of the Customer Group that the Products shall:
- 8.1.1 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 at any time on or before the Contract is formed;
- 8.1.2 be free from defects in design, material and workmanship and remain so for a period of 24 months;
- 8.1.3 correspond with any description of the Products provided by the Supplier prior to the Order;
- 8.1.4 comply with all requirements of the Contract (including the Specification) and any sample provided to the Customer and/or any member of the Customer Group;
- 8.1.5 comply with all statutory requirements and regulations relating to the Products and their supply or performance including without limitation the Consumer Protection Act 1987;
- 8.1.6 be so formulated, designed, constructed, finished and packaged as to be safe and without risk to health;
- 8.1.7 not themselves infringe or their importation, use or resale infringe the Intellectual Property Rights of any other person; and
- 8.1.8 (in the case of any documentation provided with the Products) be accurate, complete and free from material errors and omissions.
- 8.2 The Supplier warrants and represents to the Customer and all members of the Customer Group that the Services shall:
- 8.2.1 be performed with the best standard of care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- 8.2.2 be performed by appropriately qualified, trained and experienced personnel;
- 8.2.3 comply with all requirements of the Contract (including the Specification);
- 8.2.4 (in the case of any documentation provided with the Services) be accurate, complete and free from material errors and omissions; and
- 8.2.5 not themselves infringe, or their use or resale infringe, the Intellectual Property Rights of any other person.
- 8.3 The Supplier warrants and represents to the Customer and all members of the Customer Group that:
- 8.3.1 it has or will, at the time of transfer, have full and unrestricted rights to supply the Products on these Conditions;
- 8.3.2 it will comply with all of the Customer's policies (as notified to the Supplier), and all rules and regulations relating to the Supplier's personnel visiting the Customer's or any third party premises ;
- 8.3.3 it will notify the Customer in advance if the delivery of the Products would result in the Customer being deemed a 'Producer' under the Waste Electrical and Electronic Equipment (WEEE) Regulations;
- 8.3.4 no Products will, directly or indirectly, be purchased from or provided from or by, nor will any of the charges or Price received under the Contract, directly or indirectly, be used or paid for the purposes of any transaction related to:
- 8.3.4.1 any company or corporation resident or incorporated in a country which is the subject of embargoes or sanctions by any of the United Nations, the European Union, Her Majesty's Treasury, any European Union member state or any United States government entity; or
- 8.3.4.2 any country which is the subject of embargoes or sanctions by any of the United Nations, the European Union, Her Majesty's Treasury or any United States government department.
- 8.4 The warranties in Condition 8 are in addition to any other warranties or guarantees contained in the Order or implied by law or provided by the Supplier or any third party.
- 8.5 Without prejudice to the other rights or remedies of the Customer and/or any member of the Customer Group (whether express or implied), in the event that the Supplier breaches any of the terms of this Contract (including a failure or delay in delivery) or in the event that the Customer terminates the Contract for any other reason in accordance with Condition 9, then the Customer or the relevant member of the Customer Group may, but will not be obliged to, (whether or not the Products have been accepted) do one or more of the following:
- 8.5.1 cancel any or all remaining instalments or stages if the Contract has not already been terminated;
- 8.5.2 refuse to accept any subsequent delivery of the Products and/or performance of the Services which the Supplier attempts to make;
- 8.5.3 recover from the Supplier any additional expenditure reasonably incurred by the Customer and/or any member of the Customer Group in obtaining the Products and/or Services from a substitute supplier;
- 8.5.4 claim damages for any additional costs, losses or expenses incurred by the Customer and/or any member of the Customer Group which are in any way attributable to the Supplier's breach of the Contract; and/or
- 8.5.5 oblige the Supplier (at the option of) to repair or replace any Products or re-perform any Services free of charge. If it is necessary to open up or dismantle any other works or assemblies to permit such repair or replacement then the Supplier shall bear the cost of such opening up or dismantling and of re-assembly and making good after repairs, replacements and testing of such Products have been completed to the Customer's reasonable satisfaction.

- 8.6 The Supplier shall indemnify keep indemnified and hold harmless each member of the Customer Group from and against all costs (including the cost of enforcement), expenses, liabilities, injuries, direct, indirect or consequential loss (all three of which include without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and legal costs (on a full indemnity basis) and judgments which the Customer and/or any member of the Customer Group incurs or suffers arising as a consequence of any act, omission, breach of this Contract or negligence by the Supplier, its employees, agents, officers and sub-contractors.
- 8.7 The Supplier shall effect and maintain insurance with a reputable insurer against all insurable risks for which the Supplier is liable under this Contract. Satisfactory evidence of such insurance and payment of the current premiums shall be shown to the Customer on request.
- 8.8 Neither party excludes or limits its liability (if any) to the other:
- 8.8.1 for breach of its obligations arising under section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
 - 8.8.2 for personal injury or death caused by its negligence or by a person for whom it is vicariously liable;
 - 8.8.3 fraud or fraudulent misrepresentation;
 - 8.8.4 for a deliberate, personal repudiatory breach by that party;
 - 8.8.5 for any breach of Condition 16.3 of these Conditions;
 - 8.8.6 for liability under any indemnity set out in these Conditions; or
 - 8.8.7 for any matter for which liability may not be limited or excluded by law.
- 8.9 Subject to Condition 8.8, the Customer's and the Customer Group's maximum aggregate liability under or in connection with this Contract in respect of liability for breach of contract, misrepresentation (whether tortious or statutory), tort (including without limitation negligence), breach of statutory duty or otherwise shall be limited to 100% of the Price payable under the Contract.
- 8.10 Subject to Condition 8.8, the Supplier's aggregate liability under or in connection with this Contract in respect of liability for breach of contract, misrepresentation (whether tortious or statutory), tort (including negligence) and breach of statutory duty to the Customer Group shall be limited to the greater of: 150% of the prices payable under all Contracts which are in force at the date of the relevant claim; or £5 million.
- 8.11 Subject to Condition 8.8, the Customer and/or the Customer Group shall not under or in connection with this Contract and whether in contract, tort (including without limitation negligence), misrepresentation (whether tortious or statutory), breach of statutory duty or otherwise have any liability to the Supplier for any loss of profit, loss of business, loss of revenue or any special, indirect or consequential loss.

9. TERMINATION

- 9.1 Without prejudice to any other rights and remedies of the Customer, the Customer shall be entitled to terminate the Contract immediately without liability to the Supplier by giving notice to the Supplier at any time if:
- 9.1.1 the Supplier is in material breach of any term of the Contract. Failure to deliver Products or perform any Services on the due date in accordance with Condition 6.3 shall be an example of a material breach of the Contract; or
 - 9.1.2 the Supplier becomes subject to any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being a company) becomes subject to any administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction) or the equivalent of any of the above occurs to the Supplier in another jurisdiction to which the Supplier is subject;
 - 9.1.3 an encumbrancer takes possession of, or a receiver is appointed over, any of the property or assets of the Supplier; or
 - 9.1.4 the Supplier undergoes a change of Control following the Commencement Date.
- 9.2 Where the Customer intends to continue to procure or provide services which are the same or similar to any or all of the Services, after termination or expiry of the Contract, either by performing them itself, or by the appointment of a replacement contractor, the Supplier shall ensure that the transition is undertaken with the minimum of disruption to the Customer.
- 9.3 The Supplier shall co-operate fully during the transition period and provide full access to all data, documents, manuals, working instructions, reports and any information, whether held in electronic or written form, which the Customer considers necessary.
- 9.4 Without prejudice to any other rights and remedies of the Customer, the Customer may terminate the Contract in whole or in part at any time, by giving 7 (seven) days' written notice to the Supplier.
- 9.5 On termination of the Contract, for whatever reason, if the Customer has paid in advance for Services and/or Products which, at the time of termination it has not received, the Supplier shall immediately repay to the Customer any advance payments made to the Supplier by the Customer or the relevant member of the Customer Group.
- 9.6 On termination of the Contract for any reason, the Supplier shall immediately deliver to the Customer all Products whether or not then complete, and return any materials which have been provided by the Customer and shall cease use of or processing and permanently erase all of the Customer's personal data and copies thereof. 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 this Contract.

10. SOFTWARE

- 10.1 In the event that the Products and/or Services comprise of any software and/or where any software is incidental to the provision of any Products and/or Services to the Customer, the Supplier grants the Customer and the Customer Group a perpetual, worldwide, royalty free, transferable and irrevocable licence to sublicense, use, copy, translate and modify such software and any related documentation (including without limitation any user manual or functional specification) provided to it.
- 10.2 The licence granted by the Supplier pursuant to Condition 10.1 shall permit use of the software by an unlimited number and type of users and shall be granted without restriction upon the number and type of physical locations or addresses at which the software may be installed, used, stored and/or processed and without restriction upon the number and type of central processing units and/or other hardware and/or systems upon which the software may be installed, used, stored and/or processed.

11. DATA PROTECTION

- 11.1 In this Condition, unless the context otherwise requires, the following definitions shall apply:

Applicable Law means:

- (a) any law, statute, regulation, bylaw or subordinate legislation in force from time to time to which a party is subject and/or in any jurisdiction that the Services and/or Products are provided to or in respect of;
- (b) the common law and laws of equity as applicable to the parties from time to time;
- (c) any binding court order, judgment or decree;
- (d) any applicable industry code, policy or standard; or
- (e) any applicable direction, policy, rule or order that is binding on a party and that is made or given by any regulatory body having jurisdiction over a party or any of that party's assets, resources or business;

Complaint means a complaint or request relating to either party's obligations under Data Protection Laws relevant to these Conditions and the Contracts, including any compensation claim from a Data Subject or any notice, investigation or other action from a Supervisory Authority;

Data Client means, in relation to any Protected Data, Customer and/or the applicable member of Customer's Group;

Data Protection Laws all Applicable Laws relating to data protection, the processing of personal data and privacy, including without limitation:

- (a) the Data Protection Act 2018;
- (b) UK GDPR; and
- (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications);

and references to **Data Controller, Data Processor, Data Subjects, Personal Data, Process, Processed, Processing, Processor** and **Supervisory Authority** have the meanings set out in such Data Protection Laws ;

Data Protection Losses means all liabilities, damage suffered and amounts payable by Customer, the relevant Data Clients, the relevant Data Controller(s), any Data Processor(s) and/or any sub-processor(s), including but not limited to all:

- (a) costs (including legal costs), claims, demands, actions, settlements, interest, charges, procedures, expenses, losses, settlements and damages (including relating to material or non-material damage);
- (b) loss or damage to reputation, brand or goodwill;
- (c) to the extent permitted by Applicable Law:
 - (i) administrative fines, penalties, sanctions, liabilities or other remedies imposed by a Supervisory Authority;
 - (ii) compensation paid to a Data Subject (including compensation to protect goodwill and ex gratia payments); and
 - (iii) costs of compliance with investigations by a Supervisory Authority; and
- (d) the costs of loading data, to the extent the same are lost, damaged or destroyed, and any loss or corruption of data (including the costs of rectification or restoration of data);

Data Security Incident

- (a) a breach of security leading to the accidental or unlawful destruction, loss, alteration, damage, unauthorised disclosure of, or access to, Protected Data transmitted, stored or otherwise Processed;
- (b) a discovery or reasonable suspicion that there is a vulnerability in any technological measure used to protect any Protected Data that has previously been subject to a breach within the scope of paragraph (a), which may result in exploitation or exposure of that Protected Data; or

- (c) any defect or vulnerability with the potential to impact the ongoing resilience, security and/or integrity of systems Processing Protected Data;
- Data Subject Request** means a request made by a Data Subject to exercise any rights of Data Subjects under Data Protection Laws;
- Data Transfer Risk Assessment** means a risk assessment which sets out details of the following:
- (a) the Personal Data that will be transferred;
- (b) the country or countries to which it will be transferred;
- (c) the means by which the Supplier will ensure an appropriate level of protection and appropriate safeguards in respect of the Personal Data that will be transferred as a result of the International Transfer so as to ensure Customer's or the relevant Data Client's compliance with the Data Protection Laws; and
- (d) in providing and evaluating the risk assessment, the Supplier shall ensure that it has regard to the Data Protection Laws in connection with transfers of Personal Data to any territory located outside of the European Economic Area.
- International Transfer** a transfer to a country outside of the United Kingdom or European Economic Area (as it is made up from time to time) of Personal Data which is undergoing Processing or which is intended to be Processed after transfer;
- Personnel** means in respect of a party to this these Conditions and the Contracts, that party's employees, officers, agents, authorised representatives and those of its subcontractors;
- Protected Data** Personal Data which is to be Processed under these Conditions and the Contracts, as more particularly described in the Annex to these Conditions;
- Protective Measures** means;
- (a) the pseudonymising and encrypting Protected Data,
- (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services,
- (c) the ability to restore the availability and access to Protected Data in a timely manner in the event of a physical or technical incident; and
- (d) regularly testing, assessing and evaluating the effectiveness of such measures adopted by it to ensure security of processing;
- Supplier Controller Data** has the meaning given in Condition 11.7;
- Sub-Processor** means any third party appointed by the Supplier in accordance with these Conditions and the Contracts, to Process Protected Data; and
- UK GDPR** United Kingdom General Data Protection Regulation, Retained Regulation (EU) 2016/679.
- 11.2 The parties acknowledge and agree that, for the Protected Data, Customer or the relevant Data Client shall be the Data Controller, Data Processor or sub-processor (as applicable) and the Supplier shall be the Data Processor or sub-processor (as applicable). Where the Supplier Processes any Personal Data provided to it by or on behalf of a Data Client, the relevant Data Client shall be the Controller, Data Processor or sub-processor (as applicable) of the Personal Data that it provides to the Supplier and such Data Client shall have the same rights that Customer has under these Conditions and/or the applicable Contracts.
- 11.3 The Supplier is authorised to Process the Protected Data during the term of the applicable Contract as a Data Processor solely for the purpose and to the extent described in the Annex to these Conditions.
- 11.4 In performing its obligations under these Conditions and/or the applicable Contracts, the Supplier shall:
- 11.4.1 comply with all Data Protection Laws;
- 11.4.2 not cause Customer, the relevant Data Client, the relevant Data Controller(s), the relevant Data Processors and/or relevant sub-processors to breach any obligation under the Data Protection Laws;
- 11.4.3 (without prejudice to Condition 11.8.2) notify Customer, the relevant Data Client, the relevant Data Controller(s), the relevant Data Processors and relevant sub-processors without undue delay if it identifies any areas of actual or potential non-compliance with the Data Protection Laws or these Conditions and/or the Contracts, without prejudice to its obligations to comply with, or to any rights or remedies which Customer, the relevant Data Client the relevant Data Controller(s), the relevant Data Processors and/or relevant sub-processors may have for breach of, the Data Protection Laws and/or these Conditions and/or the Contracts.
- 11.5 Neither the Supplier nor its agents nor subcontractors shall acquire any rights in or to any Personal Data.

- 11.6 Unless specified to the contrary in the Annex to these Conditions including details of the relevant Supplier Controller Data (as defined below) and scope of Data Controller Processing, the parties do not anticipate that the Supplier shall act as a Data Controller under these Conditions and/or the Contracts. To the extent that (i) the Supplier is deemed to act as a Controller (notwithstanding the foregoing anticipated status) by a court or supervisory authority with relevant jurisdiction; or (ii) the Annex to these Conditions has been so completed, Condition 11.7 shall apply in addition to the other provisions of these Conditions and/or the Contracts.
- 11.7 To the extent that the Supplier acts as a Data Controller in respect of any Personal Data shared by the Supplier to Customer or the relevant Data Client or generated in the performance of its obligations under these Conditions and/or the Contracts (**Supplier Controller Data**), the Supplier shall:
- 11.7.1 ensure it is not subject to any prohibition or restriction which would:
- 11.7.1.1 prevent or restrict it from disclosing or transferring the Personal Data to Customer or the relevant Data Client, as required under these Conditions and/or the Contracts; or
- 11.7.1.2 prevent or restrict Customer or the relevant Data Client from Processing the Personal Data as contemplated under these Conditions and/or the Contracts;
- 11.7.2 in relation to Personal Data which the Supplier has collected and subsequently transferred to Customer or the relevant Data Client, ensure that all fair processing notices have been given (and/or as applicable, consents obtained from Data Subjects) and are sufficient in scope to enable Customer or the relevant Data Client to Process the Personal Data as required in order to obtain the benefit of its rights and to fulfil its obligations under these Conditions and/or the Contracts in accordance with the Data Protection Laws;
- 11.7.3 only use the Supplier Controller Data during the term of the Contract for the purposes of performing these Conditions and/or the applicable Contract; and
- 11.7.4 undertake any privacy impact assessments that are required by the Data Protection Laws (and, where required by the Data Protection Laws, it shall consult with the ICO in respect of any such privacy impact assessments).
- 11.8 The Supplier represents and warrants that it will:
- 11.8.1 Process the Protected Data only on documented instructions from Customer or the relevant Data Client (as applicable) (unless the Supplier or the relevant Sub-Processor is required to Process Protected Data to comply with the Applicable Laws of the United Kingdom, in which case the Supplier will notify Customer or the relevant Data Client of such legal requirement prior to such Processing unless such Applicable Laws prohibit notice to Customer on public interest grounds);
- 11.8.2 immediately inform Customer or the relevant Data Client in writing if, in its reasonable opinion, any instruction received from Customer or the relevant Data Client infringes any Data Protection Laws;
- 11.8.3 ensure that any individual authorised to Process Protected Data accesses such Protected Data strictly on a need to know basis as necessary to perform their obligations under these Conditions and/or the Contracts, and:
- 11.8.3.1 complies with this Condition 11 and/or the Contracts;
- 11.8.3.2 treats the Protected Data as confidential, and is under an obligation of confidentiality no less onerous than that imposed on the Supplier under these Conditions;
- 11.8.3.3 is appropriately reliable, qualified and trained in relation to their Processing of Personal Data;
- 11.8.3.4 access to such Protected Data is limited to only such parts of the Protected Data as are strictly necessary for the performance of that Supplier Personnel's duties pursuant to these Conditions and/or the Contracts.
- 11.9 The Supplier shall ensure that the Supplier Personnel and all other persons authorised by it, or by any person acting on its behalf (including any Sub-Processor), to process Protected Data are subject to a binding written contractual obligation with the Supplier or with the Data Processor that has engaged them to keep the Protected Data confidential (except where disclosure is required in accordance with Applicable Law, in which case the Supplier shall, where practicable and not prohibited by Applicable Law, notify Customer or the applicable member of the Customer Group of any such requirement before such disclosure).
- 11.10 The Supplier shall:
- 11.10.1 implement and maintain, at its cost and expense, technical and organisational measures to ensure a level of security appropriate to the risk presented by Processing the Protected Data, in particular from a Data Security Incident, including any Protective Measures.
- 11.10.2 notify Customer or the relevant Data Client without undue delay (and in any event, not more than 24 hours) after becoming aware of a reasonably suspected, "near miss" or actual Data Security Incident, including without limitation the nature of the Data Security Incident, the categories and approximate number of Data Subjects and Protected Data records concerned, the likely consequences of the Data Security Incident and any measure proposed to be taken to address the Data Security Incident, and to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all the relevant information at the same time, the information may be provided in phases without undue delay, but the Supplier (and Sub-Processors) may not delay notification under this Condition 11.10.2 on the basis that an investigation is incomplete or ongoing;
- 11.10.3 not, without Customer's or the relevant Data Client's prior written consent, make or permit any announcement in respect of a Data Security Incident or respond to any request for exercise of a Data Subject's rights under the Data Protection Laws or communication or complaint from a Data Subject or Supervisory Authority in connection with Protected Data.
- 11.11 The Supplier will not engage or use any third party for the Processing of Protected Data or permit any third party to Process Protected Data without the prior written consent of Customer or the relevant Data Client.
- 11.12 If the Supplier appoints a Sub-Processor in accordance with Condition 11.11, the Supplier will ensure that, prior to the Processing taking place, there is a written contract in place between the Supplier and the Sub-Processor that specifies the Sub-Processor's Processing activities and imposes on the Sub-Processor the same terms as those imposed on the Supplier in this Conditions and/or the Contracts. The Supplier will procure that Sub-Processors will perform all obligations set out in this Condition 11 and/or the Contracts and the Supplier will remain responsible and liable to Customer or the relevant Data Client for all acts and omissions of Sub-Processors as if they were its own.
- 11.13 The Supplier shall in relation to the Protected Data (at no cost to Customer or any Data Client):
- 11.13.1 immediately record and then refer all Data Subject Requests, or Complaints it receives to the Customer or the relevant Data Client, within three days of receipt of the request;
- 11.13.2 provide such information, assistance and cooperation, at no additional charge to Customer or the relevant Data Client, and take such action as Customer or the relevant Data Client requests in relation to each Data Subject Request, or any Complaint within the timescales required by Customer or the relevant Data Client; and

- 11.13.3 not respond to any Data Subject Request or Complaint without Customer's or the relevant Data Client's prior written approval.
- 11.14 Without prejudice to its other obligations, the Supplier shall, at its cost and expense, provide such information, co-operation and other assistance to Customer or the relevant Data Client as Customer or the relevant Data Client requires (taking into account the nature of Processing and the information available to the Supplier) to ensure compliance with Customer's or the relevant Data Client's obligations under Data Protection Laws, including with respect to:
- 11.14.1 documenting any Data Security Incidents and reporting any Data Security Incidents to any Supervisory Authority and/or Data Subjects
- 11.14.2 taking measures to address Data Security Incidents, including, where appropriate, measures to mitigate their possible adverse effects
- 11.14.3 conducting privacy impact assessments of any Processing operations and consulting with Supervisory Authorities, Data Subjects and their representatives accordingly;
- 11.14.4 any remedial action and/or notifications to be taken in response to any Data Security Incident and/or Complaint, including (subject in each case to Customer's or the relevant Data Client's prior written authorisation) regarding any notification of the Data Security Incident to Supervisory Authorities and/or communication to any affected Data Subjects.
- 11.15 The Supplier will not make an International Transfer without Customer's or the relevant Data Client's prior written consent. If Customer gives its prior written consent to an International Transfer, before making that International Transfer the Supplier will demonstrate or implement, to Customer's or the relevant Data Client's satisfaction, appropriate safeguards for that International Transfer in accordance with Data Protection Laws and will ensure that enforceable rights and effective legal remedies for Data Subjects are available. Such appropriate safeguards may include:
- 11.15.1 that there is in force a European Commission decision that the country or territory to which the International Transfer is to be made ensures an adequate level of protection for Processing of Personal Data; or
- 11.15.2 that the relevant Data Processor enters into an agreement with Customer or the relevant Data Client in the form of the relevant standard contractual clauses approved by the European Commission decision for the transfer of Personal Data to processors established in third countries from time to time, completed with such information as Customer or the relevant Data Client may reasonably require.
- 11.16 The Supplier shall conduct a Data Transfer Risk Assessment and provide it to Customer or the relevant Data Client in advance of making such International Transfer.
- 11.17 If the appropriate safeguards demonstrated or implemented by the Supplier (or the relevant Data Processor) in accordance with Conditions 11.15 and 11.16 are deemed at any time not to provide an adequate level of protection in relation to Protected Data, the Supplier will promptly implement such alternative measures as may be required by Customer or the relevant Data Client to ensure that the relevant International Transfer and all resulting Processing are compliant with Data Protection Laws. The Supplier or the relevant Sub-Processor will not need to comply with the conditions set out in Conditions 11.15 and 11.16 (if it is required to make an International Transfer to comply with the Applicable Laws of the United Kingdom, in which case the Supplier will notify Customer or the relevant Data Client of such legal requirement prior to such International Transfer unless such Applicable Laws prohibit notice to Customer or the relevant Data Client on public interest grounds).
- 11.18 The Supplier shall maintain complete, accurate and up to date written records of all categories of Processing activities carried out on behalf of Customer or any Data Client, in the format and containing such information as Customer or the relevant Data Client may require from time to time, including but not limited to:
- 11.18.1 the name and contact details of the Data Processor(s) and of each Data Controller on behalf of which the Data Processor is acting, and of the Supplier's representative and data protection officer (if any);
- 11.18.2 the categories of Processing carried out on behalf of each Data Controller;
- 11.18.3 where applicable, details of International Transfers of Protected Data; and
- 11.18.4 a general description of the technical and organisational security measures referred to in Condition 11.10.
- 11.19 The Supplier shall provide to Customer or any relevant Data Client on an annual basis and upon request at any time, in a timely manner (and in any event within three Business Days):
- 11.19.1 copies of the records under Condition 11.18;
- 11.19.2 such other information as Customer or the relevant Data Client reasonably requires to demonstrate the Supplier's and Customer's or relevant Data Client's compliance with their respective obligations under Data Protection Laws and these Conditions and/or the Contracts.
- 11.20 The Supplier shall at no cost to Customer or any Data Client:
- 11.20.1 allow for and contribute to audits, including inspections, conducted by Customer or another auditor mandated by Customer or the relevant Data Client for the purpose of demonstrating compliance by the Supplier, the Sub-Processors and Customer or the relevant Data Client with their respective obligations under Data Protection Laws and under these Conditions and/or the Contracts; and
- 11.20.2 provide (and procure) reasonable access for Customer or the relevant Data Client or such other auditor (where practicable, during normal business hours) to:
- 11.20.2.1 the facilities, equipment, premises and sites on which Protected Data and/or the records referred to in Condition 11.18 are held, and to any other equipment or facilities used in the provision of the Services and/or Products (in each case whether or not owned or controlled by the Supplier); and
- 11.20.2.2 to the Supplier Personnel, provided that Customer or the relevant Data Client gives the Supplier reasonable prior notice of such audit and/or inspection.
- 11.21 If any audit or inspection reveals any non-compliance by the Supplier or its Sub-Processors with its obligations under Data Protection Laws or a breach by the Supplier or its Sub-Processors of any provision of these Conditions and/or the Contracts, the Supplier shall pay the reasonable costs of Customer, the relevant Data Client or its mandated auditors, of the audit or inspection.
- 11.22 The Supplier shall promptly resolve, at its own cost and expense, all data protection and security issues discovered by Customer or the relevant Data Client and reported to the Supplier that reveal a breach or potential breach by the Supplier of its obligations under these Conditions and/or the Contracts.
- 11.23 If the Supplier or its Sub-Processors is in breach of its obligations under these Conditions and/or the Contracts or any Applicable Laws in Customer's or the relevant Data Client's sole and absolute discretion, Customer or the relevant Data Client may suspend the transfer or processing of the Protected Data until such breach is remedied.

- 11.24 Customer or the relevant Data Client shall be entitled to share any notification, details, records or information provided by or on behalf of the Supplier under these Conditions and/or the Contracts with any other members of the Customer Group, its professional advisors and/or the Supervisory Authority.
- 11.25 The Supplier shall promptly (and in any event within two Business Days) inform Customer or the relevant Data Client if it receives a Complaint and provide Customer or the relevant Data Client with full details of such Complaint.
- 11.26 The Supplier shall (and shall ensure that all persons acting on its behalf and all Supplier Personnel shall) promptly (and in any event within 3 days), at Customer's or the relevant Data Client's written request, either securely delete, anonymise or securely return all the Protected Data to Customer or the relevant Data Client in such form as Customer or the relevant Data Client reasonably requests at any time and in any event upon the earlier of:
- 11.26.1 the expiry or termination of the applicable Contract; or
- 11.26.2 Processing by the Supplier of any Protected Data is no longer required for the purpose of the Supplier's performance of its relevant obligations under these Conditions and/or the Contracts;
- and securely delete any existing copies (unless storage of any data is required by Applicable Law and, if so, the Supplier shall inform Customer or the relevant Data Client of any such requirement, in which case the Supplier will protect the confidentiality of the Protected Data and will no longer actively process such Protected Data). The Supplier shall promptly certify when this exercise has been completed.
- 11.27 If the Supplier fails to fulfil any of its obligations under this Condition 11, Customer or the relevant Data Client may enter the Supplier's premises or any premises of a Sub-Processor and take possession of any items which should have been returned to Customer or the relevant Data Client. Until they have been returned to, or repossessed by Customer or the relevant Data Client, the Supplier shall be solely responsible for their safe keeping.
- 11.28 The Customer may change any provision of these Conditions or any Contract to the extent required to comply with any Applicable Law by notice to and without the consent of the Supplier
- 11.29 The Supplier shall indemnify keep indemnified and hold harmless each member of the Customer Group from and against all costs (including the cost of enforcement), expenses, liabilities, injuries, direct, indirect or consequential loss (all three of which include without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss as well as the Data Protection Losses), damages, claims, demands, proceedings and legal costs (on a full indemnity basis) and judgments which the Customer and/or any member of the Customer Group incurs or suffers arising as a consequence of any breach of this Condition 11 or negligence (related to the obligations set out in this Condition 11), by the Supplier, its employees, agents, officers and/or sub-contractors.
12. **ANTI-BRIBERY AND ANTI-SLAVERY**
- 12.1 The Supplier shall, and shall procure that its officers, employees, agents and any other persons who are to supply Products and/or perform the Services for and on behalf of it in connection with the Contract shall;
- 12.1.1 comply with all and not cause the Customer to breach any applicable Anti-Bribery Laws;
- 12.1.2 comply with the Customer's Ethics and Anti-Bribery Policy as the Customer may update them from time to time (**Relevant Policies**);
- 12.1.3 have and shall maintain in place throughout the term of this Contract its own policies and procedures, including adequate procedures under the Bribery Act, to ensure compliance with the Anti-Bribery Laws and the Relevant Policies, and will enforce them where appropriate;
- 12.1.4 not do or omit to do any act or thing which causes or may cause the Customer or any member of the Customer Group to be in breach of and/or commit an offence under any Anti-Bribery Laws or Relevant Policies;
- 12.1.5 provide the Customer (at the Supplier's cost) with such reasonable assistance as it may require from time to time to enable the Customer Group to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with any Anti-Bribery Laws or to comply with the Relevant Policies.
- 12.2 The Supplier shall:
- 12.2.1 promptly report to the Customer any request or demand for any financial or other advantage of any kind received in connection with the performance of the Contract by it or by its officers, employees, agents or any other person who performs the services for or on behalf of it in connection with the Contract; and
- 12.2.2 upon request, certify in writing signed by a director of the Supplier that the Supplier has complied with all of its obligations under this Condition 12. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request.
- 12.3 The Supplier warrants to the Customer and all members of the Customer Group that it has not, and that its officers, employees, agents and any other persons who shall be involved in providing Products and/or performing Services for or on behalf of it in connection with the Contract have not, prior to the Commencement Date:
- 12.3.1 breached any applicable Anti-Bribery Laws;
- 12.3.2 been convicted of any offence involving bribery, corruption, fraud or dishonesty;
- 12.3.3 offered, promised, given, requested, agreed to receive, received or accepted a bribe or financial or other advantage or committed any corrupt act;
- 12.3.4 given any financial or other advantage, inducement or reward to any person in connection with the awarding or continuation in force of this Contract.
- 12.4 The Supplier undertakes, warrants and represents that:
- 12.4.1 neither the Supplier nor any of its officers, employees, agents or subcontractors has:
- 12.4.1.1 committed an offence under the Modern Slavery Act 2015 (a **MSA Offence**); or
- 12.4.1.2 been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
- 12.4.1.3 become aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
- 12.4.2 it shall comply with the Modern Slavery Act 2015;
- 12.4.3 its responses to the Customer's modern slavery and human trafficking due diligence questionnaire are complete and accurate; and
- 12.4.4 it shall notify the Customer immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of the Supplier's obligations under Condition 12. Any notice under this Condition 12.4.4 shall set out full details of the circumstances concerning the breach or potential breach of the Supplier's obligations.

- 12.5 The Customer may terminate the Contract immediately if the Supplier is in breach of any of its obligations under this Condition 12 or if the Customer has reasonable cause to believe that such a breach has occurred or may occur. If the Customer terminates the Contract in accordance with this Condition 12.4, the Supplier shall not be entitled to claim any compensation or any further remuneration from the Customer or any member of the Customer Group.
13. **TUPE**
- 13.1 The parties do not envisage that the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (**TUPE**) will apply to this Contract. However, the Supplier shall:
- 13.1.1 provide to the Customer and/or any successor supplier any information which the Customer and/or any successor supplier may reasonably require from time to time in relation to employees including the time they spend individually in delivering the Services; and
- 13.1.2 keep the Customer, all members of the Customer Group and any successor supplier (if any) indemnified in full against any costs, claims, awards, orders, obligations and liabilities whatsoever (including legal and other professional fees and expenses) howsoever and whenever arising which the Customer, any member of the Customer Group and/or any successor supplier may incur in connection with the employment and/or termination of employment of any persons arising out of the application of TUPE in connection with any Contract including without limitation a breach of TUPE by the Supplier and/or any of its subcontractors.
14. **OFF-WORKER PAYROLL COMPLIANCE**
- 14.1 The Supplier warrants, represents and undertakes that it shall not without the prior written consent of the Customer or relevant member of the Customer Group engage the use of any Personal Resource as part of the Services.
- 14.2 Where pursuant to Condition 14.1 the Supplier is making available Personal Resource to the Service Recipient, and the arrangements are such that if the Services were provided directly to the Service Recipient by the Personal Resource, the Personal Resource would be regarded for income tax purposes as an employee of the Service Recipient, or the holder of an office of the Service Recipient, Conditions 14.3 and 14.4 shall apply.
- 14.3 The Supplier acknowledges that the Off Payroll Working Rules will apply to the engagement of the Personal Resource as part of the Services. The Supplier agrees that it is the fee-payer for the purpose of the Off Payroll Working Rules, and the Service Recipient is deemed to be a client for the purpose of the Off Payroll Working Rules. If the Supplier disputes this then the Supplier must notify the Customer in writing to hrhub@allvotec.com in a timely manner (and in any event prior to entering into the Contract, providing sufficiently detailed justification to enable the Customer to make a status determination statement (**SDS**) in accordance with the Off Payroll Working Rules). Unless the Customer provides a SDS confirming that the Personal Resource is outside scope of the Off Payroll Working Rules, the Supplier warrants, represents and undertakes that the Supplier shall deduct income tax (**PAYE**), employer and employee National Insurance contributions (**NIC**) from any payment it makes to the Personal Resource.
- 14.4 The Supplier shall permit the Service Recipient, and their representatives, on reasonable prior notice, to carry out an audit of the Personal Resource's pay and the associated PAYE and NIC deductions and/or contributions. The Supplier shall provide all reasonable co-operation and assistance as may be required by the Service Recipient, or any of their representatives as part of any such audit.
- 14.5 The Supplier shall, indemnify and hold harmless the Customer, the relevant member of the Customer Group and each Service Recipient and keep such entity indemnified and held harmless in full against any and all liability to account for deductions of PAYE and/or NIC payments and contributions, and/or apprenticeship levy (together in each case with any associated interest and/or penalties), in respect of any Personal Resource engaged as part of the Services.
- 14.6 Without prejudice to any other rights or remedies the Customer, or the relevant member of the Customer Group may have, where for whatever reason the Customer or the relevant member of the Customer Group is treated by the Off Payroll Working Rules as being a fee-payer in respect of any Personal Resource engaged as part of the Services, the Customer or the relevant member of the Customer Group shall be entitled to: (i) set off from the charges otherwise due to the Supplier, any amounts it is required to deduct in accordance with the Off Payroll Working Rules or any other applicable laws, and/or (ii) be reimbursed by the Supplier a sum equivalent to the amount the Customer or the relevant member of the Customer Group is required to deduct in accordance with the Off Payroll Working Rules or any other applicable laws.
15. **ANTI-TAX EVASION FACILITATION**
- 15.1 The Supplier shall:
- 15.1.1 not engage in any activity, practice or conduct which would constitute either:
- 15.1.1.1 a UK tax evasion facilitation offence under Section 45(1) of the Criminal Finances Act 2017; or
- 15.1.1.2 a foreign tax evasion facilitation offence under Section 46(1) of the Criminal Finances Act 2017;
- 15.1.2 have and maintain in place throughout the term of this Contract such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including their personnel) and to ensure compliance with Condition 15.1.1;
- 15.1.3 promptly report to the Customer or the relevant member of the Customer Group, any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the performance of this Contract; and
- 15.1.4 if required by the Customer or the relevant member of the Customer Group, certify to the Customer in writing signed by an officer of the Supplier, compliance with this Condition 15 by the Supplier and all persons associated with it under Condition 15.2 below. The Supplier shall provide such supporting evidence of compliance as the Customer or the relevant member of the Customer Group may reasonably request.
- 15.2 The Supplier shall ensure that any person associated with the Supplier (within the meaning of Part 3 of the Criminal Finances Act 2017) who is performing services in connection with any Contract does 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 Condition 15 (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 Customer or the relevant member of the Customer Group, for any breach by such persons of any of the Relevant Terms.
- 15.3 For the purposes of this Condition 15, the meaning of reasonable prevention procedures shall be determined in accordance with any guidance issued under Section 47 of the Criminal Finances Act 2017 and a person associated with the Supplier includes any of the Supplier's subcontractors.

16. **GENERAL**

- 16.1 The Customer may exercise any of its rights hereunder (or enjoy any of the benefits which it has under this Contract) by itself or through any other member of the Customer Group.
- 16.2 The Contract is personal to the Supplier and the Supplier shall not assign, sub-contract or transfer or purport to assign, sub-contract or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract.
- 16.3 The Supplier and the Customer shall keep confidential any Confidential Information obtained from the other party under the Contract and shall not divulge or make public the same to any third party without the consent in writing of the other party, except where the disclosing party is legally required to make such disclosure. Members of the Customer Group other than the Customer shall not be considered as third parties for the purposes of this Condition 16.3.
- 16.4 Any notice required or permitted to be given by either party to the other under this Contract shall be in writing addressed to that other party at its registered office or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Notices to the Customer shall be addressed to the Finance Director, Allvotec Limited, Lindred House, 20 Lindred Road, Brierfield, Nelson, BB9 5SR.
- 16.5 Any notice or communication shall be deemed to have been received:
- 16.5.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- 16.5.2 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 at the time recorded by the delivery service.
- 16.6 Each right or remedy of the Customer and any member of the Customer Group under any Contract is without prejudice to any other right or remedy of the Customer or any member of the Customer Group under this or any other Contract.
- 16.7 No failure or delay by the Customer or any member of the Customer Group to exercise any right, power or remedy will operate as a waiver of it, nor will any partial exercise preclude any further exercise of the same, or any other right, power or remedy.
- 16.8 If any provision of the Contract is held by any competent authority to be illegal, invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected thereby and shall remain in full force and effect.
- 16.9 Conditions 1, 3, 8, 9, 10, 11, 12, 13, 14, 15 and this Condition 16 shall survive any termination or expiry of this Contract.
- 16.10 The Supplier shall at its own cost execute all such documents and do all such things as the Customer may request from time to time in order to give full effect to the provisions of the Contract (including the rights given under it) and the transactions contemplated by it.
- 16.11 The Contract and any matters arising out of or in connection with it (whether contractual or non-contractual) shall be governed by the laws of England and Wales and subject to the exclusive jurisdiction of the English Courts (including in relation to contractual and non-contractual disputes).
- 16.12 The parties do not intend that any term of the Contract shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person other than the parties save that the Contract may be enforced by any member of the Customer Group.
- 16.13 All representations, statements or warranties made or given by the Supplier its servants or agents (whether orally, in writing or in any of the Supplier's brochures, catalogues and advertisements) regarding the quality and fitness for purpose of the Products or Services shall be deemed to be express conditions of the Contract.
- 16.14 The Contract may be entered into in any number of counterparts and by the parties on separate counterparts, all of which taken together shall constitute one and the same instrument.
- 16.15 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall only apply if agreed in writing by the authorised representative of the Customer or if specified in the Order.
- 16.16 The Supplier shall not during the term and for a period of 12 months following the later of termination or fulfilment of an Order either directly or indirectly solicit or entice away from the employment of a member of the Customer's Group any person employed by such entity other than by way of bona fide general advertising and recruitment process open to the general public.
- 16.17 Subject to Condition 16.13, this Contract shall be the entire agreement between the parties on the subject matter of this Contract, and shall supersede all prior agreements, arrangements, and understandings between the parties on such subject matter, provided that neither party shall exclude its liability for fraud or fraudulent misrepresentation.

1. **Subject-matter of processing:**

For the purposes of the Supplier performing these Conditions and/or the applicable Contracts.

2. **Duration of the processing:**

The Processing shall continue for the duration of these Conditions and/or the applicable Contracts.

3. **Nature and purpose of the processing:**

To perform the Services and/or deliver the Products as set out in these Conditions and/or the applicable Contracts and as further instructed by Customer or the relevant Data Client.

4. **Type of Personal Data:**

Names, telephone numbers, email addresses, addresses of the Data Subjects set out below and any other Personal Data provided to the Supplier or generated by the Supplier in the performance of these Conditions and/or the applicable Contracts, including without limitation the provision or delivery (as applicable) of the Services and/or Products.

5. **Categories of Data Subjects:**

5.1 Employees, agents, contractors, advisers of Customer, the relevant Data Client and/or the relevant Data Controller;

5.2 Customers, end-customers, re-sellers (who are natural persons) of Customer, the relevant Data Client and/or the relevant Data Controller; and

5.3 Users of the Services and/or Products.