



1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Authority: Merseyside Fire & Rescue Authority whose address is Bridle Road, Bootle, Merseyside, L30 4YD

Authority Materials: has the meaning set out in clause 5.3(i).

Business Day: a day other than a Saturday, Sunday or public holiday in England.

Commencement Date: has the meaning set out in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 20.10.

Confidential Information: means information data and material of any nature which either Party may receive or obtain from each other or from any third party in connection with the operation of the Contract and which at the time of disclosure is marked or otherwise designated to show expressly or by necessary implication that it is imparted in confidence, and all information that is otherwise imparted in confidence, including information which (i) comprises Personal Data or Special Category Personal Data (as both terms are defined in the Data Protection Legislation); (ii) the release of which is likely to prejudice the commercial interests of the Customer or the Supplier respectively; or (iii) which is a trade secret.

Contract: means the contract between the Authority and the Supplier for the purchase of Goods, and/or the supply of Works or Services in accordance with these Conditions, the Authority's specification and the Supplier's offer that the Authority has accepted.

Contract Personal Data: means Personal Data which is to be processed under this Contract, as more particularly described in a Purchase Order.

Data Protection Legislation: means the UK Data Protection Legislation and any other European Union Legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including without limitation, the privacy of electronic communications); and references to "Data Subjects", "Personal Data", "Process", "Processed", "Processing", "Processor" and "Supervisory Authority" have the meanings set out in, and will be interpreted in accordance with, such applicable laws.

Data Security Incident: means (a) a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Contract Personal Data transmitted, stored or otherwise Processed; or (b) a discovery or reasonable suspicion that there is a vulnerability in any technological measure used to protect any Contract Personal Data that has previously been subject to a breach within the scope of paragraph (a), which may result in exploitation or exposure of that Contract Personal Data; or (c) any defect or vulnerability with the potential to impact the ongoing resilience, security and/or integrity of systems Processing Contract Personal Data.

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

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

Equality Acts: means the Equality Act 2006, the Equality Act 2010 and any statutory modification or re-enactment thereof or any other law relating to discrimination in employment or in the provision of goods, facilities and services;

Force Majeure: means any cause materially affecting the performance by a party of its obligations arising from any act beyond its reasonable control and affecting either Party, including without limitation: government regulations, acts of God, war, fire, flood, storm, tempest, epidemic, disaster, explosion, acts of terrorism and national emergencies. It does not include any industrial action occurring amongst the Supplier's Staff or any staff of any sub-contractor.

Insolvency Legislation: means (i) Insolvency Act 1986 (ii) The Small Business, Enterprise and Employment Act 2015 (iii) the Corporate Insolvency and Governance Act 2020) and any applicable national Laws as amended from time to time.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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.

Modern Slavery Act: means the Modern Slavery Act 2015.

Modern Slavery Practice: means any practice, act or omission that amounts to modern slavery as defined in the Modern Slavery Act;

Order: the Authority's order for the supply of Goods, Works and/or Services, as set out in the Authority's purchase order form.

Pre-existing IPR: means any IPR (embedded in any work or materials arising from the provision of the Goods, Works or Services supplied under the Contract) vested in or licensed to the Supplier by the third party owner of any IPR prior to or independently of performance by the Supplier of its obligations under the Contract

Services: the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Specification.

Specification: means the Authority's requirements in relation to the Goods, Works or Services and the Supplier's offer in response to the requirements, including any plans, drawings, data or other information.

Supplier: the person or firm from whom the Authority purchases the Goods and/or Services

Works: means the works described in the Specification including any deliverables (or any variation of the services, including additional works agreed between the Parties in accordance with the Contract) which shall be provided in accordance with the Contract.

1.2 **Construction.** In these Conditions, the following rules apply:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assignees;
- (c) 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;

- (d) 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
- (e) a reference to writing or written includes faxes and e-mails.

2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Authority to purchase Goods, Works or Services from the Supplier in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted on the earlier of:
 - (a) the Supplier issuing written acceptance of the Order; or
 - (b) any act by the Supplier consistent with fulfilling the Order,at which point and on which date the Contract shall come into existence.
- 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 trade, custom, practice or course of dealing. For the avoidance of doubt this includes, without limitation, any terms and conditions printed on any invoices or other documents submitted by the Supplier to the Authority shall not be deemed incorporated into this Contract and shall be of no effect in relation to the provision of the Goods, Works or Services.
- 2.4 If the Authority requires the Supplier to comply with additional Special Conditions, such conditions shall be in writing, drawn up by the Authority, and shall be deemed to be part of this Contract. Unless otherwise expressly stated by the Authority any Special Conditions included in the Contract shall take precedence over the terms and conditions herein to the extent that there is any conflict between any of the terms herein and the provisions in the Special Conditions.
- 2.5 Timely provision of the Goods, Works and/or Services shall be of the essence of the Contract.
- 2.6 All of these Conditions shall apply to the supply of Goods, Works and Services except where the application to a particular one is specified.

3. SUPPLY OF GOODS

- 3.1 The Supplier shall ensure that the Goods shall:
 - (a) correspond with their description and any applicable Goods Specification;
 - (b) 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 Authority, expressly or by implication, and in this respect the Authority relies on the Supplier's skill and judgment;
 - (c) where applicable, be free from defects in design, materials and workmanship and remain so for 12 months after delivery; and
 - (d) 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 Authority shall have the right to inspect and test the Goods at any time before delivery and/or within a reasonable time after delivery of the Goods has taken place.
- 3.4 If following such inspection or testing, the Authority considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Authority shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Authority shall have the right to 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:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - (b) 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
 - (c) if the Supplier requires the Authority to return any packaging material for the Goods 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:
- (a) on the date specified in the Order or, if no such date is specified, then within 28 days of the date of the Order unless otherwise requested on the Order;
 - (b) to the Authority's premises at Merseyside Fire & Rescue Service Head Quarters, Bridle Road, Bootle, Merseyside, L30 4YD or such other location as is set out in the Order or as instructed by the Authority before delivery;
 - (c) during the Authority's normal hours of business which are 08.00 – 17.00 hours, or as instructed by the Authority.
- 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:
- (a) delivers less than 95 per cent of the quantity of Goods ordered, the Authority may reject the Goods; or
 - (b) delivers more than 105 per cent of the quantity of Goods ordered, the Authority may at its sole discretion reject or accept the excess Goods,

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 Authority accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

- 4.5 The Supplier shall not deliver the Goods in instalments without the Authority's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately, however the Contract will be treated as a single contract and will not be severable. Failure by the Supplier to deliver any one instalment on time or at

all or any defect in an instalment shall entitle the Authority to the remedies set out in clause 6.1.

4.6 Title in the Goods shall pass to the Authority on completion of delivery or if the Goods are paid for prior to delivery, once payment has been made and the Goods appropriated to the Contract.

4.7 Risk in the Goods shall pass to the Authority on delivery.

5. SUPPLY OF WORKS OR SERVICES

5.1 The Supplier shall from the date set out in the Order and for the duration of this Contract perform the Works and/or Services to the Authority at the Delivery Address within the Authority's normal hours of business, unless stated otherwise in the Authority's specification, in accordance with the terms of the Contract.

5.2 The Supplier shall meet any performance dates for the delivery of the Works and/or Services specified in the Order or notified to the Supplier by the Authority.

5.3 In providing the Services, the Supplier shall:

- (a) co-operate with the Authority in all matters relating to the Works and/or Services, and comply with all instructions of the Authority;
- (b) perform the Works and/or Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;
- (d) ensure that the Works and/or Services and Deliverables will conform with all descriptions and specifications set out in the Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Authority;
- (e) provide all equipment, tools and vehicles and such other items as are required to perform the Works and/or Services;
- (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the performance of the Works and/or Services transferred to the Authority, will be free from defects in workmanship, installation and design;
- (g) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
- (h) observe all health and safety rules and regulations and any other security requirements that apply at any of the Authority's premises;
- (i) hold all materials, equipment and tools, drawings, specifications and data supplied by the Authority to the Supplier in safe custody at its own risk, maintain the Authority Materials in good condition until returned to the Authority, and not dispose or use the Authority Materials other than in accordance with the Authority's written instructions or authorisation;
- (j) not do or omit to do anything which may cause the Authority 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 Authority may rely or act on the Works and/or Services.

5.4 If the Works and/or Services are to be performed by instalments, the Contract shall be treated as a single contract and will not be severable.

6. AUTHORITY REMEDIES

- 6.1 If the Supplier fails to deliver the Goods and/or perform the Works or Services by the applicable date, the Authority shall, without limiting its other rights or remedies, have one or more of the following rights:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier at no additional cost to the Authority;
 - (b) where the Authority has paid in advance for Works and/or Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier;
 - (c) Deduct from the Price an amount equal to any additional costs incurred by the Authority as a result of the delay and
- 6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting its other rights or remedies, the Authority shall have one or more of the following rights, whether or not it has accepted the Goods:
- (a) 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;
 - (b) to terminate the Contract with immediate effect by giving written notice to the Supplier at no additional cost to the Authority;
 - (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods, Works or Services (if paid);
- 6.3 If the Supplier has performed Works and/or Services that do not comply with the undertakings set out in clause 5, then without limiting its other rights or remedies, the Authority shall have one or more of the following rights,
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier at no additional cost to the Authority;
 - (b) to require the Supplier to remedy any failure to perform the Works or Services or to provide a full refund of the price of the rejected Works or Services (if paid).
- 6.4 Failure by the Supplier, to submit invoices to the Authority within three months of delivery of the Goods or the performance of the Works or Services, as required in clause 8, may result in the sums due under such invoices (referred to below as "Late Invoices"), not being recoverable from the Authority by the Supplier. If and to the extent that the Authority has incurred any loss as a direct consequence of the late submission of invoices by the Supplier for example the Authority loses the right to be reimbursed by a third party because it submits a Claim late and the reason for the late Claim is because the Supplier has submitted a Late Invoice to the Authority, then the Authority's inability to obtain reimbursement may be remedied in accordance with this clause 6.4, without prejudice to any other rights or remedies that the Authority may have.
- 6.4.1 If the Authority has forfeited its right to recover from a third party, sums specified in a Late Invoice as a result of the Supplier's submission of Late Invoice(s) to the Authority, the Authority may:
- a) refuse to pay the sums due on the Late Invoice to the extent that the sum not paid by the Authority cannot be claimed back by the Authority from the third party under the arrangements between the Authority and the third party referred to above in this condition; and,

- b) set off the sums the Authority is unable to claim back from the third party (as a result of the Supplier's late submission of any invoice) against any sums that may become payable from the Authority to the Supplier for the supply of the Goods, Works and Services.

6.5 These Conditions shall extend to any substituted or remedial works, services and/or repaired or replacement goods supplied by the Supplier.

6.6 The Authority's rights under this Contract are in addition to its' rights and remedies implied by statute and common law.

7. AUTHORITY'S OBLIGATIONS

The Authority shall:

- (a) provide the Supplier with reasonable access at reasonable times to the Authority's premises for the purpose of delivering the Goods or performing the Works or Services;
- (b) provide such information as the Supplier may reasonably request for the performance of the Works or Services and the Authority considers reasonably necessary for the purpose of performing the Works or Services.

8. CHARGES AND PAYMENT

8.1 The price for the Goods:

- (a) shall be the price set out in the Order; and
- (b) shall be inclusive of the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by the Authority. No extra charges shall be effective unless agreed in writing and signed by the Authority.

8.2 The charges for the Works and 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 Works and/or Services. Unless otherwise agreed in writing by the Authority, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Works and/or Services.

8.3 In respect of Goods, the Supplier shall invoice the Authority on or within three months after completion of delivery. In respect of Works and Services, the Supplier shall invoice the Authority on or within three months of completion of the Works and/or Services. Each invoice shall include such supporting information required by the Authority to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

8.4 In consideration of the provision of Goods, Works and Services by the Supplier, the Authority shall pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.

8.5 All amounts payable by the Authority 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 Authority, the VAT shall be shown as a separate line on the invoice which must conform to the requirements of HM Customs and Excise., On receipt of a valid VAT invoice from the Supplier, the Authority shall pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Works or Services at the same time as payment is due for the supply of the Goods and/or Works or Services.

8.6 The Authority may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Authority against any liability of the Authority to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 In respect of the Goods and any goods that are transferred to the Authority as part of the Works or Services under this Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Authority, it will have full and unrestricted rights to sell and transfer all such items to the Authority.

9.2 The Supplier assigns to the Authority, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Works or Services, including for the avoidance of doubt the Deliverables.

9.3 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Works or Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

9.4 The Supplier shall, promptly at the Authority's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Authority may from time to time require for the purpose of securing for the Authority the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Authority in accordance with clause 9.2.

9.5 All Authority Materials are the exclusive property of the Authority.

9.6 This clause 9 shall survive termination of the Contract.

10. INDEMNITY

10.1 The Supplier shall keep the Authority indemnified against all liabilities, including, without limitation any tax liability, costs, expenses, damages and losses (including but not limited to 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 incurred by the Authority as a result of or in connection with:

- (a) any claim made against the Authority 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 performance of the Works or Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
- (b) any claim made against the Authority by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
- (c) any claim made against the Authority by a third party arising out of or in connection with the supply of the Goods, Works 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;

- (d) any claim made against the Authority as a result of any breach by the Supplier of any of its obligations under clause 18 of this Contract and breach by any sub-contractor to the Supplier of any equivalent provisions contained in the relevant sub-contract;
- (e) breach of confidentiality and
- (f) breach of this Contract.

10.2 This clause 10 shall survive termination of the Contract.

11. INSURANCE

During the term of the Contract and for a period of one year thereafter or as specified by the Authority, the Supplier shall maintain in force where applicable and 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 as directed by the Authority, and shall, on the Authority's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

12. CONFIDENTIALITY

12.1 A party (receiving party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

12.2 This clause 12 shall survive termination of the Contract.

13. DATA PROTECTION

13.1 The Authority warrants that any Personal Data requested by the Authority and provided by the Supplier, is for the purposes of delivering the Goods and/or performing the works and/or Services under this Contract. Such Personal Data is received by the Authority on the understanding that the Supplier has complied in all respects with the Data Protection Legislation in relation to the collection and disclosure of the Personal Data to the Authority, and sufficient notice has been given, or consents obtained, for the Authority to use the Personal Data as envisaged by this Contract.

13.2 The Authority authorises the Supplier to Process the Contract Personal Data during the term of this Contract as a Processor solely for the purpose and to the extent described in the relevant Purchase Order.

13.3 In performing its obligations under this Contract the Supplier will comply with, and will not cause the Authority to breach any obligation under, the Data Protection Legislation.

13.4 The Supplier will not engage a third party to Process Contract Personal Data without the Authority's prior written consent (which may be given or withheld at the Authority's sole discretion and subject to conditions). If the Supplier appoints a third party to Process

Contract Personal Data, the Supplier will put a written contract in place between the Supplier and that person which specifies their Processing activities and imposes on them the same terms as those imposed on the Supplier in this Condition 13.

- 13.5 The Supplier will:
- 13.5.1 Process the Contract Personal Data only on documented instructions from the Authority (unless required to do so by United Kingdom, European Union or European Union member state applicable law, in which case the Supplier will inform the Authority of that legal requirement before Processing unless that legal requirement prohibits such information on public interest grounds);
 - 13.5.2 immediately inform the Authority in writing if, in its opinion, any instruction received from the Authority infringes any Data Protection Legislation;
 - 13.5.3 not transfer Contract Personal Data to a country outside the European Economic Area (as it is made up from time to time) without the Authority's prior written consent, which may be given or withheld at the Authority's sole discretion (unless required to do so by United Kingdom, European Union or European Union member state applicable law, in which case the Supplier will inform the Authority of that legal requirement before Processing unless that legal requirement prohibits such information on public interest grounds);
 - 13.5.4 ensure that any individual authorised to Process Contract Personal Data is subject to confidentiality obligations or is under an appropriate statutory obligation of confidentiality and complies with this Condition 13;
 - 13.5.5 implement, and assist the Authority to implement, technical and organisational measures to ensure a level of security appropriate to the risk presented by Processing the Contract Personal Data;
 - 13.5.6 notify the Authority within one working day of becoming aware of a Data Security Incident;
 - 13.5.7 provide reasonable assistance to the Authority in:
 - i. responding to requests for exercising Data Subjects' rights under the Data Protection Laws, including by appropriate technical and organisational measures, insofar as this is possible;
 - ii. documenting, reporting and taking measures to address and mitigate the effects of any Data Security Incidents; and
 - iii. conducting privacy impact assessments of any Processing operations and consulting with Supervisory Authorities, Data Subjects and their representatives accordingly;
 - 13.5.8 at the option of the Authority, securely delete or return to the Authority all Contract Personal Data promptly after the end of the provision of services relating to Processing and securely delete any remaining copies; and
 - 13.5.9 make available to the Authority all information necessary to demonstrate compliance with the obligations set out in this Condition 13 and allow for and contribute to audits, including inspections, conducted by the Authority or another auditor mandated by the Authority.
- 13.6 Any breach of this Condition 13 by the Supplier will be a material breach of this Contract, irrespective of whether any financial loss or reputational damage arises, and irrespective of the level of any financial loss or deprivation of benefit arising, as a consequence of such breach.
- 13.7 The Supplier shall indemnify and keep indemnified the Authority against all losses, claims, damages, liabilities, costs and expenses (including all reasonable legal costs) incurred by it in

respect of any breach of this Clause 13 by the Supplier or their sub-contractors and/or any act or omission of any its personnel or agents.

13.8 This clause 13 shall survive termination of the Contract.

14. FREEDOM OF INFORMATION

14.1 The Authority is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations (EIR) 2004 ('the Acts'). As part of the Authority's duties under the Acts it may be required to disclose information forming part of the Contract to the Information Commissioners Office or anyone who makes a reasonable request.

14.2 The Authority is responsible for determining in its discretion whether any information is commercially sensitive information, and/or any other information is exempt from disclosure in accordance with the provisions of the FOIA or the EIR.

14.3 The Supplier shall assist and co-operate with the Authority (at the Supplier's expense) to enable the Authority to comply with the information disclosure requirements under the Acts and in doing so will comply with any timescale notified to it by the Authority.

14.4 Notwithstanding any other term of this Contract, the Supplier hereby gives its consent for the Authority to publish this Contract and its Schedules in its entirety, including from time to time agreed changes to the Contract, to the general public in whatever form the Authority decides is most appropriate.

15. TERMINATION

15.1 Without limiting its other rights or remedies, the Authority may terminate the Contract:

- (a) in respect of the supply of Works or Services, by giving the Supplier one month's written notice; and
- (b) in respect of the supply of Goods, in whole or in part at any time before delivery with immediate effect by giving written notice to the Supplier, whereupon the Supplier shall discontinue all work on the Contract. The Authority shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.

15.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract by giving the Authority one month written notice.

15.3 In any of the circumstances in these Conditions in which a party may terminate the Contract, where both Goods and Works or Services are supplied, that party may terminate the Contract in respect of the Goods, or in respect of the Works or Services, and the Contract shall continue in respect of the remaining supply.

15.4 The Authority shall be entitled to terminate the Contract without liability to the Supplier by giving written notice to the Supplier at any time if:

15.4.1 the Supplier makes any voluntary arrangement with its creditors (within the meaning of the prevailing **Insolvency Legislation**) or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or

15.4.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Supplier; or

- 15.4.3 the Supplier dies, or ceases, or threatens to cease to carry on business; or
- 15.4.4 the Supplier commits a material breach of this Contract and fails to remedy the same within 14 days of service of notice by the Authority specifying the breach and requiring it to be remedied.

15.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

15.6 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

16. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason, the Supplier shall immediately deliver to the Authority all Deliverables whether or not then complete, and return all Authority Materials documents, formulae, papers, drawings, software, data, specifications, reports, notes, programs, portfolios, equipment, identity cards and keys which were furnished by the Authority to the Supplier, or which were prepared by or on behalf of the Supplier for the Authority in the course of providing Goods, Works or Services under this Contract.. If the Supplier fails to do so, then the Authority 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.

17. FORCE MAJEURE

17.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from an event, circumstances or cause beyond its reasonable control.

17.2 The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.

17.3 If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than ten Business Days, the Authority may terminate the Contract immediately by giving written notice to the Supplier.

18. PREVENTION OF BRIBERY

18.1 In this clause, "Bribery Act" means the Bribery Act 2010 and "Prohibited Act" means any of the following:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to (i) induce that person to perform improperly a relevant function or activity or (ii) reward that person for improper performance of a relevant function or activity; or
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement; or
- (c) committing any offence (i) under the Bribery Act; (ii) under legislation creating offences concerning fraudulent acts; (iii) at common law concerning fraudulent acts relating to this Contract or any other contract with the Authority; or (iv) defrauding, attempting to defraud or conspiring to defraud the Authority.

- 18.2 The Supplier shall keep accurate and up to date records showing all payments made and received and all other advantages given and received by it in connection with this Contract.
- 18.3 The Supplier shall not commit a Prohibited Act and ensure that any of its employees, consultants, agents, or sub-contractors shall not commit a Prohibited Act in connection with the Contract.
- 18.4 The Supplier warrants, represents and undertakes to the Authority that it is not aware of any financial or other advantage being given to any person working for or engaged by the Authority, or that an agreement has been reached to that effect, in connection with the execution of this Contract, excluding any arrangement of which full details have been disclosed in writing to the Authority before execution of this Contract.
- 18.5 Where the Supplier commits a Prohibited Act in relation to this or any other contract with the Authority, the Authority has the right to:
- (a) Terminate the Contract and recover from the Supplier the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the provision of the Goods, Works or Services and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period; or
 - (b) Recover in full from the Supplier any other loss sustained by the Authority in consequence of any breach of this clause whether or not the Contract has been terminated.
- 18.6 If any breach is suspected or known, the Supplier must notify the Authority immediately.
- 18.7 If the Supplier notifies the Authority that it suspects or knows that there may be a breach, the Supplier must respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit books, records and any other relevant documentation. This obligation shall continue for three years following the expiry or termination of this Contract.
- 18.8 This clause 18 shall survive termination of the Contract.

19. COMPLIANCE WITH MODERN SLAVERY, HUMAN RIGHTS AND EQUALITY LAWS

- 19.1 The Supplier will not and will procure that any other person who performs Services and/or Works for or on behalf of it in connection with this Contract will not engage in any Modern Slavery Practice. The Supplier will conduct proper due diligence on its own suppliers and all persons employed or engaged on or in connection with this Contract to ensure that they do not engage in any Modern Slavery Practice.
- 19.2 The Supplier shall, and shall use reasonable endeavours to ensure that its Staff shall, at all times, act in a way which is compatible with the Convention Rights within the meaning of Section 1 of the Human Rights Act 1998 and shall comply with the Equality Acts.
- 19.3 The Supplier will immediately give written notice to the Authority upon the occurrence of a breach or suspected breach of any of its obligations referred to in this Condition 19. The notice will set out full details of the breach or suspected breach.
- 19.4 The Authority may terminate this Contract immediately by giving written notice to that effect to the Supplier if the Supplier is in breach of any of its obligations under this Condition 19.

20. GENERAL

20.1 Assignment and other dealings.

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

20.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 20.2(a); 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

20.3 Authority Policies

The Supplier and its Staff involved in the supply of Goods, Works or Services under the Contract shall comply with the Authority's policies relevant to the performance of the Supplier's obligations under the Contract and which have been made known to the Supplier. Such policies shall include without limitation the Authority's health and safety and security policies including the minimum mandatory security controls. The Supplier warrants and undertakes that the staff engaged in performing the Contract shall have satisfactorily completed the Baseline Personnel Security Standard (BPSS) which requires verification of

- (a) identity
- (b) employment history
- (c) nationality and immigration status; and
- (d) unspent criminal convictions.

If the Supplier is a sole trader the Supplier will co-operate with the Authority in providing the verification information which the Authority may require to ensure that the Supplier meets the BPSS.

20.4 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

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

the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

- 20.6 **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, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- 20.7 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 20.8 **Publicity.** Neither the Authority nor the Supplier shall publicise in any media or public announcement information regarding the terms of the Contract, or the Goods, Works or Services supplied, without the prior written consent of the other Party in either case such consent not to be unreasonably withheld.
- 20.9 **Social Value.** The Supplier shall have due regard for the Authority's Social Value policy, a copy of which can be found on the Authority's website.
- 20.10 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Authority.
- 20.11 **Governing law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- 20.12 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).
- 20.13 This clause 20 shall survive termination of the Contract.