

MARLBOROUGH COMMUNICATIONS LIMITED

Standard Terms and Conditions of Purchase

1. DEFINITIONS

In these Conditions, the following definitions shall apply:

Commencement Date: as defined in Condition 2.2.

Conditions: the terms and conditions set out in this document, as amended from time to time in accordance with Condition 21.4.

Contract: the contract between the Purchaser and the Supplier for the purchase of the Goods and/or supply of the Services which incorporates these Conditions and the Purchase Order.

Customer: the third party for whose benefit the Purchaser is purchasing the Goods and/or Services pursuant to this Contract.

Debarment List: the list of suppliers that are excluded or excludable from public procurement processes under the Procurement Act 2023.

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.

Delivery Location: as defined in Condition 3.1.

Force Majeure Event: an event falling within the scope of Condition 20.

Goods: the goods (or any part of them) as described in the Purchase Order, and any repaired, replaced or spare parts relating to those goods.

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.

Purchase Order: the Purchaser's order for the Goods and/or Services, as set out in the Purchaser's purchase order form.

Purchaser: Marlborough Communications Limited registered in England and Wales with company number 01507639.

Services: the services (or any part of them) as described in the Purchase Order.

Supplier: the person or firm, as described in the Purchase Order, from whom the Purchaser purchases the Goods and/or Services.

2. BASIS OF CONTRACT

2.1 The Purchase Order constitutes an offer by the Purchaser to purchase Goods and/or Services from the Supplier in accordance with these Conditions.

2.2 The Purchase Order shall be deemed to be accepted on the earlier of: (a) the Supplier issuing written acceptance of the Purchase Order; or (b) any act by the Supplier consistent with fulfilling the Purchase Order, at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

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

3. DELIVERY AND RISK

3.1 The Supplier shall deliver the Goods: (a) on the date specified in the Purchase Order or, if no such date is specified, then within 14 days of the date of the Purchase Order; and (b) to the Purchaser's premises or such other location as is set out in the Purchase Order or as instructed by the Purchaser before delivery (**Delivery Location**). Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

3.2 Time of delivery of the Goods and of supply of the Services shall be of the essence (save for where delivery or supply is prevented by a Force Majeure Event).

3.3 Delivery in instalments shall be permitted only with the consent of the Purchaser and such consent, if given, shall not entitle the Supplier to claim payment prior to delivery of the whole of the Goods, unless otherwise expressly agreed. However, failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment, shall entitle the Purchaser to the remedies set out in Condition 7.

3.4 Title and risk in the Goods shall pass to the Purchaser on completion of delivery.

4. PACKAGING

4.1 The Goods shall be securely and properly packed by the Supplier in such a manner as to enable them to reach their destination in good condition.

5. QUALITY

5.1 The Supplier shall (a) comply with all applicable laws, rules and regulations including, but not limited to, all laws relating to data protection, UKCA marking, health, safety and the environment in relation to the creation, sale and delivery of the Goods and performance of the Service and (b) be responsible for the payment of all charges, duties and taxes (excluding VAT) relating to the supply of the Goods and/or Services to the Purchaser.

5.2 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 and Services.

5.3 The Supplier undertakes that all Goods (including raw materials and unfinished goods) shall, on delivery to the Purchaser: (a) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); (b) be fit for the purpose which the Purchaser made known to the Supplier prior to the Commencement Date; (c) accord with any specifications incorporated in the Contract; (d) conform to all relevant standards applicable to the purposes for which the Purchaser intends to use them, including but not limited to any electromagnetic compatibility rules and regulations; (e) be free from defects in design, materials and workmanship and remain so for 15 months after delivery; and (f) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

5.4 In providing the Services, the Supplier shall: (a) co-operate with the Purchaser in all matters relating to the Services, and comply with all instructions of the Purchaser; (b) perform the Services with all reasonable care, skill and diligence by appropriately experienced, qualified and trained personnel in accordance with best practice in the Supplier's industry, profession or trade; (c) ensure that the Services and Deliverables will conform with all descriptions and specifications incorporated in the Contract; (d) observe all health and safety rules and regulations and any other security requirements that apply at any of the Purchaser's or Customer's premises; and (e) not do or omit to do anything which may cause the Purchaser 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 Purchaser may rely or act on the Services.

5.5 The Supplier shall satisfy itself that it understands the Purchaser's requirements in order to comply with the obligations set out in this Condition 5 and also to prevent delay caused by any modification which may be necessary to meet the Purchaser's requirements. The cost of any such modification shall be borne by the Supplier.

5.6 In addition to complying with ISO9001, AS9100 and any quality requirements stipulated under the Contract, the Supplier shall comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the supply of the Goods and Services.

6. ALTERATIONS

6.1 The Supplier shall not make any alterations in the design, materials or method of manufacture of the Goods nor substitute any other part or fitment for any proprietary or special part or fitment ordered by the Purchaser without prior written consent of the Purchaser.

6.2 If the Purchaser refuses its consent under Condition 6.1, and the Supplier is unable for any reason to perform the Contract without altering the design, materials or method of manufacture of the Goods or substituting any other part or fitment for any proprietary or special part or fitment ordered by the Purchaser, the Purchaser may terminate the Contract immediately by giving notice in writing to the Supplier.

6.3 When the Contract is terminated pursuant to Condition 6.2, any deposit shall be returned to the Purchaser together with any instalments of the purchase price already paid and the Purchaser shall be entitled to recover from the Supplier any loss by the Purchaser as a consequence of the Supplier's failure to perform the Contract.

7. PURCHASER REMEDIES

7.1 If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, the Purchaser 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; (b) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make; (c) to recover from the Supplier any costs incurred by the Purchaser in obtaining substitute goods and/or services from a third party; (d) where the Purchaser has paid in advance for 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; and (e) to claim damages for any additional costs, loss or expenses incurred by the Purchaser which are in any way attributable to the Supplier's failure to meet such dates.

7.2 If, on inspection (whether at any time prior to or after discharge of the Contract by performance) or in manufacture or use, any Goods are found to be defective or not to comply with these Conditions (including Goods damaged in transit) the Purchaser shall, at its sole option (and without prejudice to any other rights it may have), 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; (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 (if paid); (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make; (e) to recover from the Supplier any expenditure incurred by the Purchaser in obtaining substitute goods from a third party; and (f) to claim damages for any additional costs, loss or expenses incurred by the Purchaser arising from the Supplier's failure to supply Goods in accordance the Contract and, in such circumstances, the Purchaser shall use reasonable efforts to mitigate those costs, losses or expenses so as to minimise the value of the claim.

7.3 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement Goods supplied by the Supplier.

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

8. PRICE AND PAYMENT

8.1 The price of the Goods and/or Services shall be the price set out in the Purchase Order or, if no price is set out, the Supplier's published list price applicable at the Commencement Date and, in either case, shall not be subject to change without the written consent of the Purchaser.

8.2 The price of the Goods shall include the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by the Purchaser. No extra charges shall be effective unless agreed in writing and signed by the Purchaser.

8.3 The price for the Services shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Purchaser, the charges shall include every cost and expense directly or indirectly incurred by the Supplier in connection with the performance of the Services.

8.4 If requested in writing by the Purchaser, the Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services and shall allow the Purchaser to inspect such records at all reasonable times on request.

8.5 The Purchaser will consider and verify each invoice received from the Supplier without undue delay. Unless otherwise agreed in writing between the Purchaser and the Supplier, or stated on the Purchase Order, payment shall be made by the Purchaser within 30 days from the date on which the Purchaser received the valid and undisputed invoice or, if later, the day on which the payment falls due in accordance with the invoice. The Purchaser reserves the right to set off any liability of the Supplier to the Purchaser against any liability of the Purchaser to the Supplier, whether either liability is present or future, liquidated or unliquidated and whether or not either liability arises under the Contract.

8.6 Where the Purchaser fails to comply with Condition 8.5 and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the after a reasonable time has passed.

8.7 All amounts payable by the Purchaser 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 Purchaser, the Purchaser shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

8.8 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 2% per annum above Barclays Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. The foregoing shall not apply to payments that the defaulting party disputes in good faith.

9. IMPORT AND EXPORT LICENCES

9.1 The Supplier shall secure and comply with all necessary export and import licences, agreements, consents, customs clearances and all other approvals in respect of the supply of the Goods and Services to the Purchaser, including authorisations, if any, provided by the U.S. Department of State, pursuant to the International Traffic in Arms Regulations (**ITAR**), and the U.S. Department of Commerce, pursuant to the Export Administration Regulations (**EAR**).

9.2 The Supplier shall provide a clear statement to the Purchaser of the U.S. content (either ITAR-controlled or EAR-controlled) of all Goods and Services that they are required to sell to the Purchaser, and shall obtain and provide copies to the Purchaser of all licences, permits, approvals or other authorisations as necessary to sell and deliver the Goods to, and perform the Services for the Purchaser pursuant to this Contract. During the term of the Contract and for a period of 2 years from completion of the Contract, the Supplier shall inform the Purchaser as soon as they become aware that the exportability or importability of the Goods and Services that they are required to sell

and deliver to the Purchaser has changed. The Supplier shall obtain all necessary amendments to licences, permits, approvals or other authorisations as requested by the Purchaser. On request, each party shall supply the other with information necessary to support the requisite export / import authorisations, such as ultimate end user, ultimate end use, intermediate consignees, signatories and foreign sublicensees. The Supplier shall also provide accurate Customs Commodity Code information for all products being supplied under this Contract.

10. INDEMNITY

10.1 The Supplier shall keep the Purchaser indemnified against all liabilities, 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 professional costs and expenses) suffered or incurred by the Purchaser as a result of or in connection with: (a) any claim made against the Purchaser for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services, 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 Purchaser 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; and (c) any claim made against the Purchaser by a third party arising out of or in connection with the supply of the Goods 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. Nothing in this Condition 10 shall restrict or limit the Purchaser's general obligation at law to mitigate a loss which it may suffer or incur as a result of a matter that may give rise to a claim under this indemnity. This Condition 10 shall survive termination of the Contract.

11. ANTI-BRIBERY

11.1 The Supplier shall:

- 11.1.1 comply with all applicable laws, statutes, regulations, and policies relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);
- 11.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- 11.1.3 comply with the Customer's anti-bribery and anti-corruption policies as may be updated from time to time (**Relevant Policies**).
- 11.1.4 have and shall maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and Condition 11.1.2, and will enforce them where appropriate;
- 11.1.5 promptly report to the Purchaser any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this Contract;
- 11.1.6 immediately notify the Purchaser (in writing) if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier and the Supplier warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the Commencement Date); and
- 11.1.7 within 3 months of the Commencement Date, certify to the Purchaser in writing signed by an officer of the Supplier, compliance by the Supplier and all persons associated with it with this Condition 11. The Supplier shall provide such supporting evidence of compliance as the Purchaser may reasonably request.

12. ANTI-SLAVERY AND HUMAN TRAFFICKING

12.1 In performing its obligations under the Contract, the Supplier shall:

- 12.1.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015 (**Anti-slavery Laws**);
- 12.1.2 have and maintain throughout the term of this Contract its own policies and procedures to ensure its compliance with Anti-slavery Laws (**Anti-slavery Policy**) and to comply with the Anti-slavery Policy;
- 12.1.3 not engage in any activity, practice or conduct that would constitute an offence under the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and
- 12.1.4 include in its contracts with its subcontractors and suppliers anti-slavery and human trafficking provisions that are at least as onerous as those set out in this Contract.

12.2 The Supplier represents and warrants that at the Commencement Date neither the Supplier nor any of its officers, employees or other persons associated with it:

- (i) has been convicted of any offence involving slavery and human trafficking; and
- (ii) to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.

12.3 The Supplier shall implement adequate due diligence procedures for its subcontractors, and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.

12.4 The Supplier shall notify the Purchaser in writing as soon as it becomes aware of:

- (i) any breach, or potential breach, of the Anti-slavery Policy; or
- (ii) any actual or suspected slavery or human trafficking in its business or in a supply chain which has a connection with this Contract.

12.5 The Supplier shall implement a system of training for its employees to ensure compliance with the Anti-slavery Policy. The Supplier shall keep a record of all training offered and completed by its employees to ensure compliance with the Anti-slavery Policy and shall make a copy of the record available to the Purchaser on request.

12.6 The Supplier represents, warrants and undertakes that it conducts its business in a manner that is consistent with the Anti-slavery Policy.

13. INTELLECTUAL PROPERTY RIGHTS

13.1 In respect of the Goods and any goods that are transferred to the Purchaser as part of the 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 Purchaser, it will have full and unrestricted rights to sell and transfer all such items to the Purchaser.

13.2 The Supplier assigns to the Purchaser, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including the Deliverables.

13.3 The Supplier shall, promptly at the Purchaser's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Purchaser may from time to time require for the purpose of securing for the Purchaser the full benefit of the Contract, including

all right, title and interest in and to the Intellectual Property Rights assigned to the Purchaser in accordance with Condition 13.2.

13.4 Any specifications, plans, drawings, samples, designs or equipment supplied by the Purchaser to the Supplier in connection with the Contract shall remain the property of the Purchaser and shall be treated as confidential in accordance with Condition 14.

14. CONFIDENTIALITY AND PUBLICITY

14.1 Each party undertakes that it shall not at any time during this Contract, and for a period of 3 years after its termination or expiry, disclose to any third party any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except with consent in writing of the other party or as may be required by law.

14.2 The Supplier shall not communicate with the media on any matter concerning the Contract unless the Purchaser has given its prior written consent.

15. GOVERNMENT CONTRACTS

Where the Customer is the UK Ministry of Defence (**MOD**) (or any other UK Government Department), the following Conditions apply:

15.1 SUPPLIER'S RECORDS

The Supplier shall maintain all records connected with the Contract and make them available on request by the Customer to be examined and, if necessary, copied by the Customer. The Supplier shall retain such records for a period of 6 years from the later of termination or expiry of the Contract or final payment under the Contract. The Supplier shall also permit access to relevant records relating to the supply of the Goods and/or Services reasonably required by the National Audit Office for the purpose of conducting the Customer's statutory audits and examinations of the Customer's reports and accounts and use of resources.

15.2 ACCESS TO SUPPLIER'S PREMISES

Following reasonable notice, the Supplier shall provide the Customer relevant accommodation / facilities and all reasonable access to its premises, at no direct cost, for the purpose of monitoring the Supplier's progress and quality standards in performing the Contract.

15.3 IMPORT AND EXPORT LICENCE

15.3.1 Unless otherwise specified by the Customer in writing, for any export / import licence or import licence or authorisation from a foreign government applied for by the Supplier pursuant to Condition 9:

- a) the end user is: The Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (hereinafter "UK MOD"); and
- b) the end use is: For the Purposes of UK MOD,

and the submission for the licence or authorisation shall include a statement that "information on the status of processing this application may be shared with the Ministry of Defence of the United Kingdom". The Supplier shall consult with the Purchaser as soon as reasonably practicable on the licence requirements and dependencies.

15.3.2 During the term of the Contract and for a period of 2 years from completion of the Contract, the Purchaser may request the Supplier to seek a variation to the conditions to a foreign export / import licence or authorisation to enable the Customer to re-export or re-transfer a licensed / authorised item / information from the UK to a non-licensed or unauthorised third party. The Supplier shall inform the Purchaser as soon as possible if it has any objection to the request and the parties shall meet within 5 working days to resolve the issue. Where it has no objection, the Supplier shall file an application to seek the variation in accordance with the procedures of the licensing authority. The Purchaser will pay the Supplier a fair and reasonable charge for this service based on the cost of providing it.

15.3.3 The Supplier shall notify the Purchaser within 30 days of becoming aware that any Goods and/or Services are subject to:

- a) a non-UK export licence, authorisation or exemption; or
- b) any other related transfer / export control, that imposes end use, end user or re-transfer or re-export restrictions, or restrictions on disclosure to individuals based upon their nationality,

and, in any event, such notification shall be not less than 30 days prior to delivery of the relevant Goods or Services. Where the Supplier becomes aware of restrictions after the receipt of material, the Supplier shall immediately inform the Purchaser and propose actions to mitigate the impact of such restrictions.

15.4 CYBER ESSENTIALS

Where the supply of Goods and Services entail the transfer of MOD identifiable information from the Purchaser to Supplier or the generation of information by the Supplier specifically in support of the MOD contract, the Supplier is required to have and maintain Cyber Essentials certification. The Supplier will provide a copy of such certificate to the Purchaser on request. This requirement must be flowed down through to the Supplier's supply chain.

16. CHANGE OF CONTROL OF SUPPLIER

16.1 The Supplier shall notify the Purchaser as soon as practicable in writing of any intended, planned or actual change in control of the Supplier and/or their subcontractor(s) and any concerns it may have with the change of control (for example, potential threats to national security or security of supply). The Supplier is not required to submit any notice which is unlawful or is in breach of any pre-existing non-disclosure agreement or any regulations governing the conduct of the Supplier in the UK or other jurisdictions where the Supplier may be subject to legal sanction arising from issuing such a notice.

16.2 Each notice of change of control shall be taken to apply to all contracts with the Purchaser.

16.3 The Purchaser shall consider the notice of change of control and advise the Supplier in writing of any concerns it may have. Within 10 calendar days (or as otherwise agreed) of receipt of such written concerns, the Supplier shall submit a response to the Purchaser, including any plans to mitigate those concerns. The Parties shall work together to seek to resolve such concerns, and the Supplier shall answer any questions promptly. Where the Purchaser considers that the risk may be appropriately mitigated, the Supplier shall implement any agreed mitigations within the timescales required by the Purchaser. Where the Supplier fails to do so, Condition 16.3 shall apply.

16.4 The Purchaser, acting reasonably, may terminate the Contract (and/or request the Supplier terminate any subcontract) by giving written notice to the Supplier within 7 months of the Purchaser being notified in accordance with Condition 16.1.

16.5 Where the Purchaser terminates the Contract in accordance with Condition 16.3, the Supplier may request payment for unavoidable commitments, liabilities or expenditure incurred by the Supplier in connection with the Contract up to the point of termination. The Purchaser shall (acting reasonably) decide whether to make such requested payment in accordance with Condition 16.6.

16.6 Any requests for payment by the Supplier must be submitted promptly and supported by documentary evidence and demonstrate, to the reasonable satisfaction of the Purchaser, that such request is reasonable and properly chargeable and would otherwise represent an unavoidable loss by the Supplier by reason of the termination of the Contract. The Purchaser may reject a request that fails to comply with this Condition.

17. SUB-CONTRACTS

17.1 Where the Goods or any part of them are not manufactured by the Supplier, the Supplier shall, without prejudice to Condition 5, use its best endeavours to pass on to the Purchaser the benefits of any guarantee, condition, warranty or servicing agreement received by the Supplier from the manufacturer of such Goods or any part of them.

17.2 Where the Supplier enters into a subcontract with respect to the provision of any part of the Goods or Services, the Supplier shall include in any subcontract provisions having the same effect as Conditions 8.5 and 8.5 and this Condition **Error! Reference source not found..**

17.3 The Supplier shall not subcontract (and shall procure that none of their subcontractors shall subcontract) any part of the Contract to a supplier whose name appears on the Debarment List without the prior written consent of the Purchaser. If the Supplier enters into a subcontract with a supplier whose name appears on the Debarment List, without prior approval, this shall constitute a material breach of the Contract.

17.4 Where the Supplier enters into a subcontract, they shall cause a term to be included in such subcontract requiring the counterparty to that subcontract to include in any subcontract which they award, provisions providing for termination of the contract and notification obligations contained within Condition 17.5, in the event either party to the subcontract is added to the Debarment List.

17.5 Where a subcontractor is added to the Debarment List, at any level of the supply chain, during the term of the Contract, the Supplier shall notify the Purchaser within three (3) working days of the Supplier being added, or made aware, and the Purchaser shall reasonably determine (in its sole discretion) whether it requires the contract with the subcontractor to be terminated.

17.6 Where the Purchaser requires a subcontract to be terminated in accordance with Condition 17.5, the Supplier shall procure that the subcontract is terminated as soon as is reasonably practicable. Such termination shall not relieve the Supplier of the performance of their obligations under the Contract and the Purchaser shall not be liable for any costs, liabilities, expenses, damages and/or losses arising from, or in connection with, such termination.

18. TERMINATION OF THE CONTRACT

18.1 TERMINATION FOR CONVENIENCE

18.1.1 Without limiting its other rights or remedies, the Purchaser shall be entitled to terminate the Contract in whole or part by giving 10 working days' notice to the Supplier at any time.

18.1.2 Following the above notification, the Purchaser shall be entitled to exercise any of the following rights in relation to the Contract (or part being terminated) to direct the Supplier to:

- (i) not start work on any element of the Goods or Services not yet started;
- (ii) complete the provision of any element of the Goods or Services;
- (iii) take such steps to ensure that the production rate of the Goods or Services is reduced as quickly as possible;
- (iv) terminate on the best possible terms any subcontracts in support of the Goods or Services that have not been completed, taking into account any direction given under (ii) and (iii) above.

18.1.3 The Purchaser shall (subject to Condition 18.1.4 and to the Supplier's compliance with any direction given by the Purchaser) indemnify the Supplier against any commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Supplier by reason of the termination of the Contract, subject to:

- (i) the Supplier taking all reasonable steps to mitigate such loss; and
- (ii) the Supplier submitting a fully itemised and costed list of such loss, with supporting evidence, reasonably and actually incurred by the Supplier as a result of the termination of the Contract or relevant part.

18.1.4 The Purchaser's total liability under the provisions of this Condition shall be limited to the total price of the Goods payable under the Contract (or relevant part), including any sums paid, due or becoming due to the Supplier at the date of termination.

18.1.5 Where the Contract is terminated in part, the Contract shall continue in respect of all other parts of the Contract not terminated.

18.2 TERMINATION FOR DEFAULT

18.2.1 Without limiting its other rights or remedies, the Purchaser may terminate the Contract with immediate effect by giving written notice to the Supplier if: (a) the Supplier commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing to do so; (b) the Supplier repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; (c) the Supplier becomes insolvent or if an order or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors, or takes or suffers any similar or analogous action in consequence of debt; (d) the Supplier commits a breach of the Bribery Act 2010 or Condition 11.1; or (e) the Supplier commits a breach of the Anti-slavery Policy or any of Conditions 12.1 to 12.6.

19. CONSEQUENCES OF TERMINATION

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

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

19.3 On termination the Contract pursuant to Condition 18.1, the Purchaser shall pay to the Supplier all of the Supplier's outstanding undisputed invoices and, in respect of Goods manufactured but not yet delivered and/or Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable in accordance with Condition 8.

19.4 On termination of the Contract for any reason, the Supplier shall immediately provide a list of and deliver to the Purchaser at a fair and reasonable price all unused and undamaged materiel and any Goods in the course of manufacture that are in the possession of the Supplier at the date of termination and provided by or to the Supplier for the performance of the Contract. If the Supplier fails to do so, then the Purchaser 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.

20. FORCE MAJEURE

20.1 Neither party shall be liable to the other for failure to fulfil its obligations under the Contract or for delays in delivery or supply due to causes beyond its reasonable control, including, but not limited to, acts of God, natural disasters, acts or omissions of other parties, acts or omissions of civil or military authority, Government priorities, changes in law, material shortages, fire strikes, floods, epidemics, quarantine restrictions, riots, war, acts of terrorism, delays in transportation or inability to obtain labour or materials through its regular sources. The affected party's time for performance of any such obligation shall be extended for the time period of such delay. If the period of delay or non-performance continues for 30 days, the party not affected may as its option, terminate the Contract or remaining part of it without liability by giving 7 days' notice to the affected party. If termination occurs under this Condition 20, all sums paid to the Supplier by the Purchaser under the Contract shall be refunded to the Purchaser, except that the Supplier shall be entitled to payment on a quantum meruit basis for all work done before termination, provided that the Supplier takes all reasonable steps to mitigate the amount due.

21. GENERAL

21.1 The heading to any Condition shall not affect the interpretation of that Condition.

21.2 No waiver of any term of the Contract by the Purchaser shall be deemed to be a further or continuing waiver of any other term of the Contract.

21.3 Notices shall be in writing and in English and shall be sent by facsimile or email, or by first class pre-paid post or other next working day delivery service, or by pre-paid airmail (providing proof of delivery) addressed to the respective party's address as it appears in the Purchase Order, or, if none is given, to the respective party's registered office (if a company) or its principal place of business (in any other case). Notices served by facsimile or email shall be deemed received immediately following despatch provided that the serving party sends a confirmatory copy of the notice by post within 24 hours. Notices served by domestic postal services shall be deemed to have been received 48 hours after despatch, and those served by airmail shall be deemed to have been received 5 days after despatch. This Condition does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

21.4 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 in writing and signed on behalf of the Purchaser by a person duly authorised and known to the Supplier to be so authorised by the Purchaser.

21.5 Neither party may assign, transfer, mortgage, charge, subcontract 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 other party, such consent not to be unreasonably withheld or delayed.

21.6 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 Condition shall not affect the validity and enforceability of the rest of the Contract.

21.7 The Contract shall be governed by and construed in accordance with the law of England and Wales, and 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 the Contract.

22. DISPUTE RESOLUTION

22.1 In the event of any dispute relating to the interpretation, application or execution of any Purchase Order issued, arising between the parties that cannot be reasonably resolved in a timely fashion at the operational level of each business, the dispute shall be escalated to the most senior executive manager of each of the parties responsible to his or her business for review and negotiations in good faith. Each of the operational managers shall prepare and deliver a written report for and to his or her senior executive manager (with a copy to the operational and senior executive managers of the other party) summarising the dispute, attempts made to date to resolve the dispute and his or her proposed solution to the dispute at least 3 working days before the scheduled date of the first meeting or telephone conference between the senior executive managers.

22.2 If the dispute cannot be resolved through good faith negotiations between the senior executive managers within 10 working days of the first meeting or telephone conference, the dispute shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which Rules are deemed to be incorporated by reference into this Condition. The number of arbitrators shall be one. The seat or legal place of arbitration shall be London. The language to be used in the arbitration shall be English.