

## **1 INTERPRETATION**

1.1 In these Conditions the following words have the following meanings:

<b>“Anti-Corruption Requirements”</b>	has the meaning given to it in Condition 16.1;
<b>“Anti-Slavery Requirements”</b>	has the meaning given to it in Condition 18.1;
<b>“Applicable Law”</b>	any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directive or requirement or notice of any Regulatory Body, delegated or subordinate legislation;
<b>“Cancellation Notice”</b>	has the meaning given to it in Condition 3.4;
<b>“Conditions”</b>	the standard terms and conditions of purchase as set out in this document and as amended from time to time in accordance with Condition 2.3;
<b>“Contract”</b>	the Order and the Supplier’s acceptance of the Order;
<b>“Deliverables”</b>	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 drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);
<b>“Discrimination”</b>	has the meaning given to it in Condition 17.1;
<b>“Goods”</b>	any goods agreed in the Contract to be purchased by the Purchaser from the Supplier (including any part or parts of them);
<b>“Indebtedness”</b>	any obligation to pay or repay money (whether present or future, actual or contingent, joint or sole);
<b>“Intellectual Property Rights”</b>	any and all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, semi-conductor topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

<b>“Losses”</b>	losses (including any direct, indirect or consequential losses, loss of profit and loss of reputation), claims, damages, liabilities, fines, interest, penalties, costs, charges, expenses, demands and legal and other professional costs (calculated on a full indemnity basis);
<b>“Modern Slavery Policy and Procedures”</b>	the Purchaser’s modern slavery policy and Procedures, made available to the Supplier from time to time;
<b>“Order”</b>	the Purchaser’s written instruction, incorporating these Conditions, to supply the Goods and/or the Services, as amended by any Order Amendment from time to time;
<b>“Order Amendment”</b>	the Purchaser’s written instructions, amending an existing Order;
<b>“Price”</b>	has the meaning given to it in Condition 9.1;
<b>“Purchaser”</b>	the University of Northampton, of Boughton Green Road, Northampton, NN2 7AL;
<b>“Purchaser Materials”</b>	has the meaning given to it in Condition 12;
<b>“Regulatory Body”</b>	those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate or influence the matters dealt with in these Conditions or any other affairs of the parties or either of them;
<b>“Services”</b>	any services, including any Deliverables, agreed in the Contract to be purchased by the Purchaser from the Supplier (including any part or parts of them);
<b>“Specification”</b>	any description or specification (including any related plans or drawings) for the Goods and/or Services included in the Order or supplied or advised by the Purchaser to the Supplier or agreed in writing by the Purchaser and the Supplier, including any plans, patterns, drawings, data or other information relating to the Goods or Services;
<b>“Supplier”</b>	the person(s), firm or company who accepts the Order; and
<b>“Working Day”</b>	a day (other than a Saturday, a Sunday or a public holiday in England) on which banks in London are open for business.

- 1.2 In these Conditions (except where the context otherwise requires):
- 1.2.1 words in the singular include the plural and vice versa and reference to any gender includes the others;
  - 1.2.2 reference to “a person” includes a natural person, company or unincorporated body (whether or not having separate legal personality);
  - 1.2.3 a reference to “company” includes any company, corporation or other body corporate, wherever and however incorporated or established;
  - 1.2.4 references to legislation are to that legislation as amended, extended or re-enacted from time to time, including, as a result of the United Kingdom’s withdrawal from the European Union by virtue of Article 50 of the Treaty of the European Union;
  - 1.2.5 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
  - 1.2.6 any words following the terms “including”, “include”, “in particular” or any similar terms shall be construed as illustrative only and shall not limit the sense of the words preceding those terms; and
  - 1.2.7 a reference to “writing” or “written” includes email but not fax.
- 1.3 Headings are for convenience only and shall not affect the interpretation of these Conditions.
- 1.4 The Contract shall be binding upon, and enure to the benefit of, the parties and their respective personal representatives, successors and permitted assignees, and references to any party shall include that party’s personal representatives, successors and permitted assignees.

## **2 APPLICATION OF THESE CONDITIONS**

- 2.1 These Conditions are the only conditions upon which the Purchaser is prepared to deal with the Supplier and they shall govern the Contract to the entire exclusion of all other terms and conditions.
- 2.2 No terms or conditions (other than these Conditions) endorsed upon, delivered with or contained in the Supplier’s quotation, acknowledgement or acceptance of order, specification or other document (whether or not any such document is referred to in the Contract), or which are implied by trade, custom, practice or course of dealing, will form part of the Contract and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.
- 2.3 These Conditions apply to all the Purchaser’s purchases and/or acquisitions and any variation to these Conditions shall have no effect unless expressly agreed in writing and signed by a duly authorised representative of the Purchaser.
- 2.4 Each Order shall be deemed to be an offer by the Purchaser to purchase Goods and/or Services subject to these Conditions and an Order shall be deemed to be accepted by the Supplier on the earlier of the Supplier giving written notice of acceptance or any act by the Supplier consistent with fulfilling the Order.
- 2.5 An Order will lapse unless it is accepted in accordance with Condition 2.4 within seven (7) days of its date.

### **3 ORDER VARIATIONS AND CANCELLATIONS**

- 3.1 The Purchaser may issue the Supplier with an Order Amendment at any time before delivery of the Goods and/or performance of the Services.
- 3.2 An Order Amendment shall be deemed accepted by the Supplier, unless the supplier notifies the Purchaser in writing, within 48 hours of receiving the Order Amendment, of any impact the proposed change will have on the Contract Price or the delivery date ("**Impact Notice**"). If there is an Impact Notice, the Supplier shall suspend performance of the Contract and allow the Purchaser 10 Working Days to consider the Impact Notice.
- 3.3 The Order Amendment shall only take effect if the Impact Notice is agreed in writing by the Purchaser. Where the Impact Notice is not Agreed the Order shall be
- 3.4 The Purchaser shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Supplier written notice whereupon all work on the Contract shall be discontinued ("**Cancellation Notice**").
- 3.5 The Purchaser shall, if claimed for by the Supplier within three (3) months of the Cancellation Notice, pay to the Supplier shall pay to the Supplier fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss and shall not exceed the Price of the Order cancelled in accordance with Condition 3.4.

### **4 PERFORMANCE, QUALITY AND DEFECTS**

- 4.1 The Supplier shall ensure that the Goods shall:
  - 4.1.1 correspond with their description and any Specification;
  - 4.1.2 be of the best quality and use the best quality materials, standards, designs and techniques;
  - 4.1.3 be fit for any purpose held out by the Supplier or made known to the Supplier by the Purchaser, expressly or by implication, and in this respect the Purchaser relies on the Supplier's skill and judgment;
  - 4.1.4 be free from defects in design, material and workmanship and remain so for eighteen (18) months after delivery or twelve (12) months after the Purchaser has started using the Goods, whichever is sooner;
  - 4.1.5 comply with all applicable statutory and regulatory requirements including relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and
  - 4.1.6 be delivered by their due date for delivery.
- 4.2 In performing the Services, the Supplier shall:
  - 4.2.1 meet any performance dates for the Services specified in the Order or notified to the Supplier by the Purchaser;
  - 4.2.2 co-operate with the Purchaser in all matters relating to the Services and comply with all instructions from the Purchaser;

- 4.2.3 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
  - 4.2.4 use personnel who are suitably skilled and experienced to perform tasks assigned to them and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
  - 4.2.5 ensure that the Services and Deliverables will conform with all descriptions and specifications set out in any Specification and that the Deliverables shall be fit for any purpose held out by the Supplier or made known to the Supplier by the Purchaser, expressly or by implication;
  - 4.2.6 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
  - 4.2.7 use the best quality goods, materials, standards, designs and techniques and ensure that the Deliverables and all goods and materials supplied and used in the Services or transferred to the Purchaser will be free from defects in workmanship, installation and design;
  - 4.2.8 observe all health and safety rules and regulations and any other security requirements that apply at any of the Purchaser's premises; and
  - 4.2.9 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.
- 4.3 The Purchaser's rights under these Conditions are in addition to the statutory conditions implied in favour of the Purchaser by the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982.
- 4.4 The Supplier shall (at its expense) maintain service performance, manufacture and delivery schedules relating to its obligations under each Contract, that the Purchaser may reasonably require, and which the Supplier shall make available at the Purchaser's reasonable request.
- 4.5 The Supplier shall immediately inform the Purchaser if its progress falls behind, or may fall behind the schedule provided to the Purchaser in accordance with Condition 4.4.
- 4.6 The Purchaser shall have the right, at any time prior to delivery of the Goods, to inspect and test the Goods and the Supplier shall provide the Purchaser with all facilities reasonably required for such inspection and testing.
- 4.7 If the results of such inspection or testing indicate that the Goods do not conform or are unlikely to conform with the Order or to the Specification, the Purchaser shall inform the Supplier within seven (7) days of the inspection and/or testing and the Supplier shall immediately take such action as is necessary to ensure conformity and the Purchaser shall have the right to require and witness further testing and inspection.
- 4.8 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations under the Contract.

- 4.9 The Supplier shall at all times have and maintain all licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract and shall comply with all applicable laws and regulations in the performance of the Contract.
- 4.10 If any of the Goods and/or the Services fail to comply with any of the provisions in this Condition 4 the Purchaser shall have available to it the remedies listed in Condition 15, any one or more of which it may exercise in its entire discretion and whether or not the Purchaser has already accepted the Goods.
- 4.11 The Supplier shall ensure that compatible spares are available to facilitate repairs to the Goods (where applicable) for a period of at least 10 years from the date of delivery of the Goods.

## **5 DELIVERY**

- 5.1 The date for delivery and/or performance shall be specified in the Order and/or if no such date is specified then delivery and/or performance shall take place within twenty one (21) days of the date of the Order.
- 5.2 Time for delivery of the Goods and/or the performance of the Services shall be of the essence of the Contract.
- 5.3 The Goods shall be marked in accordance with the Purchaser's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course.
- 5.4 The Goods shall be delivered carriage paid to such location as specified in the Order or by the Purchaser before delivery or, if no location is so specified, to the Purchaser's place of business.
- 5.5 The Services shall be performed at the Purchaser's place of business or at such other place of performance as is specified or agreed by the Purchaser in writing prior to performance of the Services.
- 5.6 The Supplier shall off-load the Goods as directed by the Purchaser and where specified in the Order shall assemble and install the Goods as directed by the Purchaser.
- 5.7 The Supplier shall (unless the Purchaser specifies otherwise) at its own cost remove from the place of delivery any packaging material used in transporting the Goods.
- 5.8 The Supplier shall supply the Purchaser in good time with any instructions or other information required to enable the Purchaser to accept delivery of the Goods and performance of the Services.
- 5.9 The Supplier shall ensure that each delivery is accompanied by a prominently displayed delivery note which shows, as a minimum, the Order number, date of Order, type of Goods, number of packages and contents, any special storage instructions and, in the case of part delivery, the outstanding balance remaining to be delivered.
- 5.10 Delivery of the Goods shall be complete when the Goods have been off-loaded, unpacked, stacked, assembled and installed as specified in the Order or this Condition 5.
- 5.11 Unless otherwise stipulated by the Purchaser in the Order, deliveries and/or performance shall only be accepted by the Purchaser within its usual business hours.

- 5.12 If the Goods are not delivered and/or the Services are not performed on the due date then, without prejudice to any other rights or remedies which it may have, the Purchaser reserves the right to:
- 5.12.1 terminate the Contract in whole or in part, without liability to the Purchaser;
  - 5.12.2 refuse to accept any subsequent delivery of the Goods and/or performance of the Services which the Supplier attempts to make;
  - 5.12.3 reject any of the Goods that may already have been delivered;
  - 5.12.4 recover from the Supplier any expenditure reasonably incurred by the Purchaser in obtaining the Goods and/or performance of the Services in substitution from another Supplier;
  - 5.12.5 where the Purchaser has paid in advance for Goods and/or Services that have not been delivered or provided (or paid for any Goods already delivered but which the Purchaser is now rejecting), to have such sums refunded by the Supplier; and
  - 5.12.6 claim damages for any Losses incurred or to be incurred by the Purchaser which are in any way attributable to the Supplier's failure to deliver the Goods and/or perform the Services on the due date.
- 5.13 The Supplier shall not deliver and/or perform by instalments unless the Purchaser so agrees in writing, in which case the Contract will be construed as a single contract in respect of each instalment. Nevertheless failure by the Supplier to deliver and/or perform any one instalment shall entitle the Purchaser at its option to treat the whole Contract as repudiated and to the remedies set out in Condition 15.
- 5.14 If the Supplier delivers in excess of the quantity ordered, the Purchaser may reject the whole or may accept only the quantity ordered and shall not be bound to pay for any excess it does not accept, which will be and remain at the Supplier's risk and will be returnable at the Supplier's expense.
- 5.15 If the Supplier delivers less than the quantity ordered, the Purchaser may reject the Goods, which in such case shall be and remain at the Supplier's risk and will be returnable at the Supplier's expense.
- 5.16 If the Supplier delivers in excess of or less than the quantity ordered, the Purchaser may accept delivery, in which case the Price shall be adjusted pro-rata.

## **6 USE OF GOODS**

- 6.1 The Supplier shall, where requested by the Purchaser, at its own cost, provide adequate instructions and appropriate training in relation to:
- 6.1.1 the safe use of the Goods;
  - 6.1.2 the safe disassembly/assembly and transportation of the Goods; and
  - 6.1.3 the adjustment of the Goods' settings.

6.2 Where the Supplier is required to perform the services described in Condition 6.1, such services shall be performed by appropriately qualified and trained personnel, with the best care, skill and diligence in accordance with best practice in the Supplier's industry, trade or profession.

## **7 INDEMNITY**

7.1 The Supplier shall indemnify and keep indemnified the Purchaser in full and hold it harmless on demand from and against any and all Losses suffered or incurred by the Purchaser or for which the Purchaser may become liable arising out of or in connection with:

7.1.1 defective design, workmanship, quality, materials or any other defect in the Goods or Services (including any claim made against the Purchaser for death, personal injury or damage to property arising out of, or in connection with, defects in Goods) to the extent that the defect is attributable to the acts or omissions of the Supplier, its employees, agents or sub-contractors;

7.1.2 any claim made against the Purchaser for any infringement or alleged infringement of any Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods or the supply, receipt or use of the Services; and

7.1.3 any claim made against the Purchaser arising out of, or in connection with, the supply of the Goods or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or sub-contractors.

7.2 For the duration of the Contract and for a period of six (6) years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and in any event not less than two million pounds sterling (£2,000,000.00) of public liability cover, and shall, on the Purchaser'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.

7.3 This Condition 7 shall survive termination of the Contract.

## **8 RISK AND OWNERSHIP**

8.1 The Goods shall remain at the risk of the Supplier until delivery to the Purchaser is complete, and the Supplier shall insure the Goods.

8.2 Ownership of the Goods shall pass to the Purchaser:

8.2.1 upon delivery of the Goods; or

8.2.2 upon payment of any advance or stage payment, if applicable, at which point the Supplier shall immediately mark the Goods as being the Purchaser's property.

## **9 PRICE**

9.1 The price of the Goods and/or the Services ("**Price**") shall be that stated in the Order and unless otherwise agreed in writing by the Purchaser shall be exclusive of value added tax (which shall be payable by the Purchaser subject to receipt of a VAT invoice) but inclusive of all other charges, including packaging, insurance and carriage.

- 9.2 Neither variation in the Price nor extra charges will be applicable at any time without express acceptance in writing by a duly authorised representative of the Purchaser.

## **10 PAYMENT**

- 10.1 In respect of Goods, the Supplier shall invoice the Purchaser on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Purchaser on completion of the Services. Each invoice shall be addressed to the University of Northampton or applicable University of Northampton subsidiary referred to on the Order and be sent to the University of Northampton Finance department via email, to the email address set out in the Order. Each invoice shall quote the valid purchase order provided by the Purchaser, to which the invoice relates, and shall include such supporting information as is required by the Purchaser to verify the accuracy of the invoice.
- 10.2 The Purchaser shall pay the Price on the first Friday after the date falling twenty eight (28) days after the valid invoice is dated, or, if later, after acceptance of the Goods or Services in question by the Purchaser, but time for payment shall not be of the essence of the Contract.
- 10.3 Without prejudice to any other rights or remedies it may have, the Purchaser reserves the right to set off any amount owing at any time from the Supplier to the Purchaser against any amount payable by the Purchaser to the Supplier under the Contract.
- 10.4 The Supplier shall make all payments due under or in respect of the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless required by law.
- 10.5 The Purchaser shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier, whether or not shown in the Supplier's own terms of sale.
- 10.6 Interest shall be payable on the late payment of any undisputed invoices for Goods or Services accruing on a daily basis from the due date until payment is made in full, both before and after any judgment, at 4% per annum above the base rate of Barclays Bank from time to time.
- 10.7 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Purchaser to inspect such records at all reasonable times on request.

## **11 CONFIDENTIALITY**

- 11.1 The Supplier shall keep in strict confidence, and use only for the purpose of performing the Contract, all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by the Purchaser or its agents or sub-contractors and any other confidential information concerning the Purchaser's business or its products which the Supplier may obtain and the Supplier shall restrict disclosure of such confidential information to such of its employees, agents or sub-contractors as need to know the same for the purpose of performing the Contract and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality and restrictions of use as bind the Supplier.

## **12 THE PURCHASER'S PROPERTY**

- 12.1 The Supplier shall hold all materials, equipment, tools, drawings, specifications and data supplied by the Purchaser to the Supplier ("**Purchaser Materials**") in safe custody and at its

own risk and shall maintain the Purchaser Materials in good condition until returned to the Purchaser (which the Supplier shall do on the written instruction of the Purchaser). The Supplier shall also not dispose of or use the Purchaser Materials other than in accordance with the Purchaser's written instructions or authorisation.

- 12.2 The Supplier acknowledges that the Purchaser Materials are the exclusive property of the Purchaser.

### **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, including 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 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 obtain waivers of all moral rights in the products of the Services, including the Deliverables, to which any person is now or may at any future time be entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 13.4 The Supplier shall promptly at the Purchaser's request do (or procure to be done) all such further acts and things and execute (or procure the execution of) all such further 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 under Condition 13.2.

### **14 TERMINATION**

- 14.1 The Purchaser shall, without prejudice to any other rights or remedies it may have including under Conditions 5.12.1 and 15.1.1, have the right at any time by giving notice in writing to the Supplier to terminate the Contract, without liability to the Purchaser, forthwith if:
- 14.1.1 the Supplier commits a material or persistent breach of the Contract;
- 14.1.2 the Supplier is in the reasonable belief of the Purchaser, or is deemed to be, insolvent or unable or (being an individual) is deemed to have no reasonable prospect of being able (or admits its inability) to pay its debts as they fall due or stops or suspends payment of any of its debts or (being a partnership) has any partner to whom any of the foregoing apply;
- 14.1.3 any of the Supplier's Indebtedness is not paid in full when due or becomes due (or could be declared due) before its stated maturity because of default;
- 14.1.4 any expropriation, attachment, sequestration, distress, execution, enforcement of security or other legal process is levied, enforced or sued out on or against, or affects, any of the Supplier's assets and is not discharged or stayed within twenty one (21) days;
- 14.1.5 the Supplier begins negotiations, or enters into, or gives notice of any intention to enter into, any composition or arrangement, with one or more of its creditors in order to reschedule any of its indebtedness because of actual or anticipated financial difficulties

including, but not limited to, giving notice of a meeting of creditors for the purpose of considering a proposal for a company voluntary arrangement or (being an individual) an individual voluntary arrangement;

- 14.1.6 a moratorium is declared, or in any event comes into existence, over any of the Supplier's Indebtedness;
- 14.1.7 any petition is presented, application made, resolution proposed, notice of meeting given or other action, proceedings, procedure or step taken together by the Supplier or any third party for, or which may lead to:
  - a) the suspension of payments, winding up, dissolution, administration, receivership (whether administrative or otherwise) or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of the Supplier;
  - b) the appointment of a liquidator (both provisional and following a winding up), receiver (including a fixed charge receiver), administrative receiver, administrator, nominee supervisor, compulsory manager or other similar officer in respect of the Supplier or any of its assets; or
  - c) (where the Supplier is an individual), bankruptcy, an individual voluntary arrangement or debt relief order;
- 14.1.8 any event similar to any of those set out in Conditions 14.1.2 to 14.1.7 occurs in relation to the Supplier (including in any jurisdiction to which it is subject);
- 14.1.9 the Supplier suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business;
- 14.1.10 the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation; or
- 14.1.11 the financial position of the Supplier deteriorates to such an extent that in the reasonable opinion of the Purchaser the capability of the Supplier adequately to fulfil its obligations under the Contract has been placed in jeopardy.
- 14.2 Where both Goods and Services are to be supplied under the Contract, in any of the circumstances in which the Purchaser may, under these Conditions, terminate the Contract the Purchaser may instead terminate part of the Contract in respect of the Goods or in respect of the Services and the Contract shall continue in respect of the remaining supply.
- 14.3 On termination of the Contract or any part of it for any reason in respect of the provision of Services, the Supplier shall immediately deliver to the Purchaser all Deliverables, whether or not then complete, and return all Purchaser Materials. If the Supplier fails to do so the Purchaser may (without limiting any other rights or remedies it may have) enter the Supplier's premises and take possession of them. Until they have been returned or repossessed, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 14.4 The termination of the Contract for any reason shall not affect the accrued rights, remedies, obligations or liabilities of the Supplier and the Purchaser existing at termination.

14.5 Such of these Conditions which expressly or by implication are intended to come into or remain in force on or after the termination of the Contract shall remain in full force and effect.

## 15 REMEDIES

15.1 Without prejudice to any other rights or remedies the Purchaser may have, if any Goods and/or Services are not supplied or performed in accordance with, or the Supplier fails to comply with, any of the provisions of Condition 4, or if the right to terminate the Contract has arisen under Conditions 5.12.1, 14.1, 16.3, or 18.3, the Purchaser shall (without prejudice to any other rights or remedies it may have) be entitled to any one or more of the following remedies at its discretion, whether or not any part of the Goods and/or the Services has been accepted by the Purchaser:

15.1.1 to terminate the Contract, without liability to the Supplier;

15.1.2 to reject the Goods (in whole or in part and whether or not title has passed) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods so returned shall be paid forthwith by the Supplier;

15.1.3 where the Purchaser has paid in advance for Goods and/or Services that have not been delivered or provided, to have such sums refunded by the Supplier;

15.1.4 at the Purchaser's option, to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods and/or Services or to supply replacement Goods and/or to re-perform the Services and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;

15.1.5 to refuse to accept any further deliveries of the Goods and/or performance of the Services which the Supplier attempts to make;

15.1.6 to carry out at the Supplier's expense any work necessary to make the Goods and/or the Services comply with the Contract;

15.1.7 to claim such Losses as may have been sustained in consequence of the Supplier's breaches of the Contract including any costs reasonably incurred by the Purchaser in obtaining the Goods and/or performance of the Services in substitution from another supplier; and

15.1.8 to claim damages for any Losses incurred or to be incurred by the Purchaser which are in any way attributable to the Supplier's failure.

15.2 These Conditions shall extend to and apply in respect of any substituted or remedial services or repaired or replacement goods supplied by the Supplier.

## 16 BRIBERY AND OTHER CORRUPTION

16.1 The Supplier agrees with the Purchaser that it shall, and that it shall procure that its employees and officers, agents, sub-contractors and any other person who performs services for the Supplier in relation to the Contract shall:

16.1.1 comply with all applicable laws, statutes, regulations and codes relating to bribery and other corruption ("**Anti-Corruption Requirements**") including the Bribery Act 2010;

- 16.1.2 not take or knowingly permit any action to be taken that would or might cause or lead the Purchaser to be in violation of any Anti-Corruption Requirements;
  - 16.1.3 not bribe or attempt to bribe (which shall include any offer or form of payment, gift or other inducement, reward or advantage, whether of money or anything of value) the Purchaser or any of the Purchaser's employees, officers, agents, representatives, affiliates or persons acting on the Purchaser's behalf; and
  - 16.1.4 at the Purchaser's request and cost, provide the Purchaser with any reasonable assistance to enable it to perform any activity required by any relevant government or agency for the purpose of complying with Anti-Corruption Requirements.
- 16.2 The Supplier represents and warrants to the Purchaser that neither it nor any person described in Condition 16.1 has bribed or attempted to bribe any person in order to obtain and/or retain any business, or advantage in the conduct of business, for the Purchaser and nor has it bribed or attempted to bribe any person described in Condition 16.1.3.
  - 16.3 The Supplier agrees that in addition to the Purchaser's termination rights set out elsewhere in these Conditions, the Purchaser may (without prejudice to any other right available to it) immediately terminate the Contract in the event of any breach of this Condition 16 by the Supplier in which case the Supplier shall not be entitled to any compensation or to any further payments or remuneration.
  - 16.4 The Purchaser shall not be required to make any payment to the Supplier that might otherwise be due from the Purchaser in respect of the Contract if the Supplier has breached this Condition 16.
  - 16.5 The Supplier shall indemnify and keep indemnified the Purchaser in full and hold it harmless on demand from and against any and all Losses suffered or incurred by the Purchaser or for which the Purchaser may become liable arising out of or in connection with any breach of this Condition 16, whether or not the Contract has been terminated.

## **17 COMPLIANCE WITH POLICIES**

- 17.1 The Supplier agrees that it shall, and that it shall procure that its employees, officers and agents shall, comply with the Purchaser's policies and procedures (issued by the Purchaser from time to time) preventing unlawful discrimination on the grounds of sex, race, disability, sexual orientation, age, religion and belief ("**Discrimination**").
- 17.2 The Supplier represents, warrants and undertakes to the Purchaser that it has in place policies and procedures for the prevention of Discrimination within its own workforce, and that its employees, officers and agents have been suitably trained on the prevention of Discrimination.
- 17.3 The Supplier shall maintain complete and accurate records demonstrating its compliance with this Condition 17, and the Supplier shall allow the Purchaser to inspect such records at all reasonable times on request, and the Supplier shall co-operate with any investigations conducted under the Applicable Laws relevant to Discrimination.
- 17.4 The Supplier shall indemnify and keep indemnified the Purchaser from and against any and all Losses incurred as a result of the Supplier's breach of this Condition 17.

## **18 MODERN SLAVERY**

- 18.1 The Supplier agrees with the Purchaser that it shall, and that it shall procure that its employees, officers and agents, and any other person who performs services and/or supplies goods within the Supplier's supply chain for the Supplier in relation to this Contract shall:
- 18.1.1 comply with all Applicable Law relating to slavery and human trafficking ("**Anti-Slavery Requirements**") including the Modern Slavery Act 2015;
  - 18.1.2 comply with the Purchaser's Modern Slavery Policy and Procedures;
  - 18.1.3 not take or knowingly permit any action to be taken that would or might cause or lead the Purchaser to be in violation of any Anti-Slavery Requirements; and
  - 18.1.4 at the Purchaser's request and cost, provide the Purchaser with any reasonable assistance to enable it to perform any activity required by any regulatory body for the purpose of complying with Anti-Slavery Requirements.
- 18.2 The Supplier represents, warrants and undertakes to the Purchaser that neither it nor any other person in its supply chain (including those described in Condition 18.1) uses trafficked, bonded, child or forced labour or has attempted to use trafficked, bonded, child or forced labour within its supply chain.
- 18.3 The Supplier agrees that in addition to the Purchaser's termination rights set out elsewhere in these Conditions, the Purchaser may (without prejudice to any other right available to it) immediately terminate these Conditions in the event of any breach of this Condition 18 by the Supplier in which case the Supplier shall not be entitled to any compensation or to any further payments or remuneration.
- 18.4 The Purchaser shall not be required to make any payment to the Supplier that might otherwise be due from the Purchaser in respect of these Conditions if the Supplier has breached this Condition 18.
- 18.5 The Supplier shall indemnify the Purchaser from and against any and all Losses suffered or incurred by the Purchaser or for which the Purchaser may become liable arising out of or in connection with any breach of this Condition 18, whether or not these Conditions have been terminated.

## **19 ASSIGNMENT**

- 19.1 The Purchaser may assign, or deal in any other manner with, the Contract or any part of it, including sub-contracting any of its obligations under the Contract to any third party or agent.
- 19.2 The Supplier shall not be entitled to assign, or deal in any other manner with, the Contract or any part of it, including sub-contracting any of its obligations under the Contract, without the prior written consent of the Purchaser.

## **20 FORCE MAJEURE**

- 20.1 If either party is delayed or prevented in the performance of any of its obligations under the Contract by an event, circumstance or cause beyond its reasonable control which by its nature could not have been foreseen or, if foreseeable, was unavoidable (save any that merely increases the cost of performing such obligations and excluding any strikes, lock-outs or other industrial disputes involving its own workforce or that of any of its agents or sub-contractors), that party shall not be liable for such delay or non-performance and the time for performance

of the affected obligation shall be extended by such period as is reasonable to enable that party, using all reasonable endeavours, to perform that obligation.

- 20.2 If the performance of any of the Supplier's obligations under the Contract are delayed or prevented as described in Condition 20.1 for a continuous period of one (1) month, the Purchaser may, without liability to the Supplier, terminate the Contract forthwith by giving notice to the Supplier.

## **21 COMMUNICATIONS**

- 21.1 Any communication between the parties about the Contract shall be in writing, in English, and delivered personally, sent by pre-paid registered post or recorded delivery (or pre-paid registered air mail if overseas) or by email:

21.1.1 (in the case of communications to the Purchaser) to its registered office or email address or such changed address or email address as shall be notified to the Supplier by the Purchaser; or

21.1.2 (in the case of communications to the Supplier) to its registered office (if it is a company) or (in any other case) to any address of the Supplier set out in any document which forms part of the Contract or to its main email address or such other address or email address as shall be notified to the Purchaser by the Supplier.

- 21.2 Communications shall be deemed to have been received:

21.2.1 if delivered personally, at the time of delivery to the address;

21.2.2 if sent by pre-paid registered post or recorded delivery, 48 hours after posting;

21.2.3 if sent by pre-paid registered airmail, at 9.00am on the fifth Working Day after posting; and

21.2.4 if sent by e-mail, once the addressee acknowledges receipt of such communication, such acknowledgement to take the form of a return email (with an automatic "read receipt" not constituting acknowledgment of an email for purposes of this Condition.

- 21.3 Communications addressed to the Purchaser shall be marked for the attention of the Head of Legal.

- 21.4 This Condition 21 does not apply to the service of any proceedings or other documents in any legal action or any arbitration or other method of dispute resolution.

## **22 GENERAL**

- 22.1 The Contract does not constitute, establish or imply any partnership, joint venture, agency, employment or fiduciary relationship between the parties. The Supplier shall not have, nor represent that it has, any authority to make or enter into any commitments on the Purchaser's behalf or otherwise bind the Purchaser in any way.

- 22.2 The rights and remedies provided under these Conditions are in addition to, and not exclusive of, any rights or remedies provided by law. Any right or remedy expressly included in any provision of these Conditions (or the exercise thereof) shall not be considered as limiting the Purchaser's rights or remedies under any other provision of these Conditions (or the exercise thereof).

- 22.3 If any provision, or part of a provision, of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, illegal or unenforceable (a “**void provision**”) such invalidity, illegality or unenforceability shall not affect the other provisions of the Contract, which shall remain in full force and effect. If a void provision would be valid, legal and enforceable if some part of it were deleted, that void provision shall apply with such modification as may be necessary to make it valid, legal and enforceable and if it cannot be made valid, legal and enforceable it shall be deemed to be deleted.
- 22.4 No provision of the Contract shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to the Contract.
- 22.5 A failure to exercise, or delay in exercising a right, power or remedy provided to the Purchaser by these Conditions or by law does not constitute a waiver of that, or any other, right, power or remedy and shall not (and nor shall any single or partial exercise of any such right, power or remedy) preclude the further exercise of that, or any other, right, power or remedy.
- 22.6 Any waiver by the Purchaser of any breach of, or any default under, any provision of the Contract by the Supplier will only be effective if in writing and will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.
- 22.7 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 and claims) shall be governed by and construed in accordance with the law of England and the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any such matter.