

PART 1 – UNITE SUPPLY OF GOODS AND SERVICES TERMS AND CONDITIONS ('THE TERMS AND CONDITIONS')

UNITE TERMS AND CONDITIONS MUST BE SIGNED BY THE SUPPLIER BEFORE THIS APPLICATION CAN BE PROCESSED.

STANDARD TERMS AND CONDITIONS FOR PURCHASE OF GOODS AND/OR SERVICES OF UNITE INTEGRATED SOLUTIONS PLC.

1. DEFINITIONS AND INTERPRETATION

1.1 In this document the following words shall have the following meanings:

"Agreement" means the supply of Goods and/or Services from the Supplier to the Buyer in accordance with these Terms and Conditions, the Payment Terms, the Purchase Order, and, where required by the Buyer in accordance with Clause 20.1(x) (Information Security and Confidentiality), the Buyer's Information Security due diligence form;

"Buyer" means Unite Integrated solutions PLC, South Quay House, Temple Back, Bristol, BS1 6FL;

"CEDR" means Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU

"Confidential Information" means any information in any format relating to either Party concerning its business, affairs, customers, clients or suppliers which is not public, including commercially sensitive information, whether disclosed or created by either Party under this Agreement

"Data Processing Agreement" means an agreement detailing the Parties' respective obligations with respect to personal data (as defined in Data Protection Legislation) in the form prescribed by the Buyer

"Data Protection Legislation" means the Regulation (EU) 2016/679 (and any legislation implemented in connection with it), the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any replacement legislation coming into effect from time to time and any other applicable laws relating to the processing of personal data

"Deliverables" means all documents, products and materials developed by the Supplier or Supplier Personnel 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)

"Dispute" means any dispute, difference

or question of interpretation arising out of or in connection with this Agreement

"Goods" means any goods set out in a Purchase Order, including hardware, software, materials, licenses, items or consumables

"Intellectual Property Rights" means all patents, rights to inventions, registered and unregistered designs, copyright and related rights, trademarks, business names and domain names, good will and the right to sue for passing off, database rights, rights to use and protect the confidentiality of confidential information (including know-how and trade secrets) and all other forms of intellectual property in each case whether registered or unregistered 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 forms of protection which subsist or will subsist now or in the future wherever in the world enforceable;

"Party" means the Buyer or the Supplier, (including its representatives, successors and permitted assigns) and "Parties" shall mean both of them.

"Payment Terms" means the Buyer's payment terms and conditions immediately preceding these Terms and Conditions;

"Penetration Test" means a method for gaining assurance in the security of an IT system by attempting to breach some or all of that system's security, using the same tools and techniques as an adversary might.

"Penetration Test Report" means the report produced as a result of undertaking the penetration test highlighting the risk and vulnerabilities of an IT system.

"Prohibited Act" means
a. to directly or indirectly offer, promise or give any person working for or engaged by the Buyer a financial or other advantage to: (i) induce the person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity;
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;

c. to commit a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act (as defined in clause 27);

d. to commit a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act

e. committing any offence: (i) under the Bribery Act; (ii) under the Criminal Finances Act (ii) under legislation or common law concerning fraudulent acts; or (iii) defrauding, attempting to defraud or conspiring to defraud the Buyer;

f. any activity, practice or conduct which would constitute one of the offences listed under

(a) to (e), if such activity, practice or conduct had been carried out in the UK.

"Purchase Order" means the standard Buyer document, including any statement of work or quotation attached to it, describing the Goods and/or Services to be provided by the Supplier and which sets out the maximum value payable by the Buyer to the Supplier;

"Services" means the services including any Deliverables specified in this Agreement;

"Supplier" means the organisation or person who supplies Goods and/or Services to the Buyer;

"Supplier Personnel" means any employee, agent or contractor supplied by the Supplier to provide services.

"Sub Contract" means a contract between two or more organisations, in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement;

"Sub-Contractor" means a party to a Sub-contract other than the Supplier;

1.2 A reference to a statute or statutory provision is a reference to it as amended or re-enacted and includes all subordinate legislation made under that statute or statutory provision.

1.3 Any words following the terms including, include, in particular, for example or any

similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.4 A reference to writing or written includes fax and email.

2. GENERAL

2.1 A Purchase Order shall constitute an offer by the Buyer to purchase Goods and /or Services from the Supplier in accordance with these Terms and Conditions and the Payment Terms. The Goods and/or Services to be supplied, the maximum price payable and any other special terms agreed between the Parties shall be set out in the Purchase Order.

2.2 The Purchase Order shall be deemed to be accepted by the Supplier on the earlier of:

- (i) The Supplier accepting the Purchase Order in writing;
- (ii) Any act by the Supplier consistent with fulfilling the Purchase Order,

at which point and on which date the Agreement shall come into existence (the **Commencement Date**).

2.3 All Purchase Orders shall be subject to these Terms and Conditions and the Payment Terms.

2.4 No changes or variations to these Terms and Conditions, the Payment Terms or any Purchase Order shall be effective unless agreed in writing between and signed by the Parties.

3. PRICE AND PAYMENT

3.1 Save for any VAT that may be properly chargeable in accordance with law, and subject to clause 8.3, the maximum price including any taxes and expenses for the Goods and/or Services shall be as specified in the Purchase Order.

3.2 The Buyer shall not have any liability to the Supplier for any other costs including (as applicable) relating to: delivery, expenses, taxes, packaging (which shall be considered non-returnable), loading and unloading, licenses, import and export duties or tariffs, royalties, associated documentation, travel and accommodation, consumables, security,

reporting, contract administration, installation of Goods, data services, and/or training in Goods and/or Services.

3.3 An invoice shall be produced by the Supplier to the Buyer in accordance with the Payment Terms.

3.4 With respect to Services, the Supplier shall maintain complete and accurate records of the time spent and materials used and the Buyer shall be permitted to inspect such records at all reasonable times on request.

3.5 Without prejudice to any other remedies available to the Buyer, the Buyer may retain or set off any amount owed to it by the Supplier against any amount due to the Supplier (whether such amount is present or future, liquidated or unliquidated and whether or not such liability arises under this Agreement or otherwise) by giving notice to the Supplier and setting out the reasons for retaining or setting off the relevant charges and the invoice to which the retention is to be applied.

4. SUPPLY OF GOODS

4.1 The Supplier warrants and guarantees that all manufactured Goods and materials supplied to the Buyer or used in Services supplied to the Buyer under this Agreement shall be free from any defects, patent or latent, in material and workmanship.

4.2 Without prejudice to any other remedies the Buyer has under this Agreement or otherwise, the Supplier's warranty under Clause 4.1 shall extend to any defect or non-conformity arising or manifesting itself within 12 months from delivery for goods and services or installation whichever is latest.

4.3 The Supplier shall ensure that the Goods (including any replacement Goods supplied under Clause 8 (Inspection of Goods and Supply of Goods Remedies) shall:

- (i) conform to any applicable standards, specifications and drawings (the provision of or approval by the Buyer of any designs or specifications provided by the Supplier shall not relieve the Supplier of its obligations under any

provision contained in this Clause 4 (Supply of Goods));

- (ii) comply with all applicable statutory and regulatory requirements; and
- (iii) be of satisfactory quality and fit for any purpose held out by the Supplier or specified by the Buyer (in respect of which the Buyer relies on the Supplier's judgment)

4.4 The Supplier shall obtain and maintain all licences and consents which may be required for provision of the Goods;

5. DELIVERY

5.1 Delivery of the Goods shall be made to such location specified in the Purchase Order during the Buyer's normal hours of business (unless otherwise agreed in writing) and goods shall be properly packed and secured in such a manner as to reach their destination in good condition.

5.2 The pre-populated 'Delivery Due Date' field on the face of the Purchase Order shall have no effect. Subject to this, any time stated elsewhere within the Purchase Order for such delivery shall be of the essence of this Agreement.

5.3 The Supplier shall ensure that each delivery of Goods is accompanied by a delivery note stating the date of the Purchase Order, the Purchase Order number, the type and quantity of Goods, any special storage instructions and any instalments remaining to be delivered.

6. TITLE

6.1 The Supplier warrants that it has good title to the Goods and that it will transfer such title as it may have in the goods to the Buyer pursuant to Clause 6.2.

6.2 Title in the Goods will pass to the Buyer on the unloading of the Goods at the location specified by the Buyer.

7. RISK

7.1 The goods will be and shall remain at the Supplier's risk until such time as they are paid for by the Buyer.

7.2 It shall be the duty of the Supplier at all times to maintain a contract of insurance over the goods until risk passes to the Buyer and, on request from the Buyer, to assign

to the Buyer the benefits of such insurance.

8. INSPECTION OF GOODS AND SUPPLY OF GOODS REMEDIES

8.1 The Buyer may test or inspect Goods (which shall not remove any liability from the Supplier under this Agreement) prior to delivery and where it considers they are unlikely to comply with the terms of this Agreement, it may inform the Supplier who shall immediately take remedial action.

8.2 On inspection by the Buyer after delivery where Goods are damaged and/or do not meet the requirements set out in Clause 4 (Supply of Goods) and/or are not delivered in full and/or not are not delivered within the specified timeframes set out in Clause 5 (Delivery) the Buyer shall notify the Supplier and without prejudice to any other rights of remedies available to it, the Buyer may do one or more of the following:

- (i) terminate this Agreement with immediate effect by giving written notice to the Supplier;
- (ii) refuse to accept any further delivery of the Goods;
- (iii) reject these Goods whether or not title has passed (in whole or in part) and require the Supplier to collect any rejected Goods from the Buyer (at the Supplier's expense and the Supplier's risk until collection);
- (iv) refuse to make any further payment due in relation to the Goods, and such payments shall cease to become payable;
- (v) require the Supplier to immediately (and no later than 7 days from when it was notified of the requirement unless otherwise agreed in writing) repair or replace Goods which do not comply with the terms of this Agreement and supply Goods which are missing at the Supplier's expense, or, provide a full refund of the price of the non-compliant and/or missing Goods
- (vi) require all sums paid by the Buyer in relation to Goods not delivered

to be repaid by the Supplier immediately;

(vii) itself supply or procure a third party to repair or supply (in whole or in part) substitute Goods and the Supplier shall, on demand, pay to the Buyer any sums reasonably incurred by the Buyer (including any reasonable administration costs) in doing so;

(viii) claim damages from the Supplier for any costs, expenses or losses caused to the Buyer as a result of the Supplier's failure to supply Goods in accordance with this Agreement; and/or

(ix) instruct the Supplier to comply with the rectification plan process at clause 15 (Rectification Plan Process).

8.3 Where the Supplier supplies Goods in excess of the Purchase Order, the Buyer may by written notice either:

(i) reject such Goods and require the Supplier to collect them (at the Supplier's expense and at the Supplier's risk until collection). No sum shall be due to the Supplier for the excess Goods and in the event that sums are paid to the Supplier for the excess Goods, the Supplier shall repay such sums to the Buyer immediately.

(ii) accept such Goods and the price payable for such Goods by the Buyer shall be calculated by reference to the Purchase Order. In such instance, the Parties agree that such Goods shall form part of this Agreement and the same rights and remedies in respect of such Goods shall apply.

8.4 The Buyer's signature on any delivery note of the Supplier is evidence of the number of packages received only and not evidence of the correct quantity of Goods received or that the Goods are in acceptable condition or of the correct quality or otherwise in accordance with this Agreement.

9. DISPOSAL OF GOODS

9.1 The Supplier, at its own expense, shall collect and dispose of all packaging,

materials, redundant or replacement spare parts and any redundant goods belonging to the Buyer which are being replaced by the Goods in accordance with WEEE Regulations. Where any such redundant goods contain any Buyer data, the Supplier shall, at its own expense, return such data to the Buyer in the form specified by the Buyer before ensuring the secure destruction of the relevant Goods in accordance with this Clause 9 (Disposal of Goods) and provide the Buyer with a certificate of deletion.

10. SUPPLY OF SERVICES

10.1 The Supplier shall ensure that all Services performed under this Agreement shall be:

- (i) performed with the best due skill and care, in a good and workmanlike manner and otherwise in line with best practice within its industry ("Best Industry Practice");
- (ii) supplied at the location and for the duration as set out in the Purchase Order in accordance with the terms of this Agreement; and
- (iii) otherwise conform with all descriptions, standards and specifications as set out in the Purchase Order.

10.2 The Supplier shall ensure that in supplying the Services it shall:

- (i) co-operate with the Buyer and comply with all instructions of the Buyer;
- (ii) provide all equipment or tools, vehicles and other items needed to supply the Services;
- (iii) use the best quality goods, materials, standards and techniques;
- (iv) observe all health and safety rules and regulations and any security requirements that may apply at the Buyer's premises;
- (v) hold all materials, equipment, specifications and data supplied to the Supplier by the Buyer in safe custody at its own risk, maintain them in good condition and not dispose of them other than in accordance with the Buyer's instructions;
- (vi) not do or omit to do anything which may cause the Buyer to lose any licence, authority, consent or permission upon which it relies for the purpose of conducting its business;

(vii) ensure it has Supplier Personnel sufficient in number and who possess the qualifications, professional competence and experience to carry out such Services in accordance with Best Industry Practice; and in compliance with all applicable British / European and Worldwide standards;

(viii) not in any way infringe or violate any Intellectual Property Rights, trade secrets or rights in proprietary information, nor any contractual, employment or property rights, duties of non-disclosure or other rights of any third parties; and

(ix) obtain prior to the Commencement Date and maintain any necessary licences, consents and permits required of it for the performance of the Services.

10.3 The Supplier warrants that it has full capacity and authority to enter into this Agreement.

10.4 The Supplier shall meet any performance dates for any Services specified in the Purchase Order or that the Buyer notifies to the Supplier and time is of the essence in relation to any of those performance dates, save that the pre-populated 'Delivery Due Date' field on the face of the Purchase Order shall have no effect.

10.5 The Supplier shall provide the Buyer with such progress reports (or monthly reviews), evidence or other information concerning the Services as may be requested by the Buyer from time to time.

11. SERVICE DEFAULT AND REMEDIES

11.1 Without prejudice to any other right or remedy of the Buyer, if the Supplier fails to perform the Services by the applicable date or supplies Services which do not comply with the terms of this Agreement, the Buyer may do any one or more of the following:

- (i) terminate the Agreement with immediate effect on giving written notice to the Supplier;
- (ii) refuse to accept any subsequent performance of the Services;
- (iii) refuse to make any further payment due in relation to the whole or part of the Services, and such payments shall cease to become payable;

- (iv) require the Supplier to provide a full refund of the price paid for the Services provided (to the extent paid);
- (v) give the Supplier the opportunity (at the Supplier's expense) to remedy the default together with any damage resulting from such default (where such default is capable of remedy) and/or repeat the Services and carry out any other necessary work to ensure that the terms of this Agreement are fulfilled, in accordance with the Buyer's instructions within such timescale as specified by the Buyer, or require a full refund of the price paid for such Services;
- (vi) itself supply or procure a third party to supply (in whole or in part) substitute Services and the Supplier shall, on demand, pay to the Buyer any sums reasonably incurred by the Buyer (including any reasonable administration costs) in respect of the supply of such substitute Services by the Buyer or a third party;
- (vii) claim damages from the Supplier for any costs, expenses or losses caused to the Buyer as a result of the Supplier's failure to supply the Services in accordance with this Agreement; and/or
- (viii) instruct the Supplier to comply with the rectification plan process at clause 15 (Rectification Plan Process).

12. INTELLECTUAL PROPERTY RIGHTS.

- 12.1 All Intellectual Property Rights produced from or arising as a result of the performance of this Agreement shall vest in the Buyer, and the Supplier hereby irrevocably and unconditionally assigns (by way of present assignment of future Intellectual Property Rights) all such rights in and to all output, Goods and/or Services and/or Deliverables supplied by the Supplier in connection with this Agreement. If this assignment requires the Supplier to formalise matters in writing then the Supplier shall do all that is reasonably necessary to ensure that such rights vest in the Buyer by the execution of appropriate instruments or the making of agreements

with third parties.

- 12.2 In respect of all Intellectual Property Rights existing prior to this Agreement in and to the Goods and/or Deliverables, the Supplier shall, at its own expense, grant to the Buyer, or procure from the relevant third part(ies) the direct grant to the Buyer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to use copy, upgrade and/or modify, test and sub-licence the Goods, and/or Deliverables (excluding any materials supplied by the Buyer, which shall remain at all times the exclusive property of the Buyer) so as to enable the Buyer to freely use the Goods, Services and the Deliverables.

13. SUPPLIER OBLIGATIONS AND INDEMNITIES

- 13.1 The Supplier shall be responsible for maintaining such insurance policies with a reputable insurance company in connection with the provision of the goods and/or services as may be appropriate or as the Buyer may require from time to time including professional indemnity insurance, product liability insurance and public liability insurance.

- 13.2 The Supplier indemnifies the Buyer against all claims, demands, actions, proceedings, liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses suffered by or incurred by the Buyer arising out of or in connection with:

- (i) any claim made against the Buyer 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 (excluding any material provided by the Buyer);
- (ii) the death of or injury to a person or loss of or damage to property arising out of or in connection with defects in the Goods as delivered or installed (as applicable) or the Deliverables; and/or
- (iii) any claim made against the Buyer by a third party arising out of or in connection with the supply of the Goods as delivered or installed (as applicable) or the Services

- (iv) the Supplier's breach of or negligent performance or non-performance of this Agreement or of any of its obligations under this Agreement or breach of statutory duty or interference with any legal right by the Supplier or by any Supplier Personnel.
- 13.3 In the event that a claim in respect of clause 13.2(i) arises then, the Supplier shall at its own expense, either:
- (i) procure for the Buyer the right to continue using the relevant part of the Goods and/or Services; or
 - (ii) replace or modify the Goods and/or Services with non-infringing substitutes, provided that such substitutes do not adversely affect the performance or material functionality of the Goods and/or Services.
- 13.4 The Supplier shall procure that the Supplier Personnel take all reasonable steps to safeguard their own safety and the safety of any other person who may be affected by their actions, and the Supplier agrees to indemnify and keep indemnified the Buyer from all and any claims, demands, actions, proceedings, liabilities, costs, expenses, damages and losses whatsoever arising from any loss, damage or injury caused to the Buyer or any third party by the Supplier Personnel.
- 13.5 The Supplier shall, in performing its obligations under this Agreement:
- (i) comply with all applicable laws, statues, regulations and codes from time to time in force; and
 - (ii) comply with the Buyer's mandatory policies as communicated to the Supplier from time to time.

14. STATUS AND LIABILITIES

- 14.1 Neither the Supplier nor the Supplier Personnel have the authority to act as agent for the Buyer or to contract on the Buyer's behalf.
- 14.2 The Supplier Personnel shall at no time be deemed to be employed or otherwise engaged by the Buyer.
- 14.3 The Supplier shall be responsible for paying the Supplier Personnel and for making any deductions required by law in respect of

income tax and National Insurance contributions or similar contributions relating to the supply of Goods or provision of the Services. The Supplier agrees to indemnify the Buyer in respect of any claims, expenses, losses, damages and costs (including legal fees) that may be made by the relevant authorities against the Buyer in respect of tax demands or National Insurance or similar contributions relating to the supply of Goods or provision of the Services by the Supplier.

- 14.4 It is the belief of the Parties that this Agreement does not constitute a "relevant transfer" for the purposes of the the Transfer of Undertakings (Protection of Employment) Regulations 2006 (the **Regulations**) whether at the outset or on termination. As such the Supplier will indemnify the Buyer against all claims, expenses, losses, damages and costs (including legal fees) arising from any person transferring by virtue of the Regulations to the Buyer under this Agreement, and for any claims of any kind arising due to the Supplier's performance under this Agreement, and against any demands for income tax or national insurance in relation to the Supplier or any of the Supplier's Personnel.
- 14.5 The Supplier shall, and shall procure that the Supplier Personnel shall, comply with all applicable statutes, rules and regulations in providing the Services, including all immigration and employment requirements imposed by any applicable jurisdiction, and the Supplier shall indemnify and hold harmless the Buyer against all claims, expenses, losses, damages and costs (including legal fees) arising out of any failure to do so.

15. RECTIFICATION PLAN PROCESS

- 15.1 Where the Buyer has instructed the Supplier to comply with the rectification plan process the Supplier shall:
- (i) Submit a draft rectification plan to the Buyer, (even if it disputes that is responsible for the default) within 10 working days (or other such period agreed by the Buyer) of instruction
 - (ii) Provide the Buyer with any additional information required by the Buyer to assess or verify the Supplier's root cause analysis
- 15.2 The rectification plan shall set out:

- (i) Full details of the default that has occurred, including root cause analysis;
 - (ii) The actual or anticipated effect of the default; and
 - (iii) The steps which the Supplier proposes to take to rectify the default (if it is capable of remedy) and to prevent such default from reoccurring, including timescales for such steps and for the rectification of the default (where applicable).
- 15.3 The Buyer may reject the rectification plan if, acting reasonably, it deems the rectification plan to be inadequate, for example it is insufficiently detailed or will take too long to complete; will not prevent reoccurrence of the default; or will rectify the default but not in the manner that is satisfactory to the Buyer.
- 15.4 Upon rejection of a rectification plan, the Buyer may require the Supplier to re-submit a second rectification plan to comply with clauses 15.1 and 15.2 within 5 working days.
- 15.5 If the Buyer approves a Supplier rectification plan, the Supplier shall, at its own expense, immediately implement that rectification plan and subject to execution of the rectification plan within the timescales set out, the Buyer may no longer terminate the Agreement on the grounds of the relevant default.
- 15.6 If the Buyer, acting reasonably, rejects the first or second rectification plan, or the Supplier fails to implement an agreed rectification plan, the Buyer may, in its sole discretion invoke any one or more the alternative remedies listed in Clause 8 (Inspection of Goods and Supply of Goods Remedies) and/or Clause 11 (Service Default and Remedies) as appropriate in respect of the default, including termination.

16. DISPUTE RESOLUTION

- 16.1 If a Dispute arises the Parties shall attempt in good faith to resolve the Dispute. If such attempts are not successful either Party may issue a Dispute notice which includes the particulars of the Dispute and the reasons why the Party serving the Dispute notice believes the Dispute has arisen.
- 16.2 Unless otherwise agreed in writing, the Supplier shall continue to comply with its obligations under the Agreement regardless of the nature of the Dispute.
- 16.3 The Parties shall seek to resolve disputes:
- (i) first by commercial negotiation;
 - (ii) then by mediation
 - (iii) lastly by arbitration or litigation
- 16.4 The Buyer and the Supplier shall use reasonable endeavours to resolve the Dispute with the Parties' respective escalation points by commercial negotiation. If the Parties have not settled the Dispute within twenty working days of the Dispute Notice, either Party may serve a written notice to proceed to mediation (**Mediation Notice**).
- 16.5 If a Mediation Notice is served the Parties shall attempt to resolve the dispute in accordance with CEDR's Model Mediation Agreement which shall be deemed to be incorporated by reference into this Agreement.
- 16.6 If the Parties are unable to agree on the joint appointment of a Mediator within 30 Working Days from service of the Mediation Notice then either Party may apply to CEDR to nominate the Mediator.
- 16.7 Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties.
- 16.8 Prior to the Supplier commencing court proceedings, it shall notify the Buyer in writing of its intention to do so and the Buyer may, within 15 working days, require the Dispute to be resolved by arbitration instead.
- 16.9 The Buyer may at any time before court proceedings are commenced refer the dispute to arbitration.
- 16.10 In the event that arbitration proceedings are commenced, the Parties confirm that:
- (i) all Disputes, issues or claims arising out of or in connection with this Agreement (including as to its existence, validity or performance) shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (**LCIA**);
 - (ii) the arbitration shall be administered by the LCIA;

- (iii) the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Agreement and the decision of the arbitrator shall be binding on the Parties;
- (iv) the chair of the arbitral tribunal shall be British, the arbitration proceedings shall take place in the English language and the seat of arbitration shall be London; and
- (v) if the Parties fail to agree the appointment of the arbitrator within 10 days from the date on which arbitration proceedings are commenced or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA.

16.11 Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:

- (i) for interim or interlocutory remedies in relation to this Agreement; or
- (ii) infringement by the other Party of that Party's Intellectual Property Rights;

where compliance with the remainder of this Clause 16 (Dispute Resolution) and/or referring the dispute to mediation may leave insufficient time for that Party to commence proceedings before the expiry of the limitation period.

17. TERMINATION

17.1 Without prejudice to any other rights or remedies under this Agreement or otherwise, the Buyer may terminate this Agreement for any reason by providing 30 days' prior written notice to the Supplier.

17.2 Without prejudice to any other rights or remedies under this Agreement or otherwise, the Buyer may terminate this Agreement with immediate effect by providing written notice to the Supplier if:

- (i) the Supplier or the Supplier Personnel commit any material or persistent breach of this Agreement which is irremediable or (if remediable) where the Supplier fails to remedy that breach within the buyers

specified timeframe. For the avoidance of doubt, non-adherence by the Supplier to any service levels stated in the Purchase Order shall be deemed to be a material breach;

- (ii) the Supplier fails to, or refuses after written warning to, procure that the Supplier Personnel provide the Services properly required of them in accordance with this Agreement;

- (iii) the Supplier passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;

- (iv) the Supplier ceases to carry on its business or substantially the whole of its business;

- (v) The Supplier takes any action in connection with entering administration, provisional liquidation or is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets;

- (vi) The Supplier undergoes a change of control within the meaning of sections 450 and 451 of the Corporation Tax Act 2010 (other than for an intra-group change of control) without the prior written consent of the Buyer and the Buyer shall be entitled to withhold such consent if, in the reasonable opinion of the Buyer, the proposed change of control will have a material impact on the performance of this Agreement or the reputation of the Buyer; or

- (vii) There has been a breach by the Supplier and/or one of its Sub-contractors of clause 13.5. Where the breach is by one of the Supplier's Sub-contractors, and if the Buyer expressly waives its right to terminate on condition that the Supplier replaces such Sub-contractor, the Supplier shall comply with such request as an

alternative to the Buyer terminating this Agreement.

17.3 Notwithstanding any other clause to the contrary in this Agreement, the Buyer may terminate this Agreement in accordance with the terms of any Data Processing Agreement that may have been entered into.

18. CONSEQUENCES OF TERMINATION.

18.1 On the expiry or other termination of this Agreement the Supplier shall:

- (i) cease taking any further instructions;
- (ii) subject to the Buyer requiring the Supplier to complete any outstanding instructions in accordance with clause 18.1(iii) below, in which case the Supplier shall comply with this clause on completion of such instructions, the Supplier shall:
 - a. comply with its obligations under any agreed Exit Plan
 - b. return to the Buyer all of the Buyer's data, including Confidential Information in a format agreed by the Buyer, on request within 30 working days
 - c. deliver to the Buyer all Deliverables whether or not then completed and all Buyer materials. If the Supplier fails to do so, the Buyer 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 them and shall not use them for any purpose not connected with this Agreement;
 - d. except where retention of the Buyer's data is required by law, and upon instruction from the Buyer or within 90 days after the date of termination, whichever is the earlier, securely destroy all copies of the Buyer's data and provide a certificate of deletion to the Buyer.
- (iii) If there are outstanding instructions at the date of expiry or termination and the Buyer has not notified the Supplier in writing regarding whether it requires the Supplier to complete such instructions or not, the Supplier shall request confirmation from the Buyer as to whether it is required to complete such instructions or not and shall allow the Buyer reasonable time to confirm.

18.2 Save as expressly provided in this Agreement, termination or expiry of this Agreement shall not affect the Parties' rights, remedies or obligations that have accrued as at termination, including the right to claim damages in respect of any breach of the Agreement which existed as at or before the date of termination or expiry.

19. DATA PROTECTION

19.1 The Supplier shall at all times comply with and supply the Goods and/or perform the Services in accordance with its obligations under Data Protection Legislation.

19.2 Prior to the Supplier Processing any Personal Data (as such terms are defined in the Data Processing Agreement), the Parties shall enter into a Data Processing Agreement in a form required by the Buyer.

19.3 Notwithstanding any other clause to the contrary in this Agreement, if there is any conflict or ambiguity between the terms of the Data Processing Agreement and the terms of this Agreement, the terms of the Data Processing Agreement shall prevail.

20. INFORMATION SECURITY AND CONFIDENTIALITY

20.1 In respect of the Buyer's Confidential Information, or other data belonging to the Buyer (together **Data**) then without additional charge the Supplier shall:

- (i) process such Data only as strictly necessary to meet its obligations under this Agreement or in accordance with express instructions from the Buyer;
- (ii) take technical and organisational measures in accordance with Best Industry Practice (including but not limited to Cyber Essentials, ISO27001 and PCI DSS) to ensure a level of security appropriate to prevent unauthorised Data processing and/or accidental loss, destruction or damage to Data;
- (iii) where payment Data is processed ensure that it acts so to enable the Buyer to comply fully with the Payment Card Industry Data Security Standard;
- (iv) shall immediately notify the Buyer if it knows or suspects that it or its Supplier Personnel have failed to comply with the provisions of this clause;

- (v) comply with the provisions of all applicable Buyer Information Security policies and procedures in force from time to time and ensure that all Supplier Personnel who process Data are trained in accordance with Best Industry Practice such Information Security policies;
 - (vi) take all reasonable steps to insure the liability of Supplier Personnel who have access to the Data and accept full responsibility and liability for ensuring their compliance with each of the provisions of this Clause 20 (Information Security and Confidentiality);
 - (vii) ensure that it has sufficient procedures and guarantees in place in respect of the technical and organisational measures governing the processing of Data to be carried out and the Supplier shall take all steps to ensure compliance with those measures;
 - (viii) provide immediate notification to the Buyer, and in any case within a maximum of 24 hours, informing the Buyer of any security incident or data breach that has the potential to impact the Buyer's business operations, legal or contractual obligations, or its reputation, and to assist the Buyer in responding to and resolving actual or suspected security incidents or data breaches;
 - (ix) upon request, provide the Buyer with a Penetration Test Report in respect of any relevant Supplier system which is hosting Buyer data and/or links to the Buyer's infrastructure that has been undertaken within the last 12 months by a CHECK accredited supplier. Where a Penetration Test has not been completed within the last 12 months, the Supplier will, at its own expense, commission a Penetration Test by a CHECK accredited supplier within 30 days of request from the Buyer. Where the Penetration Test Report identifies a threat or vulnerability that the Buyer deems requires remedy, the Supplier will remedy these risks within 30 working days;
 - (x) where required by the Buyer, prior to commencing any supply under this Agreement, complete the Buyer's Information Security due diligence form and deliver the Services in accordance with the terms of the Information Security due diligence form, the terms of which together with the Supplier's responses shall be deemed to be incorporated into this Agreement.
- 20.2 Without prejudice to any other rights or remedies available to it under this Agreement, if the Buyer's Data is corrupted, lost or sufficiently degraded as a result of a default, the Buyer may: require the Supplier (at the Supplier's expense) to restore or procure the restoration of the Buyer's Data as soon as practicable but not later than 5 working days from the date of receipt of the Buyer's notice. Where the Supplier is unable to restore the data within 5 working days the Buyer may itself restore or procure the restoration of the Buyer's data, and the Supplier shall, on demand, pay to the Buyer any sums reasonably incurred by the Buyer (including any reasonable administration costs) in doing so.
- 20.3 Each Party undertakes to the other Party that it shall not without the prior written consent of the other Party disclose to any person any Confidential Information provided always that this clause shall not apply to any information which is at the date of this Agreement in or which enters into the public domain otherwise than in breach of this Agreement is or which either Party is obliged to disclose pursuant to a legal or regulatory obligation which it informs the other Party of in advance of disclosure.
- 20.4 Each Party shall only divulge Confidential Information to those of its employees to the extent necessary to carry out the terms of this Agreement and who are directly involved in this Agreement and require the same in connection with the Goods and Services and the Supplier will ensure that its Supplier Personnel, permitted Sub-Contractors or such other persons as may be associated with this Agreement are aware of and comply with these obligations of confidentiality.
- 20.5 The Intellectual Property Rights of all Data, shall vest in the Buyer and the Supplier irrevocably and unconditionally hereby assigns the same to the Buyer with full title guarantee and waives any moral rights relating to them in favour of the Buyer.
- 20.6 The Supplier shall indemnify and keep indemnified the Buyer against all and any costs (including professional fees), losses, damages, expenses, fines, taxation and

other liabilities of whatever nature suffered or incurred by the Buyer as a result of an act or omission of the Supplier or Supplier Personnel directly or indirectly the result of a breach of the provisions of this Clause 20 (Information Security and Confidentiality).

21. BUSINESS CONTINUITY.

- 21.1 Within 90 days of the Commencement Date, the Supplier shall deliver a plan to the Buyer for its approval, which shall detail the processes the Supplier shall follow in the event of any disruption (whether internal or external in origin) in order to minimize any adverse impact on the Buyer and ensure that the Goods and/or Services are supplied in accordance with this Agreement during and after invocation of the plan (the **Business Continuity Plan**).
- 21.2 The Business Continuity Plan shall include: a communication strategy, a risk analysis and business impact analysis of the possible failure or disruption scenarios (based where applicable on its relationship with other similar customers) and in the event of insolvency within its supply chain, identify what alternative processes can be adopted and what back-up and recovery processes are available in the event of such a disruption, addressing various levels of disruption, how 'normal' service will be resumed and what assistance will be provided to the Buyer.
- 21.3 If the Buyer rejects the Business Continuity Plan, it will advise the Supplier of this and its reasons for doing so and the Supplier shall provide a revised Business Continuity Plan within 10 working days. The Supplier shall ensure that it is able to implement the provisions of the Business Continuity Plan at any time in accordance with its terms.
- 21.4 The Supplier shall test the Business Continuity Plan on a regular basis, and in any event at least once every 12 months.
- 21.5 Following each test, the Supplier shall:
- (i) send to the Buyer a written report summarising the results of the test; and
 - (ii) promptly implement any actions or remedial measures which the Buyer considers to be necessary as a result of those tests.

- 21.6 The Supplier shall implement the Business Continuity Plan if and when notified by the Buyer to do so.

22. EXIT MANAGEMENT.

- 22.1 In anticipation of termination or expiry of this Agreement, the Buyer may require the Supplier to ensure the orderly transition of the Goods and/or Services to the Buyer or any replacement supplier (as applicable). If so required by the Buyer, the Supplier shall comply with the obligations set out in the remainder of this Clause 22 (Exit Management) at its own expense and at no additional cost to the Buyer.
- 22.2 The Supplier shall appoint a suitably qualified and experienced person for this purpose and notify the Buyer within 10 days of being required to do so. The Supplier shall cooperate with the Buyer and any replacement supplier to ensure an orderly transition.
- 22.3 The Supplier shall create and maintain registers of all assets (including ownership, value, location and whether used exclusively for this Agreement) and all subcontracts and other agreements (including software licences) required to perform the Agreement.
- 22.4 The Supplier shall compile and maintain a procedures manual, describing how the Goods and/or Services are delivered, including the processes used.
- 22.5 The Supplier shall, within 30 days of being required to do so, submit an "Exit Plan" to facilitate the smooth transition of the Goods and/or Services without disruption or deterioration in quality in their supply. The Exit Plan shall set out all relevant details as to how the Goods and/or Services will transfer (including data transfer, systems migration, security) and provide a timetable for exit.
- 22.6 The Supplier shall review and update the Exit Plan at least once a year to ensure it remains effective and comprehensive.
- 22.7 When required to do so by the Buyer, the Supplier shall comply with all of its obligations in the Exit Plan and provide the Buyer or replacement supplier with: the procedures manual; access to any relevant information; access to relevant Supplier's Personnel as reasonably required by the relevant party.

22.8 On request, the Supplier shall provide the Buyer with the registers indicating which assets are capable of legal transfer and which contracts are used exclusively to deliver the Goods and/or Services. The Supplier shall sell any assets required by the Buyer to the Buyer or replacement supplier (as applicable) at fair market value. Title shall pass to the Buyer or replacement supplier (as applicable) on the date of expiry or termination and risk shall pass to the Buyer or replacement supplier (as applicable) on payment for the same. The Supplier shall, at the Buyer's request and with the co-operation of the Buyer, procure the novation to the Buyer or replacement supplier (as applicable) of any third party contracts the Buyer requires to be transferred to it or the replacement supplier (as applicable).

23. COMPLAINTS.

The Supplier shall have in place and operate a complaints procedure. The Supplier shall acknowledge receipt of a complaint within 2 working days and resolve the complaint within 5 working days. Resolution will not exceed 7 working days in total.

24. FORCE MAJEURE.

24.1 The Buyer shall not be liable for any delay or failure to perform any of its obligations under this Agreement if the delay or failure results from events or circumstances beyond its reasonable control, including but not limited to acts of God, pandemics, strikes, lock outs, accidents, war, fire, flood or industrial disputes, and the Buyer shall be entitled to a reasonable extension of its obligations.

25. RELATIONSHIP OF PARTIES.

Nothing in this Agreement shall be construed as establishing or implying any partnership or joint venture between the Parties and nothing in this Agreement shall be deemed to construe either of the Parties as the agent of the other. Each Party confirms it is acting on its own behalf and not for the benefit of any other person and shall not hold itself out as such.

26. ASSIGNMENT AND SUBCONTRACTING.

26.1 The Supplier shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the Buyer.

26.2 Other than as set out in the Purchase Order, the Supplier shall not sub-contract any or all of its rights or obligations under the Agreement without the prior written consent of the Buyer. If the Buyer consents, the Supplier shall remain responsible for all the acts and omissions of its Sub-Contractors as if they were its own.

27. ANTI BRIBERY AND ANTI TAX EVASION.

27.1 The Supplier warrants that neither it, nor any Supplier Personnel, have committed or shall commit a Prohibited Act and shall not commit a Prohibited Act and/or do or allow anything to be done which would cause the Buyer to contravene any of the the Bribery Act 2010 as amended from time to time together with any guidance (the **Bribery Act**) or Criminal Finances Act 2017 as amended from time to time together with any guidance (the **Criminal Finances Act**) or otherwise incur any liability in relation to the Bribery Act or Criminal Finances Act.

27.2 The Supplier shall have in force policies and procedures which are adequate to ensure compliance with the Bribery Act, prevent the occurrence of a Prohibited Act and prevent facilitation of tax evasion. The Supplier shall keep records of compliance and immediately notify the Buyer in writing if it becomes aware of any breach of this Clause 27; any request or demand to facilitate the evasion of tax or for any undue financial or other advantage of any kind; or suspects the commitment or any attempt to commit a Prohibited Act by a person connected with this Agreement.

27.3 The Supplier shall respond promptly to the Buyer's enquiries, co-operate with any investigation, and allow the Buyer to audit any books, records and/or any other relevant documentation. If required by the Buyer, the Supplier shall certify compliance with this clause 27 by the Supplier (and all persons associated with it) providing Goods and/or Services in connection with this Agreement) to the Buyer in writing signed by an officer of the Supplier, together with supporting evidence of compliance as the Buyer may reasonably request.

27.4 If the Supplier is in breach of this Clause 27, the Buyer may by notice require the Supplier to remove any Supplier Personnel whose acts or omissions have caused the breach.

28. SEVERABILITY.

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated. The Parties shall in good faith negotiate a replacement provision to achieve as far as possible the commercial effect of the original provision.

29. WAIVER.

No failure by the Buyer to enforce any of these Terms and Conditions or the Payment Terms shall constitute a waiver of its rights hereunder.

30. NOTICES.

Any notice to be given by either Party to the other may be served by email, fax, personal service or by post to the address of the other Party given in the Purchase Order or such other address as such Party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

31. NO THIRD PARTIES.

Nothing in this Agreement is intended to, nor shall it confer any rights on a third party.

32. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between the Parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written.

33. GOVERNING LAW AND JURISDICTION.

33.1 This Agreement shall be governed by and construed in accordance with the law of England.

33.2 Subject to Clause 16(Dispute Resolution) (including the Buyer's right to refer the dispute to arbitration), the Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Agreement or its subject matter or formation.

34. The Supplier has signed this Agreement on the front sheet of the Pre-Qualification Questionnaire document to which this Agreement is attached as their acceptance of this Agreement, or otherwise the Parties have deemed acceptance of the terms of this Agreement upon the commencement of delivery of Goods and/or Services, the terms of which shall apply to the exclusion of other terms & conditions that the Supplier may seek to incorporate or impose or which may be implied by law, custom, practice or course of dealing for the supply of all Goods and Services to the Buyer.