

GENERAL TERMS AND CONDITIONS OF PURCHASE  
GOODS AND SERVICES

1. **Interpretation**

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

**Associated Persons:** has the meaning given in clause 11.2.

**Business Day:** a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Business Hours:** the period from 8.30 am to 4.30pm on any Business Day.

**Commencement Date:** has the meaning given in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 17.8.

**Contract:** the contract between the Customer and the Supplier for the supply of Goods or Services or Goods and Services in accordance with these Conditions.

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **Change of Control** shall be interpreted accordingly.

**Customer:** either of Workdry International Limited, Selwood Ltd or Siltbuster Limited which issue an Order to the Supplier.

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

**Deliverables:** all documents, products, designs, software, reports, specifications, plans and other materials or items of any kind (including drafts) developed, provided or to be provided by or on behalf of the Supplier as part of or in relation to the Services.

**Delivery Date:** the date specified in the Order, or, if none is specified, within 14 days of the date of the Order.

**Delivery Location:** the address for delivery of the Goods as set out in the Order.

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

**Goods Specification:** any specification for the Goods, including any related plans and drawings, that is agreed by the Customer and the Supplier.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Losses:** all liabilities, damages, losses (including loss of profits, loss of business, loss of reputation, loss of savings and loss of opportunity), fines, expenses and costs (including all interest, penalties, legal costs (calculated on a full indemnity basis) and reasonable professional costs and expenses).

**Mandatory Policies:** the Customer's Supplier Code of Conduct, Modern Slavery and Human Trafficking Policy/Statement, Anti-bribery Policy, Health and Safety Policy, ESG Policy, as amended from time to time copies of which are available on the Customer's website or on request.

**Order:** the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, the Customer's written acceptance of the Supplier's quotation, or overleaf, as the case may be.

**Relevant Requirements:** all applicable laws, statutes regulations and codes from time to time in force relating to the prevention of bribery and corruption, fraud and modern slavery and human trafficking, including the Bribery Act 2010, the Modern Slavery Act 2015 and the Economic Crime and Corporate Transparency Act 2023.

**Services:** the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

**Service Specification:** the description or specification for Services agreed in writing by the Customer and the Supplier or set out in the Supplier's quotation.

**Supplier:** the person or firm from whom the Customer purchases the Goods or Services or Goods and Services.

**Supplier Materials:** all documents, information, software, items and other materials in any form created prior to the Commencement Date or wholly outside the scope of the Contract by the Supplier or its suppliers or licensors and which are used to perform the Services or provided or made available to the Customer in connection with the Services or this Contract.

**Supplier Personnel:** all employees, workers, agents, consultants, contractors and other representatives of the Supplier, or any of its subcontractors, who are engaged in the performance of the Contract from time to time.

1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** excludes fax but not email.

2. **Basis of contract**

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

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

- (a) the Supplier issuing written acceptance of the Order; or
- (b) any act by the Supplier consistent with fulfilling the Order, at which point and on which date the Contract shall come into existence (**Commencement Date**).

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

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

2.5 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

3. **Supply of Goods**

3.1 The Supplier shall ensure that the Goods:

- (a) correspond with their description and any applicable Goods Specification;
- (b) be safe to be used without risk to the health safety of persons using the same;
- (c) are of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;
- (d) where they are manufactured products, are free from defects in design, material and workmanship and shall remain so for the greater of a) 24 months after delivery or b) the Supplier's standard warranty period;
- (e) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and
- (f) comply with any warranty or specification or other requirements specified in the Order.

3.2 The Supplier shall ensure that it has and at all times maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

3.3 The Customer may inspect and test the Goods at any time before delivery and the Supplier shall (at no cost to the Customer) co-

- operate with the Customer in implementing such inspections and/or tests. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.4 If following such inspection or testing the Customer considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 4. Delivery of Goods**
- 4.1 The Supplier shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
  - (b) a delivery note/label is attached to the outside of the packaging and such note is suitably protected from weather and loss. Such delivery note is to include the date of the Order, the Order number, the type and quantity of the Goods (including the Customer's part number (if applicable), Supplier reject note (SRN) number (if applicable), reference number for any pre-agreed deviations or concessions (if applicable), details of any special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered;
  - (c) the weight and details of the contents shall be clearly marked on each container and all containers of hazardous goods (and all relating documents) shall bear prominent and adequate warnings;
  - (d) each delivery of the Goods is accompanied by such written information as may be reasonably necessary for the proper handling, use, processing, storage and maintenance of the materials, goods and/or Services without risk of damage or injury to persons or property;
  - (e) upon delivery to site of all materials, Goods and/or Services, the Supplier provides all relevant assessments, (including risk and method assessments required by applicable laws, statutes regulations and codes from time to time in force relating to health and safety), and all data sheets required by the COSHH regulations in force from time to time;
  - (f) all certification and test documentation set out as being required in any Order from must be emailed to the relevant Customer at [pumpurchasing@selwood.co.uk](mailto:pumpurchasing@selwood.co.uk) (for Selwood Ltd and Workdry International Limited) or [purchasing@siltbuster.com](mailto:purchasing@siltbuster.com) (for Siltbuster Limited), prior to delivery of the Goods.
  - (g) the Supplier Personnel comply with all site rules and health and safety rules and regulations and any other security requirements that apply at Delivery Location including the Customer's PPE requirements. This consists as a minimum of safety boots and hi-vis jackets/vests, and in the case of Siltbuster Limited, also includes hard hat or bump cap;
  - (h) where the Supplier is delivering goods and/or materials by a vehicle with any mechanical off-loading facility, the operator shall be the holder of all appropriate competency certificates issued by the Construction Industry Training Board and hold any other qualifications and/or accreditations referred to in the Order; and
  - (i) if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.
- 4.2 The Supplier shall deliver the Goods:
- (a) on the Delivery Date;
  - (b) at the Delivery Location; and
  - (c) between the hours of 8.30am and 4.30pm on a Business Day or as instructed by the Customer.
- 4.3 Delivery of the Goods is completed on the completion of unloading of the Goods at the Delivery Location.
- 4.4 If the Supplier:
- (a) delivers less than 95% of the quantity of Goods ordered, the Customer may reject the Goods; or
  - (b) delivers more than 105% of the quantity of Goods ordered, the Customer may reject the Goods or the excess Goods,
- and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.
- 4.5 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. If delivery of the Goods by instalments is agreed, the Supplier shall invoice and the Customer shall pay each instalment separately. However, failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment shall entitle the Customer to the remedies set out in clause 6.1.
- 4.6 Title and risk in the Goods shall pass to the Customer on completion of delivery.
- 4.7 The Supplier shall, unless otherwise agreed in writing by the Customer, be responsible for unloading of the Goods and such unloading shall be at the Supplier's risk. Any personnel supplied by the Customer for unloading of the Goods shall be deemed to be under the direction and control of the Supplier. Such personnel shall for all purposes in connection with their employment in the unloading of the Goods be regarded as the servants or agents of the Supplier who shall be solely responsible for (and shall indemnify the Customer in respect of) all claims arising in connection with unloading of the Goods by, or with the assistance of, such personnel.
- 4.8 Unless otherwise agreed in writing by the Customer, all Goods shall be delivered DDP (delivered duty paid as defined by the latest Incoterms issued by the International Chamber of Commerce) at the Delivery Location.
- 5. Supply of Services**
- 5.1 The Supplier shall from the date set out in the Order and for the duration of the Contract supply the Services to the Customer in accordance with the terms of the Contract.
- 5.2 The Supplier shall meet any performance dates for the Services specified in the Order or that the Customer notifies to the Supplier and time is of the essence in relation to any of those performance dates.
- 5.3 In providing the Services, the Supplier shall:
- (a) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
  - (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
  - (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
  - (d) ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
  - (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
  - (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
  - (g) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
  - (h) comply and procure that any Supplier Personnel comply with all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises including the Customer's PPE requirements. This consists as a minimum of safety boots and hi-vis jackets/vests and, in the case of Siltbuster Limited, also includes hard hats or bump caps;

- (i) hold all materials, equipment and tools, drawings, specifications, documents, information, software, items and data (whether owned by the Customer or a third party) supplied by the Customer to the Supplier in connection with the Services or this Contract (**Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
  - (j) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services; and
  - (k) comply with any additional obligations as set out in the Service Specification.
- 6. Customer remedies**
- 6.1** If the Supplier fails to deliver the Goods on the Delivery Date or to perform the Services by the applicable date, the Customer shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - (b) to refuse to accept any subsequent performance of the Services or delivery of the Goods which the Supplier attempts to make;
  - (c) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods or services from a third party;
  - (d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided or Goods that it has not delivered; and
  - (e) to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.
- 6.2** If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - (b) to reject the Goods (in whole or in part) whether or not title has passed;
  - (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
  - (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
  - (e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute goods from a third party; and
  - (f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 3.1
- and any rejected goods are returnable at the Supplier's risk and expense. If the Supplier fails to collect rejected Goods within 7 days after notification of the rejection, the Customer may charge the Supplier storage costs and sell or dispose of the rejected Goods. If sold, the Customer will account to the Supplier for the proceeds of sale (if any) after deducting the purchase price paid for the Goods, storage costs and its reasonable costs and expenses in connection with the sale.
- 6.3** If the Supplier has supplied Services that do not comply with the requirements of clause 5.3(d) then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - (b) to return the Deliverables to the Supplier at the Supplier's own risk and expense;
  - (c) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
  - (d) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
  - (e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute services or deliverables from a third party; and
  - (f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to comply with clause 5.3(d).
- 6.4** These Conditions shall extend to any substituted or remedial services or repaired or replacement goods supplied by the Supplier.
- 6.5** The Customer's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.
- 7. Charges and payment**
- 7.1** The price for the Goods:
- (a) is the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date; and
  - (b) includes the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Customer.
- 7.2** The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 7.3** In respect of the Goods, the Supplier shall (unless specified otherwise in the Order) invoice the Customer on or at any time after completion of delivery of all Goods that are the subject of the Order. In respect of Services, the Supplier shall (unless specified otherwise in the Order) invoice the Customer on completion of the Services that are the subject of the Order. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the Supplier's VAT registration number and the relevant purchase order number.
- 7.4** The Customer shall pay the invoiced amounts within 60 days of the end of the month in which the correctly rendered invoice is raised to a bank account nominated in writing by the Supplier.
- 7.5** All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods or Services or both, as applicable, at the same time as payment is due for the supply of the Goods or Services.
- 7.6** If a party fails to make a payment due to the other party under the Contract by the due date, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 7.6 will accrue each date at 2% a year above the Bank of England's base rate from time to time, but at 2% a year for any period when the base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from 5 days after the dispute is resolved until payment.
- 7.7** The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.
- 8. Intellectual property rights**
- 8.1** The Supplier assigns to the Customer, immediately on creation, with full title guarantee, all Intellectual Property Rights in the Deliverables (excluding any Customer Materials, Supplier Materials or Third Party Materials contained within the Deliverables).

- 8.2 The Supplier and its licensors shall retain ownership of all Supplier Materials. The Supplier grants to the Customer a non-exclusive, royalty-free, transferable, perpetual and irrevocable licence (with the right to grant sublicences) to use, copy and modify the Supplier Materials for the purpose of receiving and using the Services and the Deliverables.
- 8.3 The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding Customer Materials) for the purpose of receiving and using the Services and the Deliverables.
- 8.4 The Supplier shall not include in the Deliverables any Third Party Materials that cannot be assigned to the Customer under clause 8.1 or licensed to the Customer on the terms of clause 8.3 unless their inclusion and licence terms are approved in writing in advance by the Customer. The Supplier grants to the Customer a licence to use any Third Party Materials approved by the Customer for inclusion in the Deliverables on the terms (including parties, costs and restrictions on use) approved by the Customer
- 8.5 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any Customer Materials for the term of the Contract for the purpose of providing the Services to the Customer.
- 8.6 The Supplier shall, to the maximum extent permitted by law, obtain waivers of all moral rights in the Deliverables to which any person is now, or may at any future time be, entitled to under the Copyright, Designs and Patents Act 1988 as amended from time to time or under any similar legislation from time to time in force anywhere in the world. The Supplier shall obtain the Customer's prior written approval before incorporating into the Deliverables any Third Party Materials in which moral rights cannot be waived.
- 8.7 The Supplier shall, promptly at the Customer's request, do (or procure to be done) all further acts and things and execute (or procure the execution of) all other documents as the Customer may from time to time require for the purpose of securing for the Customer all right, title and interest in and to the Intellectual Property Rights assigned or licensed to the Customer under the Contract.
- 8.8 The Supplier acknowledges that all rights in the Customer Materials are and shall remain the exclusive property of the Customer.
- 9. Indemnity**
- 9.1 The Supplier shall indemnify the Customer against all Losses incurred by the Customer as a result of:
- any claim that the supply, receipt or use of the Goods or Services (excluding the Customer Materials) infringes the intellectual property rights of any third party;
  - any claim by a third party for death, personal injury or damage to property arising out of or in connection with defective Goods or Deliverables, to the extent that the defect is attributable to the acts or omissions of the Supplier;
  - any claim by a third party arising out of or in connection with the supply of the Goods or the Services, to the extent that the claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier;
  - any damage to the Customer's property occurring in the course of delivery of the Goods or Services to the extent that any such damage is attributable to any act, omission, breach or negligence of the Supplier; and
  - the Supplier's failure to comply with any of these terms and conditions.
- 10. Insurance**
- During the term of the Contract and for a period of 6 years afterwards, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance each with a limit of at least £10 million per claim, to cover the liabilities that may arise under or in connection with the Contract, and shall produce to the Customer on demand evidence confirming the contractually required level of cover is in place and the receipt for the then current premiums.
- 11. Compliance with laws and policies**
- 11.1 In performing its obligations under the Contract, the Supplier shall comply with:
- all applicable laws, statutes, regulations and codes from time to time in force; and
  - the Mandatory Policies.
- 11.2 The Supplier warrants and represents that neither it, nor to the best of its knowledge any of the Supplier Personnel or any of its suppliers involved in performing the Services ("**Associated Persons**"):
- has committed an offence under any of the Relevant Requirements; or
  - has been or is the subject of any investigation, inquiry, or enforcement proceedings by any governmental, administrative, or regulatory body regarding any offence or alleged offence under any of the Relevant Requirements.
  - The Supplier shall promptly notify the Customer if, at any time during the Term, its circumstances, knowledge, or awareness changes such that it would not be able to repeat the warranties set out in clause 11.2 at the relevant time.
- 11.3 The Supplier shall not do or omit to do any act which would cause the Customer to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 11.4 The Supplier shall maintain and enforce its own policies and procedures which are adequate to ensure compliance with the Relevant Requirements. The Supplier shall ensure that its subcontractors are required to comply with terms that are at least as onerous as those in this clause 11. The Supplier shall be directly liable to the Customer for any failure to do so by any of those subcontractors.
- 11.5 The Supplier shall immediately notify the Customer if it has reason to believe that it or any of its Associated Persons is in receipt of a request or demand:
- for any undue financial or other advantage of any kind; or
  - to commit a fraud offence within the meaning of section 199(6) of the Economic Crime and Corporate Transparency Act 2023,
  - in connection with the performance of the Contract.
- 11.6 The Supplier shall co-operate with and provide reasonable assistance to the Customer to enable the Customer to investigate, or respond to any requests from a governmental, administrative, or regulatory body to investigate, an alleged offence under any of the Relevant Requirements.
- 11.7 In this clause '**Real Living Wage**' means the hourly rates for London and the rest of the United Kingdom, as applicable, as set by the Living Wage Foundation (or any replacement thereon, as may be revised from time to time. The Supplier shall and shall procure that all its supply chain members of any tier shall (i) ensure that none of his or their respective workers (including staff and operatives) engaged in the performance of the Contract (or any part of ii) in London and the rest of the United Kingdom and who satisfy the eligibility criteria set by the Living Wage Foundation (or any replacement thereon is paid an hourly wage (or the equivalent of an hourly wage) less than the Real Living Wage; and (ii) co-operate with the Customer, provide all information requested by the Customer from time to time and give all necessary assistance to the Customer in each case to enable the Customer to assess compliance with this clause and/or the effect of the Real Living Wage. If the Real Living Wage increases, the Supplier shall not thereby be entitled to additional payment
- 11.8 Breach of clause 11.1 shall be deemed a material breach, which is irremediable, under clause 13.2(a).
- 12. Data protection**
- 12.1 The following definitions apply in this clause 12:
- Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.

- (b) **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.
- (c) **Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.
- (d) **UK GDPR:** has the meaning given in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
- 12.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 12.2 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 12.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor.
- 12.4 Without prejudice to the generality of clause 12.2, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:
- (a) process that Personal Data only on the documented written instructions of the Customer unless the Supplier is required by Domestic Law to otherwise process that Personal Data. Where the Supplier is relying on Domestic Law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits the Supplier from so notifying the Customer;
- (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- (d) not transfer any Personal Data outside of the UK unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
- (ii) the Data Subject has enforceable rights and effective legal remedies;
- (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Customer without undue delay on becoming aware of a Personal Data Breach;
- (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Contract unless required by Domestic Law to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 12 and allow for audits by the Customer or the Customer's designated auditor and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.
- 12.5 The Customer does not consent to the Supplier appointing any third party processor of Personal Data under the Contract..
- 12.6 The Customer may, at any time on not less than 30 days' notice, revise this clause 12 by replacing it with any applicable controller to processor standard clauses or similar terms adopted under the Data Protection Legislation or forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).
- 13. Termination**
- 13.1 Without affecting any other right or remedy available to it, the Customer may terminate the Contract:
- (a) with immediate effect by giving written notice to the Supplier if:
- (i) there is a Change of Control of the Supplier; or
- (ii) the Supplier commits a breach of clause 11.1.
- (b) for convenience by giving the Supplier 7 days' written notice.
- 13.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (b) the other party takes or has taken against it (other than in relation to a solvent restructuring) any step or action towards its entering bankruptcy, administration, provisional liquidation or any composition or arrangement with its creditors, applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court), being struck off the register of companies, having a receiver appointed to any of its assets or its entering a procedure in any jurisdiction with a similar effect to a procedure listed in this clause 13.2(b); or
- (c) the other party suspends or ceases, or threatens to suspend or cease, carrying on business.
- 14. Consequences of termination**
- 14.1 On termination or expiry of the Contract, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and shall not use them for any purpose not connected with the Contract.
- 14.2 Termination or expiry of the Contract shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 14.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 15. Confidentiality**
- 15.1 The Supplier undertakes that it shall not at any time during the Contract and for a period of 5 years after termination or expiry of the Contract, disclose to any person any confidential information

- concerning the business, assets, affairs, customers, clients or suppliers of the Customer, nor make any announcement regarding the content or existence of the Contract, except as permitted by clause 15.2.
- 15.2 The Supplier may disclose the confidential information of the Customer:
- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the Supplier's rights or carrying out its obligations under the Contract. The Supplier shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the Customer's confidential information comply with this clause 15; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 15.3 The Supplier shall not use the Customer's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 15.4 The Supplier shall not make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of the Contract, the wider transactions contemplated by it, or the relationship between the parties, and shall not use the Customer's branding for such purposes without the prior written consent of the Customer (except as required by law, any governmental or regulatory authority (including any relevant securities exchange), any court or other authority of competent jurisdiction).
- 16. Force majeure**  
Neither party shall be liable for any delay or failure in the performance of its obligations for so long as and to the extent that such delay or failure results from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 120 days, the party not affected may terminate the Contract by giving not less than 14 days' written notice to the affected party.
- 17. General**
- 17.1 Assignment and other dealings.**
- (a) The Customer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.
- (b) The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.
- 17.2 **Subcontracting.** The Supplier may not subcontract any of its rights and obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.
- 17.3 Notices.**
- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
- (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (ii) sent by email to the address specified in the Order.
- (b) Any notice shall be deemed to have been received:
- (i) if delivered by hand, at the time the notice is left at the proper address; or
- (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- (iii) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 17.4 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 17.4, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 17.5 Waiver.**
- (a) Except as set out in clause 2.5, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy does not waive that or any other right or remedy, nor does it prevent or restrict the further exercise of that or any other right or remedy.
- 17.6 No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 17.7 Third party rights.**
- (a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 17.8 Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Customer or its authorised representative.
- 17.9 Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 17.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.