

NPL GENERAL TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

1 INTERPRETATION

1.1 In these Conditions:

Background IPR means all Intellectual Property Rights which exist and belong to the Supplier at the Commencement Date, including all such Intellectual Property Rights in the Goods and/or the Deliverables which are not included within the definition of Foreground IPR and any Intellectual Property Rights that are licensed to the Supplier and used for the purposes of providing the Goods and/or Services;

Business Day means a day (other than a Saturday, Sunday or a public holiday in England) when banks in London are open for business;

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

Conditions means these terms and conditions as amended from time to time in accordance with clause 18.7;

Confidential Information means in relation to each party, all information of a confidential nature relating to the business and/or operations of that party (whether such information is disclosed in writing, by delivery of items, orally, by visual presentation, by means of providing access to such information (when, for example, the information is contained on a database) or otherwise), including:

- a) any trade secrets, processes, customer lists, databases, trading details, information in relation to employees and officers or other information or activities of a confidential nature or which is commercially sensitive or price sensitive relating to either party or third parties (including details of activities, businesses or finances of any such company);
- b) any other information specifically designated by a party as confidential; and
- c) the provisions and subject matter of the Purchase Order, Goods and/or Services, including pricing information;
- d) anything disclosed by the Customer

Contract means the contract between the Customer and the Supplier for the supply of Goods and/or Services in accordance with these Conditions;

Customer means NPL Management Ltd, at National Physical Laboratory, Hampton Road, Teddington, London, TW11 0LW.

Data Protection Laws means Law relating to data protection, the processing of personal data and privacy from time to time, including (without limitation):

- a) the Data Protection Act 2018;
- b) UK GDPR (as defined in the 2018 Act); and
- c) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications);

Deliverables means all Documents, products, goods and/or materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form, including without limitation computer programs, data, reports and specifications (including drafts);

Delivery Date means the date or dates for delivery of the Goods or performance of the Services, as applicable, as stated in the Purchase Order (if any);

Delivery Location has the meaning given in clause 4.1(b);

Document includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form (including any electronic form);

EIR means the Environmental Information Regulations 2004 or the Environmental Information (Scotland) Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or the Scottish Ministers or any relevant government department in relation to such regulations;

Electronic Invoice means an invoice which is issued, transmitted and received in a structured electronic format that allows for its automatic and electronic processing

FOIA means the Freedom of Information Act 2000 or the Freedom of Information Act (Scotland) 2002, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or the Scottish Information Commissioner or relevant government department in relation to such legislation;

Foreground IPR has the meaning given in clause 8.3;

Good Industry Practice means the standard of skill, care and knowledge which could reasonably be expected from an experienced person who is in the business of supplying goods and services which are the same as or similar to the Goods and Services;

Goods means the goods (or any part of them) described in the Purchase Order;

Group means, in respect of any party, that party and the following from time to time: its holding companies and subsidiaries, together with all subsidiaries of such holding companies;

Insolvency Event means the occurrence of any of the following in relation to a party:

- a) the party stops or suspends, or threatens to stop or suspend, its business or payment of its debts or is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986) or otherwise becomes insolvent or (being a partnership) suffers bankruptcy orders being made against any one of its partners;
- b) an administrator, administrative receiver, receiver or manager, liquidator or other similar officer is appointed in respect of the party or a notice of intention to appoint an administrator in respect of the party is given;
- c) a winding up order or bankruptcy order is made against the party or the party passes a resolution or makes a determination for it to be wound up;
- d) a judgment, order or award made against the party is outstanding and not discharged within 10 days or any distress, execution, sequestration or similar process is levied on or commenced against any of the assets of a party and not lifted, withdrawn or discharged within 10 days;
- e) any arrangement, compromise or composition of the party's debts is proposed or made by or with the party;
- f) any event occurs in relation to the party in any jurisdiction in which it is incorporated, resident or carries on business which is analogous to any of those stated in paragraphs (a) to (e) (inclusive) of this definition; or
- g) the party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;

Intellectual Property Rights means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in Confidential Information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

Law means any statute, directive, other legislation, law or regulation in whatever form, delegated act (under any of the foregoing), rule, order of any court having valid jurisdiction or other binding restriction, decision or guidance in force from time to time;

Losses means losses, liabilities, damages, compensation, awards, payments made under settlement arrangements, claims, proceedings, costs and other expenses including fines, penalties, interest, legal and other professional fees and expenses;

PA23 means the Procurement Act 2023;

Purchase Order means the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form;

Required Electronic Form means a form that:

- (a) complies with the standard for electronic invoicing approved and issued by the British Standards Institution in the document numbered BS EN 16931-1:2017 (Electronic invoicing - Part 1: Semantic data model of the core elements of an electronic invoice), and

(b) uses a syntax which is listed as a syntax that complies with that standard in the document numbered PD CEN/TS 16931-2:2017 (Electronic invoicing - Part 2: List of syntaxes that comply with EN 16931-1) approved and issued by the British Standards Institution;

Services means the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract, as described in the Purchase Order;

Specification means the specification for the Goods and/or Services notified by the Customer to the Supplier (if any);

Supplier means the person, firm or other entity from whom the Customer purchases the Goods and/or Services as specified in the Purchase Order; and

1.2 In these Conditions:

- (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 (unless otherwise excluded by these Conditions) its personal representatives, successors or permitted assigns, employees or agents;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted, and includes any subordinate legislation made under that statute or statutory provision as amended or re-enacted;
- (d) **"Controller"**, **"Personal Data"**, **"Personal Data Breach"**, **"Process"** and **"Processor"** shall have the meanings set out in Data Protection Laws;
- (e) any phrase introduced by the terms **"including"**, **"include"**, **"in particular"** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (f) **"holding company"** and **"subsidiary"** have the meaning given in section 1159 of the Companies Act 2006;
- (g) references to the singular include the plural and vice versa, and references to one gender include the other gender;
- (h) the clause and schedule headings are for convenience only and shall not affect the interpretation of these Conditions; and
- (i) the parties acknowledge and agree that, notwithstanding anything to the contrary stated in this Contract, none of the terms of this Contract shall be deemed to override or take precedence over the applicable implied terms under the PA23.

2 BASIS OF CONTRACT

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

2.2 Unless otherwise agreed by the Customer in writing, the Purchase Order shall be deemed to be accepted by the Supplier on the earlier of:

- (a) the Supplier issuing written acceptance of the Purchase Order; or
- (b) any act by the Supplier consistent with commencing work in connection with Purchase Order,

at which point and on which date the Contract shall come into existence (**Commencement Date**) and the Contract shall continue until the obligations of the parties are fulfilled unless the Contract has been terminated in accordance with these Conditions.

2.3 Subject to clause 2.5 and 18.7 below, these Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

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

2.5 If an alternative contract has been signed between the Supplier and the Customer for the supply of the Goods and/or the Services (whether or not such contract is referenced in the Purchase Order), the terms of such contract shall apply instead of these Conditions.

2.6 In the provision of the Goods and/or the Services, the Supplier shall at all times comply with all applicable laws and regulatory

requirements including, but not limited to, the Bribery Act 2010 and the Modern Slavery Act 2015. Furthermore, the Supplier shall (where the provision of the Goods and/or Services requires it to attend the Customer's premises) comply with all applicable policies, rules and regulations that apply at the Customer's premises, including those relating to security, health and safety and operations.

2.7 The appointment of the Supplier pursuant to these Conditions and the Purchase Order is non-exclusive and the Customer may at any time in its absolute discretion appoint any other person, firm or company to provide products and/or services which are the same or similar to the Goods and/or Services.

2.8 Each party acknowledges and agrees that it is an independent contracting party and that nothing in the Contract is intended to, or shall be deemed to, create any partnership, joint venture, trust, fiduciary relationship, employer–employee relationship or any relationship other than the contractual relationship expressly set out in the Contract.

2.9 Nothing in the Contract shall constitute any party the agent of the other party for any purpose. No party shall have, nor represent that it has, any authority to act as agent for, or to bind, the other party in any way.

2.10 The Supplier acknowledges that it is solely responsible for the acts and omissions of the Supplier and the Supplier's personnel in connection with the performance of the Contract. The Customer shall not be responsible or liable, whether directly or indirectly, for the conduct of the Supplier or the Supplier's personnel in relation to the operation or performance of the Contract.

2.11 Except as expressly provided for in the Contract, neither party shall have any authority to incur expenditure on behalf of the other, enter into any commitment or contract in the name of the other, or otherwise hold itself out as having such authority.

2.12 The Supplier shall indemnify and keep indemnified the Customer against all Losses suffered or incurred by the Customer arising out of or in connection with any breach by the Supplier of its obligations under the Contract, or any negligent act or omission by the Supplier, its employees, agents or subcontractors.

2.13 Without prejudice to the generality of the foregoing, the Supplier shall comply with all policies and/or procedures and requirements set out in the Specifications in relation to any stated environmental and social requirements, characteristics and impacts of the Goods and/or Services and the Supplier's ability to provide the Goods and/or Services.

3 SUPPLY OF GOODS

3.1 The Supplier shall ensure that the Goods:

- (a) correspond with their description and any applicable Specification;
- (b) 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 judgment;
- (c) are provided in accordance with Good Industry Practice; and
- (d) where applicable, are free from defects in design, materials and workmanship and remain so for 24 months after delivery.

3.2 The Customer shall have the right to inspect and test the Goods at any time before delivery. If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings under clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance (which is subject to the Customer's approval).

3.3 The Customer shall not be treated as having accepted any Goods until it has had a reasonable opportunity to inspect them following delivery or, in the case of a latent defect in the Goods, until a reasonable time after the latent defect has become apparent. The Customer will have the right to reject any Good which does not comply with these Conditions.

4 DELIVERY OF GOODS

4.1 The Supplier shall deliver the Goods:

- (a) on the Delivery Date or, if no such date is specified, then within 14 days of the date of the Purchase Order;

- (b) to the Customer's premises at the location set out in the Purchase Order or as instructed by the Customer before delivery (**Delivery Location**); and
 - (c) during the Customer's normal hours of business on a Business Day, or as instructed by the Customer.
- 4.2 The applicable Incoterms for this Contract shall be Delivery Duty Paid (DDP) – Incoterms 2020, International Chamber of Commerce (ICC).
- 4.3 Where delivery of Goods requires an export license or other authorisation, the Supplier shall be responsible for obtaining such export license or authorisation and shall co-operate with the Customer to ensure compliance of any requirements under all applicable Export Control Regulations. If the Supplier is not successful in obtaining export clearance, THE CUSTOMER may terminate the Contract without liability to either Party.
- 4.4 The Goods shall be deemed delivered by the Supplier either:
- (a) On delivery of the Goods at the Location as specified within the contract and in full compliance with the terms and conditions of the Contract; or.
 - (b) If required by the contract, once the Goods have been delivered to the Delivery Location, have passed any applicable acceptance tests required under the Contract, and have been formally accepted in writing by the Customer as conforming in all respects with the Contract.
- 4.5 Until risk has passed to the Customer in accordance with clause 4.4, the Supplier shall:
- (a) remain fully responsible for the care, custody, handling, storage, and security of the Goods;
 - (b) ensure that the Goods are clearly identified as the Customer's property (where title has already passed in accordance with clause 8.2; and
 - (c) insure the Goods with a reputable insurer against all loss or damage for an amount not less than their full replacement value.
- 4.6 The passing of risk shall not affect the Customer's right to inspect, reject, or require the repair or replacement of the Goods in accordance with the Contract, nor shall it be construed as acceptance of the Goods.
- 4.7 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect or damage in an instalment shall entitle the Customer to the remedies set out in clause 6.
- 4.8 The Supplier shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach the Delivery Location in good condition and good working order and, where appropriate, using packaging made from sustainable materials;
 - (b) all Goods are marked with information and advice necessary to instruct and warn any person handling or coming into contact with them about hazards to health and/or safety and any precautions to be taken. If it is not practicable to mark the Goods in this way the Supplier will provide such instructions by an accompanying notice at the time of despatch;
 - (c) each delivery of the Goods is accompanied by a delivery note which shows the date of the Purchase Order, the Purchase Order number (if any), the type and quantity of the Goods (including the serial and model numbers and any batch/code numbers of the Goods (where applicable)), special storage instructions, handling instructions and any associated documentation (if any) and (subject to clause 4.8 above), if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - (d) if the Supplier requires the Customer to return any packaging material for the Goods to the Supplier, agreement to this must be given by the Customer prior to the use of such packaging material. Any such packaging material shall only be returned to the Supplier at the pre paid cost of the Supplier.
 - (e) Notwithstanding clause 4.10(d), All containers (including packing cases, boxes, tins, drums and wrappings) supplied

by the Supplier shall be considered as non-returnable and their cost as having been included in the Contract Price.

- (f) If the Customer provides tailored instructions for packaging which are agreeable by the Supplier, The Goods shall be properly packed, secured and marked in accordance with the Customer's instructions.
- (g) The Supplier shall indemnify the Customer against all such Loss which the Customer may suffer or incur resulting from or in connection with any breach of this Condition or breach of statutory duty, negligence or wrongful act or omission by the Supplier through their failure, inadequacy or absence of packaging according to acceptable industry packaging standards for such Goods or failure to provide the relevant customs documentation unless agreed otherwise in advance.

5 SUPPLY OF SERVICES

- 5.1 The Supplier shall from the Commencement Date (or other date set out in the Purchase Order) and for the duration of the Contract provide the Services to the Customer in accordance with the terms of the Contract and shall:
- (a) meet any Delivery Date(s) for the Services;
 - (b) co-operate with the Customer and comply with all instructions of the Customer in all matters relating to the Services;
 - (c) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - (d) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to fulfil the Contract;
 - (e) ensure that the Services and Deliverables will conform with the Specification in its entirety, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Customer;
 - (f) provide all equipment, tools and such other items as are required to provide the Services;
 - (g) 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;
 - (h) hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (the Customer Materials, being the exclusive property of the Customer) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
 - (i) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;
 - (j) take all reasonable steps to ensure that in the performance of the Services neither it nor the Supplier's personnel cause any interference with the operations of the Customer or those of any other contractors engaged by the Customer or any other person at or using any property at the relevant Customer premises and shall ensure that neither it nor any Supplier personnel interferes with any plant, ways, works, appliances or other property belonging to the Customer or any other person; and
 - (k) ensure that no damage is caused to any property of the Customer or any or any other party or person at or on the relevant Customer premises, and that no pollution of air, water or land occurs and that no nuisance and/or any risk to the health of any party or person at or on the relevant Customer premises is either created or aggravated.
- 5.2 The Customer shall have the power at any time during the provision of the Services to order in writing:
- (a) the removal from the Customer's premises of any materials which in the opinion of the Customer are either hazardous, noxious or not in accordance with the Contract; and/or
 - (b) the substitution of proper and suitable materials; and/or
 - (c) the removal and proper re-execution notwithstanding any previous test thereof or interim payment therefore of any

work which, in respect of material or workmanship is not in the opinion of the Customer in accordance with the Contract.

5.3 If the Supplier requires any security pass issued by the Customer (or its agent) to perform the Services, and provided that the necessary security/background checks have been passed by the Supplier, the Supplier shall pay the Customer a fee based on the Customer's applicable sundry fees in force from time to time. This fee shall apply to both new and replacement passes unless otherwise agreed in writing by the Customer. All security passes and documentation shall be returned to the Customer immediately upon completion of the Services (or upon any member of the Supplier's personnel ceasing to work in connection with the Contract).

5.4 Where the performance of Services requires an export license or other authorisation, the Supplier shall be responsible for obtaining such export license or authorisation and shall co-operate with the Customer to ensure compliance of any requirements under all applicable Export Control Regulations. If the Supplier is not successful in obtaining export clearance, the Customer may terminate the Contract without liability to either Party.

6 CUSTOMER REMEDIES

6.1 If the Supplier:

- (a) fails to deliver the Goods and/or perform the Services (whether by the Delivery Date or at all); or
- (b) has delivered Goods or performed Services that do not comply with an undertaking set out in clause 3.1 or 5.1 (respectively), and/or an applicable warranty set out at clause 17, whether or not the Customer has accepted the Goods / Deliverables,

then, without limiting its other rights or remedies, the Customer shall have the right:

- i to terminate the Contract (in whole or part) with immediate effect by giving written notice to the Supplier;
- ii to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
- iii where the Customer has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered (including if refused by the Customer) by the Supplier, to have such sums refunded by the Supplier;
- iv to recover and/or claim damages for any Losses incurred by the Customer which are in any way attributable to the Supplier's breach (as specified under (a) or (b) above), including costs incurred by the Customer in obtaining substitute goods and/or services from a third party;
- v to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense; and/or
- vi to require the Supplier at its own risk and expense, at the Customer's option, to repair or replace the rejected Goods (or re-perform any rejected Services) without delay, or to provide a full refund of the price of the rejected Goods or Services (if paid).

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

6.3 The parties agree that any Goods which are repaired or replaced shall be subject to a renewed warranty period commencing on the date of their repair or replacement and continuing for the same term as the initial warranty period which applied to the original Goods.

7 CHARGES AND PAYMENT

7.1 The price for the Goods:

- (a) shall be the price set out in the Purchase Order; and
- (b) shall be inclusive of the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by the Customer. 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 Purchase Order, and shall be the exclusive remuneration of the Supplier in respect of the performance of the Services unless otherwise agreed in writing by the Customer.

7.3 In respect of Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery of all Goods unless otherwise agreed in writing. In respect of Services, the Supplier shall invoice the Customer on completion of the Services and shall be accompanied by such supporting information required by the Customer to verify the accuracy of the invoice. Each invoice shall be denominated in Pounds Sterling, unless such other currency is agreed in writing in advance by the Customer.

7.4 Where the purchase price is in a currency other than pounds sterling; or the purchase price is converted into pounds sterling from a foreign currency, the Parties agree that:

7.4.1 the contractual price is based on the official fixed exchange rate determined by the Bank of England between the pounds sterling currency, (£), and the second foreign currency, (called the "Base Rate"), and that

7.4.2 if the fixed exchange rate on the actual date of payment differs by more than 5 % from the Base Rate, then

7.4.3 the contract price shall be adjusted accordingly.

7.5 Each invoice must state at least the following:

- (a) the full name and address of the Customer;
- (b) the line number and/or item description to which the request for payment refers including quantity, price and value;
- (c) a unique identification number (or Purchase Order number);
- (d) the total invoice sum requested; and
- (e) the full name and address of the Supplier

7.6 For the purposes of clause 7.3, where the Supplier has access to the Customer's purchasing system (**Purchasing System**), the Supplier shall submit invoices to the Customer via the Purchasing System. Invoices submitted under the Purchasing System must accurately reflect and be correctly aligned to the relevant details set out in the Purchase Order (including in relation to quantity, unit price and amount). Failure to do so may result in such invoice not being due and payable by the Customer. Where the Supplier does not have access to the Purchasing System, the Supplier shall submit invoices to the Customer at the "Bill To" address on the Purchase Order. The Customer shall accept and process for payment (in accordance with this clause 7) any Electronic Invoice issued to it for payment under the Contract which is:

- (a) in the Required Electronic Form; and
- (b) not disputed by the Customer.

7.7 Subject to clause 7.11 below, in consideration of the supply of Goods and/or Services by the Supplier, the Customer shall pay the invoiced amounts within 30 days of:

- (a) the date on which a valid invoice (which complies with the provisions of this clause 7) is received by the Customer; or
- (b) if later, the day on which payment falls due in accordance with the relevant invoice, and

payment will be made to a bank account nominated in writing by the Supplier.

7.8 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 and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

7.9 If the Customer fails to pay any amount properly due and payable by it under the Contract, the Supplier shall have the right to charge interest on the overdue amount at the rate of 2 per cent per annum above the base rate for the time being of Barclays Bank Plc accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment. This clause shall not apply to payments that the Customer disputes in good faith.

7.10 If the validity of an invoice, or any amount stated on an invoice, is disputed by the Customer, the Customer shall notify the Supplier without undue delay and the Supplier shall re-submit a valid invoice for the undisputed amount. Any dispute over the balance of the

Supplier's claim for payment shall be dealt with in accordance with clause 19 (**Dispute Resolution**).

- 7.11 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.
- 7.12 The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part. The Customer may, without limiting its other rights or remedies, set off any amount owing to it by the Supplier against any amount payable by the Customer to the Supplier.
- 7.13 The payment of any invoice will not be deemed to be approval and/or acceptance by the Customer of any Goods and/or Services in respect of which such invoice is issued, and will be without prejudice to the Customer's rights and remedies under these Conditions or at law in respect of any failure or delay on the part of the Supplier to perform its obligations.
- 7.14 The Customer may only rely on a payment of a Supplier invoice made on its behalf by a third party with the prior written consent of the Supplier (which shall not be unreasonably withheld or delayed).
- 7.15 THE CUSTOMER may cancel the Purchase Order in whole or in part at any time before delivery with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the accepted Purchase Order.
- 7.16 Pursuant to clause 7.15, THE CUSTOMER shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods and Services at the time of termination of that Purchase Order upon receipt of evidence of expenditure, committed funds or resources related to the Purchase Order however such compensation shall not include loss of anticipated profits or any consequential or indirect loss.
- 7.17 In relation to any Purchase Order cancelled in part or full, 'fair and reasonable compensation' might include costs in the nature of
- (a) any Goods, that part of the price which relates to the Goods which at the time of cancellation have been delivered to THE CUSTOMER; and
 - (b) any Goods and upon receipt of evidence of purchase, the reasonable cost of materials which the Supplier has purchased to fulfil the Purchase Order for the Goods which cannot be used or be returned to the Supplier's supplier such materials for a refund; and
 - (c) any Services, that part of the price which relates to the Services which at the time of cancellation has already been performed [in accordance with any service delivery plan agreed between Parties].

8 INTELLECTUAL PROPERTY RIGHTS & TITLE

- 8.1 In respect of the Goods and any goods and materials that are transferred to the Customer as part of the Services under the Contract (including without limitation the Deliverables or any part of them), the Supplier warrants that it has full clear and unencumbered title to all such items at the date of delivery.
- 8.2 Risk in the Goods shall pass to the Customer upon delivery in accordance with clause 4.1. Title to the Goods shall pass to the Customer from the date of delivery or payment, whichever is earlier.
- 8.3 On the earlier of the date of delivery or payment by the Customer, the Supplier assigns to the Customer, with full title guarantee and free from all third-party rights, all Intellectual Property Rights in the Goods and Deliverables to the extent they have been developed specifically for this Contract ("**Foreground IPR**"). The Supplier shall obtain waivers of all moral rights in the products of the Specifications, and Services, including the Deliverables, to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 8.4 Subject to any rights that are owned by the Supplier as a result of any work performed outside the Contract and subject to the rights of any third party, all specifications provided by THE CUSTOMER and all Intellectual Property Rights in the Goods or Services made or performed in accordance with such specifications shall vest in and remain at all times the property of THE CUSTOMER and such

specifications may only be used by the Supplier as necessary to perform the Contract.

- 8.5 The Supplier shall promptly do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Contract, including all right, title and interest in and to the Foreground IPR assigned to the Customer in accordance with clause 8.3.
- 8.6 NOT USED
- 8.7 Prior to the date of delivery of any Goods, the Supplier shall:
- (a) securely store the Goods separately from all other goods held by the Supplier so that they remain readily identifiable as the Customer's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to such Goods; and
 - (c) maintain such Goods in satisfactory condition, and exercise due care to prevent loss or damage, and keep them insured on the Customer's behalf for their full price against all risks.
- 8.8 If, before title to the Goods passes to the Customer but payment has been made, the Supplier becomes subject to an Insolvency Event then, without limiting any other right or remedy the Customer may have, the Customer may at any time require the Supplier to deliver such Goods and, if the Supplier fails to do so promptly, enter any premises of the Supplier or of any third party where the relevant Goods are stored in order to recover them.
- 8.9 The Supplier shall grant to the Customer and/or shall procure the grant to the Customer of a non-exclusive, royalty free, perpetual, irrevocable licence for the Customer to:
- (a) use any software (computer programs and related documentation are collectively referred to as the 'Software') or other materials necessary for the receipt and enjoyment of the Goods and/or Services;
 - (b) In particular, the right to use the Software shall not include the right to translate, lease, lend, sublicense, distribute or publicly reproduce the Software or make it available online to third parties outside THE CUSTOMER.
 - (c) Furthermore, the right to use the Software shall not include the right to reproduce the Software unless such reproduction is necessary for the operation of the hardware intended or supplied therefore or to produce a backup copy.
 - (d) Unless provided otherwise by mandatory law or writ-ten contractual regulations, THE CUSTOMER shall not be authorised to modify, decompile, disassemble or otherwise reverse-engineer the Software, whether in whole or in part, in order to acquire the source code.
 - (e) use the Background IPR in connection with the receipt and enjoyment of the Goods and/or the Services; and
 - (f) sub-license to third parties the use of the Background IPR to the extent necessary for the receipt and enjoyment of the Goods and/or Services.
- 8.10 Insofar as Software is provided to THE CUSTOMER for which the Supplier owns only a derived utilisation right and which is not open source software (third-party software), the terms of use agreed between the Supplier and its licensor shall – also with regard to the relationship between the Supplier and THE CUSTOMER – apply additionally and prior-ranking to the provisions of this Section. If and to the extent that open source software is provided to THE CUSTOMER, the terms of use governing such open source software shall apply prior-ranking to the provisions of this Section. The Supplier will provide the source code to THE CUSTOMER at least upon request if such terms of use for the open source software require disclosure of the source code. The Supplier will make reference at a suitable place to the existence and the terms of use of third-party software so provided, including open source software, and will make the terms of use available.
- 8.11 Unless otherwise agreed in writing between the parties, the Supplier has no right to use the branding or logo(s) of THE CUSTOMER in the promotion or marketing of the Supplier's services, nor to reference the approval, support, endorsement, authorisation, certification or similar of THE CUSTOMER in relation to the Supplier's goods or services.
- 8.12 If:

- (a) the use or possession of any of the Goods by the Customer (or the Customer's licensees) or the receipt of any of the Services by the Customer (or the Customer's licensees) is held by a court which has authority to settle the claim to constitute an infringement of a third party's Intellectual Property Rights; or
- (b) the Customer is given legal advice by an appropriately qualified legal adviser that the use or possession by the Customer (or any of the Customer's licensees) of any of the Goods or the receipt of any of the Services by the Customer (or the Customer's licensees) may constitute an infringement of a third party's Intellectual Property Rights,

then the Supplier will promptly at its own expense:

- i obtain for the Customer and the Customer's licensees the right to continue using and possessing those Goods or receiving those Services; or
- ii modify or replace those Goods and/or Services so as to avoid the infringement; or
- iii if neither of the foregoing two options can be achieved on commercially reasonable terms within a reasonable period of time, refund to the Customer any fees paid by the Customer in respect of those Goods and/or Services.

8.13 For the avoidance of any doubt, the Customer's rights under clause 8.11 are in addition to, and do not affect, the indemnity set out in clause 9.1(d).

9 INDEMNITY

9.1 The Supplier shall, on demand, indemnify and keep indemnified the Customer in full against all Losses awarded against or incurred or paid by the Customer as a result of or in connection with:

- (a) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, the Services or defects in Goods, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or sub-contractors;
- (b) any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Goods or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or sub-contractors;
- (c) any breach of the provisions of clause 2.6 or clause 11; and
- (d) any claim made against the Customer 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.
- (e) any breach by the Supplier, its employees, agents or subcontractors of any applicable Law, including (without limitation) the Bribery Act 2010, the Modern Slavery Act 2015, health and safety requirements, and any other regulatory obligations relevant to the performance of the Contract.
- (f) unlawful or unauthorised Processing of Personal Data by the Supplier or its subcontractors, or any breach of Data Protection Laws caused by an act or omission of the Supplier, its employees, agents or subcontractors.
- (g) all Losses arising out of or in connection with any breach of clause 13 (Confidentiality) by the Supplier, its employees, agents or subcontractors.
- (h) all Losses arising from any breach of the warranties set out in clause 8 (Intellectual Property Rights), including any claim that the Goods, Deliverables or Services infringe the Intellectual Property Rights of any third party, except to the extent such infringement is caused by the Customer's own Specifications.
- (i) all Losses arising from or in connection with any claim made by the Supplier's personnel (including its employees, workers, contractors or subcontractors) arising out of the performance of the Contract, including any claim relating to employment, tax, National Insurance contributions or status determination.
- (j) all Losses arising from any environmental damage, pollution, contamination, or breach of environmental, sustainability or health and safety requirements caused by the Supplier or its

subcontractors in connection with the performance of the Contract.

- (k) all Losses arising from any recall, withdrawal, repair, replacement or remediation of the Goods or Deliverables required due to a defect, safety issue, non-conformity or failure to meet the Specification.

(l)

10 CUSTOMER PROPERTY

- 10.1 THE CUSTOMER Property shall remain the property of THE CUSTOMER and shall only be used in the performance of the Contract and for no other purpose whatsoever unless otherwise agreed in writing with THE CUSTOMER
- 10.2 All THE CUSTOMER Property shall be deemed to be in good condition when received by or on behalf of the Supplier unless the Supplier notifies THE CUSTOMER to the contrary within fourteen (14) days of receipt of the CUSTOMER Property by the Supplier (or such other period of time as may be specified in the Contract from the date of receipt of the CUSTOMER Property by the Supplier).
- 10.3 The Supplier undertakes to return all THE CUSTOMER Property to THE CUSTOMER on completion or earlier termination of the Contract and shall be responsible for any loss or damage (excluding fair wear and tear) caused in the possession of the Supplier. For avoidance of doubt possession shall include the safe carriage of THE CUSTOMER Property to THE CUSTOMER.
- 10.4 Without prejudice to the above and any terms in the Contract concerning loss of, or damage to, the Goods, the Supplier shall, unless otherwise provided for in the Contract, make good or, at the option of THE CUSTOMER, pay compensation for, all loss of, or damage to, any property of THE CUSTOMER that is:
 - 10.4.1 caused by the Supplier or the Supplier's employees, agents or subcontractors, and
 - 10.4.2 arises from the presence of the Supplier or the Supplier's employees, agents or subcontractors in connection with the performance of the Contract on any site occupied by or on behalf of THE CUSTOMER
 - 10.4.3 except that this Condition 10 shall not apply to the extent that the Supplier is able to show that any such damage was not caused or contributed to by the Supplier's negligence or default or the negligence or default of the Supplier's employees, agents, or subcontractors.

11 INSURANCE

- 11.1 Unless otherwise agreed in writing with the Customer, the Supplier shall maintain in force for the duration of the Contract the following insurance in line with clause 11.4:
 - (a) a third-party liability policy with a sufficient indemnity limit for any one occurrence or series of occurrences arising from any one event;
 - (b) in respect of the supply of Goods, a product liability policy with sufficient indemnity limit for any one occurrence or series of occurrences arising from any one event and in the aggregate in any one year; and
 - (c) in respect of the supply of Services, a professional indemnity policy with sufficient indemnity limit for any one occurrence or series of occurrences arising from any one event and in the aggregate in any one year.
- 11.2 The Supplier shall, on the request of the Customer, provide the Customer with documentary evidence of insurance cover relating to the policies referred to in clause 11.1 and proof of up-to-date payment of the premiums for such insurance.
- 11.3 The amount of any insurance arrangements shall not relieve the Supplier of any liabilities under this Contract.
- 11.4 It shall be the responsibility of the Supplier to determine the amount of indemnity and/or insurance cover that will be adequate to enable it to satisfy its potential liabilities under this Contract.
- 11.5 Accordingly, the Supplier shall be liable to make good any deficiency if the proceeds of any insurance arrangement is insufficient to cover the settlement of any claim.
- 11.6 The Supplier warrants that it shall not take any action or fail to take any reasonable action or (in so far as it is reasonable and within its power) permit or allow others to take or fail to take any action, as a result of which its insurance cover may be rendered void, voidable, unenforceable, or be suspended or impaired in whole or in part, or

which may otherwise render any sum paid out under such insurances repayable in whole or in part

12 LIABILITY AND LIMITATION OF LIABILITY

- 12.1 Nothing in this Contract limits or excludes either Party's liability for:
- death or personal injury resulting from negligence;
 - fraud or fraudulent misrepresentation; or
 - any other liability which cannot be limited or excluded by Law.
- 12.2 Upon expiry or earlier termination of the Contract, the Supplier shall ensure that any ongoing liability it has or may have arising out of the Contract remains covered by appropriate indemnity or insurance arrangements for a period of twenty-one (21) years from termination or expiry, or such earlier date as that liability may reasonably be considered to have ceased.
- 12.3 Subject to clauses 12.1 and 12.4, neither Party shall be liable to the other for:
- any indirect, special or consequential loss or damage;
 - loss of profit or revenue; or
 - loss of goodwill, arising out of or in connection with the Contract.
- 12.4 Nothing in clause 12.3 shall limit, restrict or exclude the Supplier's liability in relation to:
- any additional operational or administrative costs and expenses incurred by the Customer as a result of any breach of the Contract by the Supplier;
 - any wasted expenditure or charges rendered unnecessary due to the Supplier's breach;
 - any fees payable to third parties engaged by the Customer to remedy the Supplier's breach, including the costs of appointing such third parties;
 - any damages payable to a third party under a contract between the Customer and that third party, to the extent arising from the Supplier's breach; or
 - the costs of implementing any temporary workaround necessitated by the Supplier's failure to supply the Goods or Services in accordance with the Contract.
- 12.5 Except in relation to the liabilities described in clause 12.1, the total aggregate liability of the Customer under the Contract (excluding payment of any undisputed Fees properly due) shall not exceed an amount equal to 100% of the Fees paid to the Supplier by the Customer in the twelve (12) months preceding the event giving rise to the liability.

13 CONFIDENTIALITY AND DATA PROTECTION

- 13.1 A party (**Receiving Party**) shall keep in strict confidence all Confidential Information disclosed to the Receiving Party by or on behalf of the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other Confidential Information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such Confidential Information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party.
- 13.2 The confidentiality obligations and restrictions shall remain in force for the period of ten years from the date of termination of this Contract.
- 13.3 Clause 13.1 shall not apply to the disclosure of Confidential Information:
- with the written consent of the Disclosing Party;
 - if and to the extent required by law or by any competent regulatory authority or recognised stock exchange; or
 - which is already in or enters the public domain other than through breach of this clause,

provided that any Confidential Information shall only be disclosed pursuant to clause 13.3(b) by the Receiving Party after notification to the Disclosing Party if such notification is practicable and permitted in the circumstances.

- 13.4 Both parties will comply with the applicable requirements of Data Protection Laws to the extent they apply to any activities under the Contract.
- 13.5 To the extent that either party discloses Personal Data to the other party it will ensure that such disclosure is fair, lawful and transparent in the context of the purposes for which the Personal Data is to be Processed by the receiving party and otherwise complies with the requirements of Data Protection Law.
- 13.6 The Supplier acknowledges that it acts as a Processor and that the Customer acts as the Controller. The Supplier is responsible for complying with Data Protection Laws in respect of any Personal Data that it Processes in the supply of Goods and/or Services in accordance with these Conditions.
- 13.7 In the performance of its obligations under the Contract, the Supplier and any sub-contractor shall (and shall procure that its sub-contractors shall) at all times:
- Process such Personal Data in accordance with its published privacy notice and, or data processing agreement from time to time;
 - comply with its obligations as a Processor under the Data Protection Laws; and
 - shall not perform its obligations under the Contract in such a way as to cause the Customer (or any member of the Customer Group) to breach any of its obligations under Data Protection Laws.
 - Process such Personal Data strictly for the purpose of the performance of the Contract.
 - Put in place appropriate technical and organisational measures against (i) any unlawful or unauthorised processing of that Personal Data, (ii) the accidental loss or destruction of or damage to such Personal Data.
 - ensure the reliability of all their staff with access to Personal Data and that all staff are fully trained and aware of all policies and procedures (internal and external) relating to this Condition
 - Allow representatives of the Customer to audit the Supplier's compliance with the requirements of this Condition 13.7 on reasonable notice, and/or, at the option of the Customer, on request to provide the Customer with evidence of its compliance with such requirements.
 - Shall not disclose any Personal Data in response to a subject access request without first consulting with and obtaining consent of the Customer.
- 13.8 The Supplier will promptly inform the Customer upon becoming aware of any Personal Data Breach relating to any Personal Data Processed by the Supplier in relation to the Contract.
- 13.9 The Supplier shall indemnify and keep the Customer indemnified against any losses, damages, costs, expenses (including without limitation legal costs), claims or proceedings whatsoever or howsoever arising from the suppliers unlawful or unauthorised processing of Personal Data in connection with these Conditions.
- 13.10 On expiry or termination of this Contract, the Supplier shall, at the Customer's option or direction, arrange for the prompt and safe return and/or destruction of all of the Personal Data with all copies in its possession or control, and where requested by the Customer, certify that such destruction or return has taken place.
- 13.11 Unless otherwise agreed in writing with the Customer, the Supplier shall not issue any press releases or other forms of publicity concerning the supply of the Goods to the Customer or the performance of the Services for the Customer.
- 13.12 This clause 13 shall survive termination of the Contract.

14 SECURITY OF NETWORK AND INFORMATION SYSTEMS

- 14.1 Supplier maintains administrative, physical, and technical safeguards designed to protect the security, confidentiality, and integrity of Customer data processed through the Services. These safeguards include: (a) encryption of data in transit and at rest; (b) secure configuration and malware protection (c) vulnerability management (d) identity and access management, including appropriate authentication mechanisms (e) network firewalls (f) incident management (g) employee security training.

- 14.2 Supplier will notify Customer of any security incident that may affect Customer data, no longer than 72 hours after becoming aware of the incident, and will cooperate with Customer in investigating and remediating such incidents.
- 14.3 Supplier must ensure that any subcontractor is assigned the same responsibility as applicable under clause 14.1, above.
- 14.4 The supplier must notify the Customer of any significant changes to its risk profile and, or security environment pursuant to any Information Security Risk Assessment of the Supplier completed by the Customer for the purpose of contractual engagement.
- 14.5 The supplier must maintain up-to-date independent assurance reports including
- ISO 27001 certificates,
 - Cyber Essentials and Cyber Essentials Plus certificates
 - SOC Type II reports.
- 14.6 The Customer reserves the right to audit the Supplier's security controls on reasonable notice or require the Supplier to provide up-to-date independent assurance reports or certificates, such as those detailed under clause 14.5.

15 TERMINATION

- 15.1 Without limiting its other rights or remedies, the Customer may terminate the Contract in part or in whole with immediate effect by giving written notice to the Supplier if:
- the Supplier commits a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 Business Days of receipt of notice in writing of the breach;
 - the Supplier suffers an Insolvency Event;
 - the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing their own affairs or becomes a patient under any mental health legislation; or
 - the Customer considers that the Contract was awarded or modified in material breach of such applicable procurement laws, or any regulations made thereunder;
 - the Supplier has, since the award of the Contract, become an excluded or excludable supplier (as defined under sections 57 and 58 of PA23) (including by reference to an associated person);
 - the Customer identifies significant risk pursuant to clause 14.1, 14.4, 14.6.
 - subject to clause 15.3 below, a third-party to whom the Supplier has sub-contracted all or part of the Goods and/or Services under this Contract is, or becomes, an excluded or excludable supplier (as defined under sections 57 and 58 of PA23). However, the Customer may not rely on this ground to terminate unless it has requested information under section 28(1)(a) of the PA23 regarding the third-party sub-contractor in relation to the award of the sub-contract, and one or more of the following apply:
 - before awarding the Contract, the Customer did not know that the Supplier intended to sub-contract the performance of all or some of the Contract; or
 - the third-party sub-contractor is an excluded or excludable supplier under (as defined under sections 57 and 58 of PA23) and, before awarding the Agreement, the Customer sought to determine, but did not know that, the third-party sub-contractor was an excluded or excludable supplier
- 15.2 Without limiting its other rights or remedies, the Customer may terminate the Contract in part or in whole, at any time and for any reason:
- in respect of the supply of Services, by giving the Supplier 90 Business Days' written notice; and
 - in respect of the supply of Goods, with immediate effect by giving written notice to the Supplier, in which case the Customer shall pay the Supplier for all Goods delivered up to the point of termination.

15.3 Before terminating the Contract, the Customer must:

- notify the Supplier of its intention to terminate;

- specify which termination ground applies and why the Customer has decided to terminate the Contract
- 15.4 Before terminating the Contract pursuant to clause 15.1(g), the Customer must give the Supplier a reasonable opportunity to:
- cease sub-contracting to the excluded or excludable supplier (sub-contractor); and
 - if necessary, find an alternative supplier (sub-contractor) to which to sub-contract.
- 15.5 Any notice given to THE CUSTOMER under this Agreement should be sent by email to legal@npl.co.uk.
- 15.6 Any notice to the Supplier shall be sent to the contact identified on the purchase order.

16 CONSEQUENCES OF TERMINATION

- 16.1 On termination of the Contract or any part of it for any reason:
- where the Services are terminated, the Supplier shall immediately deliver to the Customer all Deliverables, whether or not then complete, and return all the Customer Materials. If the Supplier fails to do so, then the Customer may without limiting its other rights or remedies enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
 - each party shall return to the other party (or, at the other party's written request, irretrievably delete and/or destroy, subject at all times to compliance with Data Protection Laws) all property belonging to the other party (including Confidential Information, other data and (in the case of the Supplier) Customer property, including keys, passes, materials and documents) which may be in the possession or control of that party or (in the case of the Supplier) any of the Supplier's personnel;
 - the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and
 - clauses which expressly or by implication have effect after termination (including, without limitation, clauses 9, 11, 13 and 18.11) shall continue in full force and effect.

17 WARRANTIES

- The Supplier warrants and undertakes to the Customer at the Commencement Date and on an ongoing basis during the term of this Contract that:
- 17.1 the Supplier has full capacity and authority and all necessary licences, permits and consents to enter into and to perform this Contract;
- 17.2 the Goods and Services shall conform in all respects to their description and any applicable Specification;
- 17.3 the Services will be provided with all due skill and care in accordance with this Contract;
- 17.4 the Goods will be of satisfactory quality and shall be suitable and fit in all respects for the purpose for which they are intended to be used by the Customer;
- 17.5 the Goods will be free from defects in design, functionality, material and workmanship;
- 17.6 the Goods shall be stored in a wind and watertight area from the date of manufacture until the date of actual delivery;
- 17.7 the Goods shall comply with all applicable statutory and regulatory requirements;
- 17.8 the Goods shall be properly packed and secured in such manner as to enable them to reach the Delivery Location in good condition;
- 17.9 the Goods shall be supplied free and clear of any lien, encumbrance, charge or rights of any third party and that the Supplier has good title to the Goods; and
- 17.10 the Supplier has sufficient resources to properly perform its obligations under this Contract, and will continue to have sufficient resources to do so throughout the period that this Contract is in force.
- 17.11 The Supplier shall ensure that warranties offered by third parties in respect of the Goods or any part of the Goods are transferred to the

Customer on delivery of the Goods or as soon after delivery as is reasonably practical.

- 17.12 The Supplier shall indemnify the Customer for all Losses incurred as a result of any breach of the warranties provided in clause 17 including losses arising from the Customer having to procure alternative goods or services from a third party.

18 GENERAL

- 18.1 The Supplier shall not assign, transfer, charge, deal in any other manner with (including, subject to clause 18.2, sub-contract) all or any of its rights or obligations under the Contract without the prior written consent of the Customer. Where the Supplier receives the Customer's consent to sub-contract any of its obligations under the Contract to a third-party, the Supplier will remain primarily liable for the provision of the Goods and/or Services and shall be liable for the acts and omissions of its sub-contractors.

- 18.2 If:

- (a) the Customer, as a condition of awarding the Contract to the Supplier, required that the Supplier sub-contract the supply of the Goods and/or Services to another supplier; or
- (b) where the Supplier indicated to the Customer that it intended to sub-contract all or part of the Contract to another supplier (and relied on that other supplier to satisfy any conditions of participation under applicable procurement laws – which will not be deemed the case where the Supplier has satisfied all such participation conditions itself),

the Supplier shall be entitled to sub-contract in accordance therewith.

- 18.3 Where the Supplier appoints a sub-contractor in accordance with this clause 18, the Supplier shall enter into a legally binding agreement with such sub-contractor(s), which agreements shall include (without limitation) terms equivalent to clauses 7.3, 7.7, 7.10, 7.14, and confidentiality provisions which are no less stringent than those contained in clause 13. If the Supplier fails to enter into a legally binding agreement as required by the Customer, the Customer may (without prejudice to its other rights and remedies):

- (a) where the sub-contractor was appointed pursuant to clause 18.2 (b) above, direct the Supplier to enter into a legally binding arrangement with another appropriate sub-contractor; or
- (b) terminate the Contract.

For the purposes of clause 18.3(a) above, an "appropriate sub-contractor" means a supplier that is (i) not an excluded supplier (as defined under section 57 of the PA23); and (ii) could have been relied on in place of the supplier referred to in clause 18.2 (b) above.

- 18.4 The Customer may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- 18.5 Any notice or other communication required to be given to a party under or in connection with the Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business or sent by fax or email.
- 18.6 Any notice or communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by prepaid first-class post or recorded delivery, at 9am on the second Business Day after posting or, if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed or, if sent by fax, on the next Business Day after transmission or, if sent by email, when the sender receives a non-automated reply email confirming delivery. This clause shall not apply to the service of any proceedings or other documents in any legal action.
- 18.7 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or

remedy. Any variation, including any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the Customer.

- 18.8 The Customer's rights under the Contract are cumulative and shall be in addition to its rights and remedies implied by statute and common law.

- 18.9 If a court or any other competent authority finds that any provision (or part of any provision) of the Contract is invalid, illegal or unenforceable, that provision or part-provision shall, to minimum the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

- 18.10 Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

- 18.11 Subject to clause 19, the Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

- 18.12 The Supplier agrees that all other members of the Customer Group will have the same rights as the Customer under the Contract (including the benefit of any licence to the Goods and Services) and that the Supplier owes the same duties and obligations to the other members of the Customer Group as it owes to the Customer.

19 DISPUTE RESOLUTION

- 19.1 If any dispute arises between the parties under or in relation to this Contract the parties shall (acting reasonably and in good faith) try to resolve the dispute promptly. If the dispute is not resolved within 10 Business Days, it shall be referred to a member of each party's senior management.

- 19.2 If the parties' senior management do not resolve the dispute within 10 Business Days of referral, any of the parties involved in the dispute may refer the dispute to mediation in accordance with the CEDR Model Mediation Procedure. The mediator shall be nominated by CEDR, unless otherwise agreed (in writing) between the parties. To initiate the mediation, a party must provide a written notice (ADR Notice) to the other party to the dispute, requesting mediation. A copy of any such ADR Notice must be sent to CEDR. Each party shall bear its own costs in relation to a mediation (unless otherwise agreed in writing between the parties). Subject to clause 19.5, no party may commence any court proceedings in relation to a dispute until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation.

- 19.3 If for any reason the dispute is not resolved within 45 days of commencement of the mediation, the dispute shall be referred to and finally resolved in accordance with clause 18.11.

- 19.4 The Supplier's obligation to provide the Goods and perform the Services shall not be affected by the dispute resolution procedure set out in this clause 19.

- 19.5 Nothing in this clause 19 shall prejudice the right of any party to apply to court:

- a) for interim relief to prevent the violation by another party of any proprietary interest or any breach of another party's obligations which could cause irreparable harm to the first party; or
- b) to protect or preserve a right of action.

20 FREEDOM OF INFORMATION

- 20.1 The Customer is subject to the requirements of the FOIA and the EIRs, the Supplier shall (and shall ensure that any persons who perform services for and on behalf of the Supplier under this Contract):

- a) provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and EIRs;

- b) transfer to the Customer all requests for information relating to this Contract that it receives as soon as practicable and in any event within 2 Business Days of receipt;
- c) provide the Customer with a copy of all Information belonging to the Customer requested in the request for information which is in its possession or control in the form that the Customer requires within 5 Business Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
- d) not respond directly to a request for information unless authorised in writing to do so by the Customer.
- 20.2 The Supplier acknowledges that the Customer may be required under the FOIA and EIRs to disclose Information (including Confidential Information) without consulting or obtaining consent from the Supplier. The Customer shall take reasonable steps to notify the Supplier of a request for information (in accordance with any statutory guidance issued under the FOIA to the extent that it is permissible and reasonably practical for it to do so) but (notwithstanding any other provision in this Contract) the Customer shall be responsible for determining in its absolute discretion whether any information (including any commercially sensitive information) is exempt from disclosure in accordance with the FOIA and/or the EIRs.
- 21 BUSINESS CONTINUITY**
- 21.1 Throughout the term of this Contract, the Supplier will have in place a business continuity plan (the "Plan"), which provides for continuity during a business continuity event (an "Event"). The Supplier confirms and agrees such plan details and will continue to detail robust arrangements that are reasonable and proportionate to
- (a) the criticality of the Contract; and
- (b) the size and scope of the Supplier's business operations, regarding continuity of the provision of the Goods and or Services during and following an Event.
- 21.2 The Supplier shall test the Plan at reasonable intervals, and in any event no less than once every thirty-six (36) months or such other period as may be agreed between the parties taking into account the criticality of the Contract to THE CUSTOMER and the size and scope of the Supplier's business operations. The Supplier shall promptly provide to THE CUSTOMER, at THE CUSTOMER's written request, copies of the Plan, reasonable and proportionate documentary evidence that the Supplier tests the Plan in accordance with the requirements of this clause 5.2 and reasonable and proportionate information regarding the outcome of such tests. The Supplier shall provide to THE CUSTOMER a copy of any updated or revised plan within fourteen (14) Business Days of any material update or revision to the Plan.
- 21.3 The Supplier's business continuity plan must provide for the protection of THE CUSTOMER's data, including backup processes, and restoration procedures.
- 21.4 THE CUSTOMER may suggest reasonable and proportionate amendments to the Supplier regarding the Plan at any time. Where the Supplier, acting reasonably, deems such suggestions made by THE CUSTOMER to be relevant and appropriate, the Supplier will incorporate into the Plan all such suggestions made by THE CUSTOMER in respect of the Plan. Should the Supplier not incorporate any suggestion made by THE CUSTOMER into the Plan it will explain the reasons for not doing so to THE CUSTOMER.
- 21.5 Should an Event occur at any time, the Supplier shall implement and comply with the Plan and provide regular written reports to THE CUSTOMER on such implementation.
- 21.6 During and following an Event, the Supplier shall use all reasonable endeavours to continue to fulfil its obligations in accordance with this Contract.
- 22 ANTI-BRIBERY**
- 22.1 The Supplier warrants and represents that it has not committed any offence under the Bribery Act 2010 or done any of the following "prohibited acts":
- (a) offered, given or agreed to give any officer or employee of THE CUSTOMER any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining or performance of this or any other agreement with THE CUSTOMER or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with THE CUSTOMER; or
- (b) in connection with this Contract paid or agreed to pay any commission other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to THE CUSTOMER; and
- (c) it has in place adequate procedures to prevent bribery and corruption, as contemplated by section 7 of the Bribery Act 2010
- (d) If the Supplier or its staff (or anyone acting on its or their behalf) has done or does any of the Prohibited Acts or has committed or commits any offence under the Bribery Act 2010 with or without the knowledge of the Supplier in relation to this or any other agreement with THE CUSTOMER, THE CUSTOMER shall be entitled to terminate this Contract and recover from the Supplier the amount of any loss resulting from the termination and to recover from the Supplier the amount or value of any gift, consideration or commission concerned; and to recover from the Supplier any other loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence under the Bribery Act 2010
- 23 ANTI-SLAVERY**
- 23.1 The Supplier undertakes, warrants and represents that neither the Supplier nor any of its officers, employees, agents or subcontractors has committed an offence under the Modern Slavery Act 2015 (a "MSA Offence"); or been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or is aware if any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015.
- 23.2 The Supplier shall notify THE CUSTOMER immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of Supplier's obligations under Condition 23.1.
- 23.3 Any breach of Condition 23.1 by the Supplier shall be deemed a material breach of the Contract and shall entitle THE CUSTOMER to terminate the Contract.
- 23.4 The Supplier shall implement due diligence procedures for its subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.
- 23.5 If required by THE CUSTOMER, the Supplier shall prepare and deliver to THE CUSTOMER, a slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.
- 24 EMPLOYMENT RIGHTS**
- 24.1 The Supplier warrants and undertakes that it and any subcontractors engaged in the performance of the contract shall at all times comply with the Employment Rights Act 2025 and all associated regulations and guidance (ERA 2025) in connection with the performance of this Contract.
- 24.2 The Supplier further warrants that it and any subcontractors engaged in the performance of the Contract:
- (a) engage workers lawfully and in accordance with ERA 2025;
- (b) provide applicable employment rights, protections and entitlements required under ERA 2025; and
- (c) do not engage in any practices which would constitute a breach of ERA 2025 or give rise to enforcement action by a competent authority.
- 24.3 Any breach of this clause may constitute a material breach and, where relevant, may be taken into account by THE CUSTOMER for the purposes of determining whether the Supplier is an excluded or excludable supplier under the Procurement Act 2023.
- 25 CONTRACT MANAGEMENT**
- 25.1 The Supplier shall ensure that THE CUSTOMER always has an appropriate point of contact in relation to matters arising in relation to the Contract and confirms and agrees that it will work closely and cooperate fully with THE CUSTOMER's staff whose role includes working on the day-to-day management of matters concerning the Contract.
- 25.2 Upon request by THE CUSTOMER, the Supplier shall ensure that its representatives shall where necessary attend meetings to discuss matters arising generally under the Contract

- 25.3 The Supplier shall provide any information in relation to the Supplier's provision of the Services as THE CUSTOMER may request from time to time within seven (7) Business Days of the date of the request (or in such other time period as agreed between the parties).
- 25.4 The Supplier confirms and agrees that THE CUSTOMER may in accordance with UK government policy provide a Third Party Body with information relating to the Services ordered and any payments made under this Contract and any other information relevant to the operation of this Contract.
- 25.5 THE CUSTOMER may make changes to the type of information which the Supplier is required to supply pursuant to clause 25.3 (above) and shall give the Supplier at least one (1) month's written notice of any change.

26 EQUAL OPPORTUNITY AND DIVERSITY

- 26.1 Each Party undertakes warrants and represents that it shall comply with all applicable legislation, including but not limited to the Equality Act 2010, the Human Rights Act 1998 ("Equality Legislation") in promoting equal opportunities and diversity, including race equality, equality of opportunity for disabled people, gender equality, and equality relating to religion and belief, sexual orientation and age in and outside the workplace. The Supplier shall indemnify THE CUSTOMER against all costs, claims, charges, demands, liabilities, damages, losses and expenses incurred or suffered by THE CUSTOMER arising out of or in connection with any breach or alleged breach of the Equality Legislation by the Supplier, its agents, employees or subcontractors.

27 LAW

- 27.1 The Contract shall in all respects be construed as a contract made in England, subject to the laws of England and Wales and to the exclusive jurisdiction of the courts of England and Wales.