

**Cyclife Aquila Nuclear**

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**Standard Terms and Conditions  
for the  
Purchase of  
Goods and Services**

Aquila House, Hazeley Enterprise Park,  
Hazeley Road, Twyford, Hampshire  
SO21 1QA, United Kingdom

[www.cyclifeaquila.com](http://www.cyclifeaquila.com)

**1 Definitions and interpretation**

1.1 In these Conditions the following definitions apply:

<b>Acceptance Conditions</b>	has the meaning given in clause 7.2;
<b>Affiliate</b>	means any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;
<b>Applicable Law</b>	means all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or national or international in any relevant jurisdiction;
<b>Business Day</b>	means a day other than a Saturday, Sunday or bank or public holiday when banks generally are open for non-automated business in England;
<b>Conditions</b>	means the Customer's terms and conditions of purchase set out in this document;
<b>Confidential Information</b>	means all information of a confidential nature (in whatever form) which is disclosed directly or indirectly by the Customer, the End User or either of their Affiliates to the Supplier, its Affiliates or any Supplier Personnel including: <ul style="list-style-type: none"><li>(a) any know-how, trade secrets, financial, commercial, technical, tactical or strategic information of any kind;</li><li>(b) all information produced, developed or derived from information disclosed pursuant to this Contract;</li><li>(c) all information agreed to be, or marked as, confidential;</li><li>(d) any information the Supplier, its Affiliates or any Supplier Personnel knows, or could reasonably be expected to know, is confidential; and</li><li>(e) the terms and existence of this Contract;</li></ul>

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<b>Contract</b>	means the agreement between the Supplier and the Customer for the sale and purchase of the Deliverables incorporating these Conditions and the Purchase Order, and including all schedules, attachments, annexures, specifications and statements of work provided by (or agreed to in writing by) the Customer;
<b>Control</b>	has the meaning given to it in section 1124 of the Corporation Tax Act 2010 and <b>Controls, Controlled and under common Control</b> shall be construed accordingly;
<b>Controller</b>	shall have the meaning given in applicable Data Protection Laws from time to time;
<b>Counterfeit Goods</b>	means Goods that are fraudulent, or contain unlawful or unauthorised reproductions, substitutions or alterations that have been knowingly mismarked, misidentified or otherwise misrepresented to be an authentic, unmodified part from the original manufacturer or any third party with the express written authority of the original manufacturer. Unlawful or unauthorised substitution includes Goods represented as new, or the false identification of any grade, serial number, lot number, data code or performance characteristics and Counterfeit Goods shall include any Goods for which credible evidence provides reasonable doubt that such Goods are authentic;
<b>Customer</b>	means Aquila Nuclear Engineering Limited (trading as Cyclife Aquila Nuclear), a company incorporated in England and Wales under number 07442871 whose registered office is at Unit 17 Hazeley Enterprise Park, Hazeley Road, Twyford, Winchester, SO21 1QA, United Kingdom;
<b>Data Protection Laws</b>	means all Applicable Law relating to the processing, privacy and/or use of Personal Data, as applicable to either party or the Deliverables, including: <ul style="list-style-type: none"> <li>(a) the GDPR;</li> <li>(b) the Data Protection Act 2018;</li> <li>(c) any laws which implement any such laws;</li> <li>(d) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing; and</li> <li>(e) all guidance, guidelines and codes of practice issued by any relevant Data Protection Supervisory Authority relating to such Data Protection Laws (in each case whether or not legally binding);</li> </ul>
<b>Data Protection Supervisory Authority</b>	means any regulator, authority or body responsible for administering Data Protection Laws;

<b>Data Subject</b>	shall have the meaning given in applicable Data Protection Laws from time to time;
<b>Deliverables</b>	means the Goods or Services or both as the case may be;
<b>Documentation</b>	means any descriptions, instructions, operations & maintenance manuals, other manuals, literature, technical details or other related materials supplied in connection with the Deliverables;
<b>End User</b>	means any customer of the Customer or end user of the Deliverables (or any part of them);
<b>Force Majeure</b>	means an event or sequence of events beyond any party's reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, earthquake or other natural disaster; war, riot or civil unrest but excluding (1) pandemic, (2) labour shortages or labour related issues, (3) interruption, failure of supplies or prices of power, transport, or materials required for performance of the Contract;
<b>GDPR</b>	means Assimilated Regulation (EU) 2016/679 (UK GDPR);
<b>Goods</b>	means the goods and related accessories, spare parts and Documentation and other physical material set out in the Purchase Order or Specification (or understood by the parties to be included in the Goods) and to be supplied by the Supplier to the Customer in accordance with the Contract;
<b>Indirect Losses</b>	has the meaning given in clause 21.2;
<b>Intellectual Property Rights</b>	<p>means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in software, rights in Confidential Information, rights to invention, rights to sue for passing off, domain names and all other intellectual property rights and similar rights and, in each case:</p> <ul style="list-style-type: none"> <li>(a) whether registered or not;</li> <li>(b) including any applications to protect or register such rights;</li> <li>(c) including all renewals and extensions of such rights or applications;</li> <li>(d) whether vested, contingent or future;</li> <li>(e) to which the relevant party is or may be entitled; and</li> <li>(f) in whichever part of the world existing;</li> </ul>

<b>IPR Claim</b>	has the meaning given in clause 19.1.1;
<b>Location</b>	means the address or addresses for delivery of the Goods and performance of the Services as set out in the Purchase Order or such other address or addresses as notified by the Customer to the Supplier at least five Business Days prior to delivery;
<b>MSA Offence</b>	has the meaning given in clause 26.1.1;
<b>Personal Data</b>	shall have the meaning given in applicable Data Protection Laws from time to time;
<b>Personal Data Breach</b>	shall have the meaning given in applicable Data Protection Laws from time to time;
<b>Price</b>	has the meaning given in clause 3.1;
<b>processing</b>	has the meaning given in applicable Data Protection Laws from time to time (and related expressions, including <b>process</b> , <b>processed</b> , and <b>processes</b> shall be construed accordingly);
<b>Processor</b>	shall have the meaning given in applicable Data Protection Laws from time to time;
<b>Programme</b>	means the programme submitted by the Supplier and approved by the Customer, either as part of the Supplier's offer or in accordance with clause 6, for the Deliverables under the Contract;
<b>Protected Data</b>	means Personal Data received from or on behalf of the Customer, or otherwise obtained in connection with the performance of the Supplier's obligations under the Contract;
<b>Purchase Order</b>	means the Customer's purchase order for the Deliverables (which also may be referred to as the " <b>PO</b> ");
<b>Records</b>	has the meaning given in clause 15.1;
<b>Restricted Person</b>	means any person employed or engaged by the Customer at any time during the term of the Contract;
<b>Sanctions and Trade Controls</b>	mean all sanctions, export control, and anti-boycott laws, regulations, orders, directives, designations, licences, and decisions of any other country with jurisdiction over activities undertaken in connection with the Contract;
<b>Services</b>	means the services set out in the Purchase Order or Specification (or understood by the parties to be included in the Services) and to be supplied by the Supplier to the Customer in accordance with the Contract;
<b>Site</b>	means any of the Customer's premises, any premises of any End User or any premises of other suppliers of the Customer

or any other premises Supplier Personnel visit as part of the Contract;

<b>Specification</b>	means the description, scope or Documentation provided for the Deliverables set out or referred to in the Contract (or provided by the Customer); and
<b>Sub-Processor</b>	means any agent, subcontractor or other third party engaged by the Supplier (or by any other Sub-Processor) for carrying out any processing activities in respect of the Protected Data;
<b>Supplier</b>	means the party who has agreed to sell the Deliverables to the Customer and whose details are set out in the Purchase Order;
<b>Supplier Personnel</b>	means all employees, officers, staff, other workers, agents, contractors, consultants and subcontractors of the Supplier, its Affiliates and any of their subcontractors who are engaged in the performance of the Contract from time to time; and
<b>VAT</b>	means value added tax under the Value Added Taxes Act 1994.

1.2 In these Conditions, unless the context otherwise requires:

- 1.2.1 any clause or other headings in these Conditions are included for convenience only and shall have no effect on the interpretation of these Conditions;
- 1.2.2 a reference to a 'party' means either the Supplier or the Customer and includes that party's personal representatives, successors and permitted assigns;
- 1.2.3 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.2.4 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.5 words in the singular include the plural and vice versa;
- 1.2.6 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.2.7 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form (but excludes fax);
- 1.2.8 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time and includes all subordinate legislation from time to time under that legislation; and
- 1.2.9 a reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing shall, in respect of any

jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction.

- 1.3 Where the Supplier constitutes a joint venture, consortium or other unincorporated grouping of two or more persons, these persons shall be deemed to be jointly and severally liable to the Customer for the performance of the Contract and each person shall have authority to bind the Supplier.

## **2 Application of these Conditions**

- 2.1 These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply. If a separate bespoke written contract is negotiated and signed between the Customer and the Supplier in replacement of these Conditions, that contract shall apply.
- 2.2 These Conditions shall be read in conjunction with the Purchase Order and any special conditions set out in the Purchase Order. To the extent of any inconsistency between the special conditions and these Conditions, the special conditions included in the Purchase Order shall take precedence.
- 2.3 No terms, conditions, qualifications, exclusions or assumptions endorsed on, delivered with, or contained in the Supplier's quotation, offer, sales conditions, proposals, confirmation of order, specification, invoice or other document shall form part of the Contract.
- 2.4 The Purchase Order issued by the Customer to the Supplier and signed by an authorised signatory of the Customer shall be an offer to purchase Deliverables subject to the Contract including these Conditions.
- 2.5 A Purchase Order may be withdrawn or amended by the Customer at any time before acceptance by the Supplier. A Purchase Order shall lapse unless accepted by the Supplier before the expiry of 40 Business Days after the date of the Purchase Order. If the Supplier is unable to accept a Purchase Order, it shall notify the Customer in writing within five Business Days.
- 2.6 Acceptance of a Purchase Order by the Supplier shall occur when it is expressly accepted by the Supplier, when the Supplier commences work to fulfil a Purchase Order, or by any other conduct of the Supplier which the Customer reasonably considers is consistent with acceptance of the Purchase Order. By accepting a Purchase Order, by commencing work to fulfil a Purchase Order, or by conducting itself in a way the Customer reasonably considers is consistent with acceptance of the Purchase Order, the Supplier agrees it shall be legally bound by these Conditions and the Purchase Order.

## **3 Price**

- 3.1 The price for the Deliverables shall be as set out in the Purchase Order ("**Price**").
- 3.2 The Price shall be (and shall be paid) in Pound Sterling.
- 3.3 No increase in the Price may be made by the Supplier after the Purchase Order is placed by the Customer.
- 3.4 All Prices are fixed and the Price includes packaging, delivery, unloading, unpacking, shipping, carriage, import and export duties, insurance, expenses and all other charges or taxes related to the Goods and Services.

## **4 Payment**

- 4.1 The Supplier shall invoice the Customer as set out in the Purchase Order or if not set out in the Purchase Order: (a) for Goods on or after the completion of both delivery of the Goods and completion of the Acceptance Conditions, (b) for Services on or after the completion of both performance of the Services and completion of the Acceptance Conditions.
- 4.2 The Supplier shall raise and submit invoices to [invoices@cyclifeaquila.com](mailto:invoices@cyclifeaquila.com). Invoices shall include information necessary for the Customer to verify the accuracy of the invoice, including the Purchase Order number and, if relevant, the Cyclife Aquila Nuclear project reference.
- 4.3 The Customer shall pay each validly submitted and undisputed invoice of the Supplier within 90 days of the month end in which the invoice is received (unless an earlier date is otherwise stated in the Purchase Order or otherwise required by the Customer's contract with the End User, in which case invoices shall be paid by that earlier date).
- 4.4 Without prejudice to any other remedy, the Customer shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Supplier in accordance with clause 39.1.
- 4.5 Time of payment is not of the essence. Where sums due under the Contract are not paid in full by the due date, to compensate the Supplier for all loss from the Customer's breach, the Customer shall pay on the sum overdue interest (before and after judgment) on a daily basis until payment in full at the rate of 2 per cent per annum above the Official Bank Rate from time to time of the Bank of England. The Supplier acknowledges that this is a substantial remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.
- 4.6 VAT shall be charged by the Supplier and be paid by the Customer at the applicable rate in the United Kingdom at the time the invoice was issued.

## **5 Delivery and performance**

- 5.1 The Supplier shall comply with and give immediate effect to all instructions of the Customer given under the Contract. If the Supplier considers that such an instruction has an affect on the Price or Programme, it shall immediately advise the Customer and request approval.
- 5.2 Goods:
- 5.2.1 The Goods shall be delivered by the Supplier or its nominated carrier by DDP (as defined in Incoterms 2020 or any subsequent version of Incoterms) to the Location on the date(s) specified in the Purchase Order or in writing by the Customer.
- 5.2.2 The Goods shall be deemed delivered on completion of unloading only of the Goods at the Location by the Supplier or its nominated carrier (as the case may be).
- 5.3 Services:
- 5.3.1 The Services shall be performed by the Supplier by the date(s) specified in the Purchase Order or in writing by the Customer.
- 5.3.2 The Services shall be deemed performed on completion of the performance of the Services as specified in the Purchase Order to the satisfaction of the Customer.
- 5.4 The Goods shall not be delivered and the Services shall not be performed in instalments unless otherwise specified in the Purchase Order or agreed in writing by the Customer.

- 5.5 Each delivery of Goods or performance of the Services shall be accompanied by a delivery note stating:
- 5.5.1 the number and date of the Purchase Order;
  - 5.5.2 the relevant Customer and Supplier details;
  - 5.5.3 if Goods, the product numbers and type and quantity of Goods in the delivery;
  - 5.5.4 if Services, the category, type and quantity of Services performed;
  - 5.5.5 any special instructions, health, safety and environment requirements or recommendations, handling and other requests;
  - 5.5.6 in the case of Services, details of the Supplier Personnel performing the Services; and
  - 5.5.7 any additional information requested by the Customer as set out in the Purchase Order.
- 5.6 If the Supplier expects to fail to deliver any of the Goods or perform any of the Services by the date specified in the Purchase Order, the Supplier shall notify the Customer in writing as soon as it becomes aware.
- 5.7 Time of delivery or performance (as the case may be) is of the essence. The Supplier shall deliver the Goods and perform the Services by the date specified in the Purchase Order or in writing by the Customer.
- 5.8 If the Customer is unable or opts not to accept delivery of the Goods on the date or within the period set out in the Purchase Order or in writing by the Customer, the Supplier shall store and insure the Goods pending delivery.
- 5.9 If the Supplier fails to provide the Deliverables in accordance with this Contract (or is reasonably expected to fail to) the Customer shall (without prejudice to its other rights and remedies) be entitled at the Customer's sole discretion and without any liability to the Supplier:
- 5.9.1 to terminate the Contract in whole or in part;
  - 5.9.2 to purchase the same or similar Deliverables from another supplier;
  - 5.9.3 to refuse to accept the delivery or performance (as the case may be) of the Deliverables or of any more Deliverables under the Contract;
  - 5.9.4 to recover from the Supplier all costs and losses resulting to the Customer from the failure, including the amount by which the price payable by the Customer to acquire those Deliverables from another supplier exceeds the price payable under the Contract; and
  - 5.9.5 all or any of the foregoing.

## **6 Programme**

- 6.1 The Supplier shall reply to the Customer's communications with a substantive response within three Business Days.
- 6.2 The Supplier shall, if requested by the Customer, submit to the Customer, within five Business Days of request, for its approval a Programme for the performance of the Contract. The



Programme shall include key milestone dates for the progress of the Deliverables and any other information in any format requested by the Customer.

6.3 The Supplier shall comply with the Programme.

6.4 The Supplier shall make such revisions to the Programme as the Customer shall request from time to time. The Supplier shall not make any change to the approved Programme without the Customer's written approval and shall provide updates of progress against the Programme as requested by the Customer.

6.5 Approval by the Customer of any Programme shall not relieve the Supplier of any of its obligations under the Contract.

## **7 Acceptance, rejection and inspection**

7.1 The Customer shall not have accepted, or be deemed to have accepted, the Deliverables until the Acceptance Conditions are fulfilled and the Customer has notified confirmation of such to the Supplier in writing.

7.2 The **Acceptance Conditions** are that:

7.2.1 for Goods, the Goods and delivery note have been delivered to or at the Location;

7.2.2 for Services, the Services have been performed;

7.2.3 all pre-delivery and post-delivery acceptance tests and inspections have been completed to the satisfaction of the Customer at its sole discretion; and

7.2.4 the Customer has notified the Supplier in writing that the Deliverables have been delivered or performed (as the case may be) in full compliance with the Purchase Order and the Conditions of the Contract including this clause 7.

7.3 The Customer shall be entitled to reject any Deliverables which are not in full compliance with the terms and conditions of the Contract. Any acceptance (including any notification under clause 7.2.4) of defective, late or incomplete Deliverables or any payment made for them, shall not constitute a waiver of any of the Customer's rights and remedies, including its right to reject.

7.4 If the Goods are rejected due to the volume of the Goods exceeding the tolerances (if any) specified in the Purchase Order, the Supplier shall promptly and at its own cost arrange for redelivery of the correct volume.

7.5 Any rejected Goods may be returned to the Supplier by the Customer at the Supplier's cost and risk. The Supplier shall pay to the Customer a reasonable charge for returning any of the Goods over-delivered or rejected.

7.6 The Customer may require pre-delivery and/or post-delivery acceptance tests to be performed or to be carried out, at the Customer's option, either by the Customer or the Supplier, and the results of the tests shall be made available to the Customer.

7.7 The Customer may inspect and test the Deliverables during performance or during manufacture or processing prior to despatch, and the Supplier shall provide the Customer with access to and use of all facilities reasonably required.

7.8 Any inspection or testing of the Deliverables shall not be deemed to be acceptance of the Deliverables or a waiver of any of the Customer's other rights and remedies, including its right to reject.

7.9 The rights of the Customer in this clause 7 are without prejudice to the Customer's other rights and remedies under the Contract including under clause 9.

## **8 Title and risk**

8.1 Risk in the Goods shall pass to the Customer on the later of:

8.1.1 delivery of the Goods to the Customer as set out in clause 5; or

8.1.2 the Customer's acceptance of the Goods as set out in clause 7.

8.2 Title to the Goods shall pass to the Customer on the sooner of:

8.2.1 payment by the Customer for the Goods under clause 4; or

8.2.2 delivery of the Goods to the Customer under clause 5.

8.3 The Supplier shall unload the Goods in accordance with the Customer's directions and at the Supplier's risk.

8.4 The passing of title shall not prejudice any other of the Customer's rights and remedies, including its right to reject.

8.5 Neither the Supplier, or any other person, shall have a lien on, right of stoppage in transit or other rights in or to any Goods title to which have vested in the Customer or any specifications or materials of the Customer, and the Supplier shall ensure that relevant third parties accept the exclusion of such lien and rights.

8.6 The Supplier shall sign and deliver to the Customer a vesting certificate within five Business Days of request (in the form provided by the Customer) for Goods in which title has passed to the Customer or where the Customer requests such a vesting certificate as a condition of payment.

8.7 The Supplier warrants that it:

8.7.1 has at the time the Contract is made full, clear and unencumbered title to the Goods, and the full, clear and unencumbered right to sell and deliver them to the Customer; and

8.7.2 shall hold such title and right to enable it to ensure that the Customer shall acquire a valid, unqualified title to the Goods and shall enjoy quiet possession of them.

## **9 Warranty**

9.1 The Supplier warrants that, the Deliverables shall for a period of 24 months from (a) for Goods from completion of both delivery of the Goods and completion of the Acceptance Conditions, (b) for Services from completion of both performance of the Services and completion of the Acceptance Conditions (the **Warranty Period**):

9.1.1 conform to the quality and description of the Specification;

9.1.2 conform to any sample, designs, and drawings;

- 9.1.3 be free from any defects in design, material and workmanship;
  - 9.1.4 comply with all Applicable Laws, standards and best industry practice;
  - 9.1.5 if Goods, are new and of good quality and conform in all respects with the Contract;
  - 9.1.6 if Goods, be of satisfactory quality within the meaning of the Sale of Goods Act 1979;
  - 9.1.7 if Services, be supplied with all the first class skill, diligence, care and attention reasonably to be expected of a supplier experienced in fulfilling contracts of a similar size, scope, complexity and value as the Contract in the delivery and performance of the Deliverables;
  - 9.1.8 be fit for purpose and any purpose expressly or impliedly held out by the Supplier or set out in the Purchase Order or as otherwise required to meet the Customer's or End User's needs.
- 9.2 The Supplier warrants that it shall:
- 9.2.1 have all consents, licences and authorisations necessary to deliver and perform the Deliverables;
  - 9.2.2 ensure the Contract is executed by a duly authorised signatory on behalf of the Supplier;
  - 9.2.3 provide high quality Documentation for the Deliverables;
  - 9.2.4 provide a certificate of conformity for the Deliverables;
  - 9.2.5 ensure compliance and fulfilment of its obligations in accordance with the Purchase Order and the Contract;
  - 9.2.6 use first class skill, diligence, care and attention reasonably to be expected of a supplier experienced in fulfilling contracts of a similar size, scope, complexity and value as the Contract in the delivery and performance of the Deliverables;
  - 9.2.7 keep the Customer fully informed of all activities concerning the Deliverables and provide the Customer with activity reports on request; and
  - 9.2.8 conduct such tests, including pre-delivery and post-delivery acceptance tests and inspections, in relation to the Deliverables prior to delivery or performance as the Customer may require at its sole discretion.
- 9.3 The Supplier agrees that the approval by the Customer of any design, Specification or other documents provided by the Supplier shall not relieve the Supplier of any of its obligations under the Contract.
- 9.4 The Supplier warrants that it understands the Customer's and the End User's business and needs.
- 9.5 The Customer may reject any Deliverables that do not comply with clause 9.1 or the other provisions of the Contract and the Supplier shall, at the Customer's option, promptly remedy, repair, replace, correct, re-perform or refund the price of any such Deliverables provided that the Customer serves a written notice on the Supplier within the Warranty Period that some or all of the Deliverables do not comply with clause 9.1 or the other provisions of the Contract.

- 9.6 The provisions of these Conditions shall apply to any Deliverables that are remedied, repaired, replaced, corrected or re-performed with effect from the date of the delivery or performance of the remedied, repaired, replaced, corrected or re-performed Deliverables.
- 9.7 The Customer's rights under these Conditions are in addition to, and do not exclude or modify, the rights and conditions contained in the Supply of Goods and Services Act 1982, s 12 to 16 and the Sale of Goods Act 1979, s 13 to 15.
- 9.8 The Customer shall be entitled to exercise its rights under clause 9 regardless of whether or not the Deliverables have been accepted under the Acceptance Conditions and notwithstanding that the Deliverables were not rejected following their initial inspection under clause 7.3.
- 9.9 If the Supplier fails to comply with its obligations during the Warranty Period, the Warranty Period for the whole of the Deliverables shall be automatically extended until such obligations are fulfilled by the Supplier to the satisfaction of the Customer.
- 9.10 The Supplier shall upon request from the Customer execute and deliver (within five Business Days of the request), a deed of collateral warranty in favour of the Customer and / or the End User (as instructed by the Customer) in the form provided by the Customer.

## **10 Liquidated damages**

- 10.1 Liquidated damages shall apply only if set out in the Purchase Order.
- 10.2 Any liquidated damages set out in the Purchase Order shall apply if the Supplier fails to deliver the Goods or perform the Services by the date in the Purchase Order or specified in writing by the Customer and the Supplier shall pay to the Customer such sums on demand (or, at its sole discretion, the Customer may set off against any sum owed by it to the Supplier).
- 10.3 Any liquidated damages payments represent a genuine pre-estimate of the Customer's loss and do not impose a detriment on the Supplier which is disproportionate to the legitimate interests of the Customer in the enforcement of the date of the delivery of the Goods or the performance of the Services and are without prejudice to the Supplier's obligation to fulfil its obligations under the Contract if it is reasonably able to do so.

## **11 Quality, health, safety and environment**

- 11.1 The Supplier shall (at no additional cost to the Customer) perform its obligations under the Contract in accordance with and all Supplier Personnel shall comply with:
- 11.1.1 all Applicable Laws regarding health, safety and environment;
- 11.1.2 any site regulations, requirements and rules governing conduct of Supplier Personnel whilst at Site; and
- 11.1.3 the health, safety, environment and security policies and instructions of the Customer and the End User.
- 11.2 The Supplier undertakes and warrants that its responses to the Customer's pre-qualification questionnaire and due diligence questions are complete and accurate and the Supplier shall inform the Customer if any of its responses become incorrect or misleading during the term of the Contract.

- 11.3 All requirements of the Contract may be subject to Government Quality Assurance. The Supplier will be notified of any Government Quality Assurance activity to be performed and shall comply with any requirements notified.
- 11.4 When Supplier Personnel are at Site, the Customer and the End User each have the right to:
- 11.4.1 immediately remove the Supplier and any Supplier Personnel from the Site (or deny them entry to Site), in which case the Supplier will immediately replace (at no additional cost to the Customer) any Supplier Personnel that are removed or denied entry with personnel approved by the Customer and subject to such conditions as imposed by the Customer; and
- 11.4.2 require the Supplier and the Supplier Personnel to remove any material or substance from the Site at the Supplier's cost, and the Supplier shall ensure such request is immediately complied with and the Supplier shall take all possible action to ensure the protection and safety of all works, personnel and the environment.
- 11.5 The Supplier shall notify the Customer as soon as practicable of any health, safety or environment incidents or health and safety hazards at the Supplier's premises or the Site of which it becomes aware and which relate to or arise in connection with the performance of the Contract. The Supplier shall adopt any necessary associated safety measures in consultation with the Customer to manage any such health, safety or environment hazards.
- 11.6 The Supplier and all Supplier Personnel shall have regard to the health and safety of all other persons who may work on or visit any Site and for those who live and pass near to the Site whose health and safety may be affected by the Contract.
- 11.7 The Supplier shall remove all surplus material and rubbish at Site arising from the performance of the Contract and shall leave the Site clean, tidy and to the satisfaction of the Customer and the End User.
- 11.8 The Supplier shall cooperate to the fullest extent possible with any audit, investigation or inquiry undertaken by the Customer in relation to health, safety and environment including:
- 11.8.1 upon request providing a copy of any documentation relating to health, safety and environment (including health and safety policy statements, risk assessments, method statements, reports, accident book entries, training and/or induction records of Supplier Personnel and data relating to numbers of Supplier Personnel and hours worked); and
- 11.8.2 providing access to Supplier Personnel for the purposes of any investigation (including the taking of witness statements) and using its best endeavours to procure that Supplier Personnel co-operate in any such investigation.
- 11.9 The Customer reserves the right to monitor the implementation of the Supplier's quality assurance arrangements. Monitoring will be by means of surveillance of activities at the Supplier's (or its subcontractor's) locations and formal audits. The Customer and its representatives shall be afforded unrestricted access and facilities at all reasonable times to carry out this work. The Customer reserves the right to monitor any subcontractor activities and the Supplier shall ensure all subcontracts in relation to the Deliverables incorporate terms equivalent to this clause 11.9. No part of the Deliverables shall be repaired or, spoilt work corrected, without the prior written approval of the Customer. Any deviation from the Specification shall be dealt with as a concession request, which shall be submitted for prior written approval of the Customer. A minimum of three Business Days' notice of a hold point requiring Customer inspection or witness shall be given for UK manufacture and a minimum of ten Business Day's notice outside the UK.

11.10 The Supplier shall indemnify the Customer in full for and against all claims, costs, expenses, fines, penalties or liabilities whatsoever and howsoever arising, incurred or suffered by the Customer including all legal expenses and other professional fees (together with any VAT thereon) in relation to the Supplier's or the Supplier Personnel's failure to comply with this clause 11.

## **12 Counterfeit Goods**

12.1 The Supplier shall not deliver any Counterfeit Goods to the Customer.

12.2 The Supplier and all its subcontractors agree to inform the Customer of any items they find that are found to be counterfeit, fraudulent or suspect items (CFSI) for the purpose of safety and shared learning with the Customer and any End Users.

12.3 The Supplier shall only purchase products to be delivered or incorporated as Goods directly from the original component or equipment manufacturer or any authorised third party distributor. The Supplier may use another source only if:

12.3.1 the foregoing sources are unavailable;

12.3.2 the Supplier's inspection and other counterfeit risk mitigation processes shall be employed to ensure the authenticity of the Goods; and

12.3.3 the Supplier obtains the Customer's prior written approval.

12.4 The Supplier shall immediately notify the Customer if the Supplier becomes aware that it has delivered Counterfeit Goods or Goods which it suspects may be Counterfeit Goods. When requested by the Customer, the Supplier shall provide any original component or equipment manufacturer documentation that authenticates traceability of the affected items to the applicable manufacturer. The Supplier shall, at its own expense, provide reasonable cooperation to the Customer in conducting any investigation regarding the delivery of Counterfeit Goods under the Purchase Order.

12.5 If the Goods delivered under the Purchase Order constitute or include any Counterfeit Goods, the Supplier shall, at its expense, promptly replace such Counterfeit Goods with genuine Goods conforming to the requirements of the Purchase Order. Notwithstanding any other provision in the Purchase Order, the Supplier shall be liable for all costs relating to the removal and replacement of Counterfeit Goods, including without limitation the Customer's costs of removing Counterfeit Goods, of installing replacement Goods and of any testing necessitated by the reinstallation of the Goods after the Counterfeit Goods have been exchanged.

## **13 Sanctions & export controls**

13.1 The Supplier shall at all times in performing its obligations under the Contract comply with, and not become exposed to, penalties under Sanctions and Trade Controls and shall not undertake any action that causes the Customer to be in breach of, or be exposed to penalties under Sanctions and Trade Controls.

13.2 Any breach of clause 13.1 by the Supplier shall be deemed a material breach of the Contract and shall entitle the Customer to terminate the Contract pursuant to clause 30.1.1 with immediate effect and with no liability to the Supplier.

13.3 The Supplier shall inform the Customer in writing as soon as reasonably practicable (and in any event at least ten Business Days prior to the delivery date or any date of sharing any export controlled information with the Customer) if all or any part of the Deliverables or any Documentation are controlled for export purposes or subject to any export control regime. The Supplier shall

provide the Customer (at no cost to the Customer) with all reasonable assistance and cooperation as may be required in relation to the onward export of the Deliverables or Documentation.

## **14 Security**

- 14.1 The Supplier shall comply with all UK Government Security marking requirements namely ('OFFICIAL', 'OFFICIAL-SENSITIVE', 'SECRET' and 'TOP SECRET') when receiving, storing, dealing with or transmitting documents.
- 14.2 The Supplier shall perform its obligations under the Contract in accordance with and all Supplier Personnel shall comply with the security policies and instructions of the Customer and the End User.
- 14.3 The Customer has the right to require security vetting of any Supplier Personnel before they are involved in the Contract.
- 14.4 The Customer may issue a security aspects letter to the Supplier in connection with the Contract. If the Customer issues a security aspects letter, the Supplier warrants that:
  - 14.4.1 it understands and will implement the requirements of the security aspects letter;
  - 14.4.2 it shall carry out its obligations under the Contract so as to always comply with the requirements of the security aspects letter; and
  - 14.4.3 it has and will continue to bring to the attention of the Supplier Personnel responsible for the security arising from or related to the Contract the relevant contents of the security aspects letter including the classification of any assets.
- 14.5 The Supplier shall comply with this clause 14 at no additional cost to the Customer.

## **15 Audit**

- 15.1 The Supplier shall maintain complete, accurate and up to date records and supporting documents in connection with the Contract (including the Supplier's compliance with the Contract and any amounts payable by the Customer) (the "**Records**"). The Supplier shall retain the Records for the term of the Contract and for a period of six years following the expiry of the Warranty Period (or termination of the Contract, if earlier).
- 15.2 Subject to the Customer giving the Supplier at least five Business Days' notice the Supplier shall provide the Customer, the End User and their representatives (at no additional cost) with all reasonable:
  - 15.2.1 access to and copies of the Records;
  - 15.2.2 access to all relevant information, premises, data, representatives, Supplier Personnel, systems, processes and assets at all premises from which the Supplier's obligations are being carried out (including any premises where Goods or raw materials are manufactured, processed, packaged, stored or collated) for the purposes of carrying out an audit of the Supplier's compliance with the Contract; and
  - 15.2.3 assistance in carrying out such audit.
- 15.3 When carrying out an audit, the Customer shall use reasonable endeavours to avoid material disruption to the Supplier's business. If an audit reveals:

15.3.1 any non-compliance with the Contract, the Supplier shall promptly carry out such action as the Customer requires to correct that non-compliance, at no additional cost to the Customer; or

15.3.2 any overcharge, the Supplier shall repay the amount of the overcharge to the Customer within five Business Days of receipt of a demand for repayment.

15.4 Each party shall be solely liable for its own costs and expenses in respect of any audit carried out, save that if it is found that, after completion of the audit, the Customer has been overcharged by more than 5% on any one invoice or 5% of the total charges payable in relation to any particular Deliverables, the Customer shall, without prejudice to its other rights and remedies, be entitled to recover its costs in relation to such audit from the Supplier.

## **16 Main contract flow down**

The Supplier acknowledges the existence of various mandatory flow down clauses and other clauses (including those relating to intellectual property rights) within the main contract between the Customer and the End User and agrees, warrants and undertakes to the Customer to be bound by the provisions of such clauses as though the Supplier was named in such clauses in place of the Customer. Copies of these clauses are available to the Supplier on written request to the Customer.

## **17 Subcontracting**

17.1 The Supplier shall not subcontract (or purport to subcontract) any of its obligations or liabilities under the Contract without the prior written consent of the Customer.

17.2 In making any request to subcontract, the Supplier must provide the Customer with full details of the subcontractor concerned, together with details of the obligations which the Supplier intends to subcontract and an estimate of the value of the subcontract concerned, together with any further detail reasonably requested by the Customer (including a copy of the subcontract terms, if requested by the Customer).

17.3 If the Supplier subcontracts all or any part of the Deliverables, the Supplier shall remain responsible to the Customer for the performance of its obligations under the Contract (notwithstanding the appointment of any subcontractor) and the Supplier shall remain responsible for all acts, omissions and breaches of its subcontractors.

17.4 The Supplier shall impose obligations on its subcontractors in the same terms as those imposed on it pursuant to this Contract and shall procure that the subcontractor complies with such terms.

17.5 The Supplier acknowledges that any consent given by the Customer to subcontract shall not relieve the Supplier of any of its obligations or liabilities under the Contract.

## **18 Non-solicitation**

In order to protect the legitimate business interests of the Customer, during the term of the Contract and for a period of two years after the expiry of the Warranty Period (or termination of the Contract, if earlier) the Supplier shall not without the prior written consent of the Customer, either directly or indirectly, by or through itself, its Affiliate, its agent or otherwise, whether for its own benefit or for the benefit of any other person solicit, entice or induce, or endeavour to solicit, entice or induce, any Restricted Person of the Customer with a view to employing or engaging the Restricted Person.



## **19 Indemnity**

19.1 The Supplier shall indemnify, and keep indemnified, the Customer and its Affiliates from and against any losses, damages, liabilities, fines, penalties, costs (including legal fees) and expenses which the Customer or its Affiliates may suffer or incur directly or indirectly from as a result of any:

19.1.1 alleged or actual infringement by the Supplier or its Affiliates of a third party's Intellectual Property Rights or other rights in connection with the supply or performance or manufacture of the Deliverables under the Contract ("**IPR Claim**");

19.1.2 claim made against the Customer or its Affiliates in respect of any losses, damages, liability, costs and expenses sustained by its employees or agents or any End User or of its Affiliates or any third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Deliverables or from a direct or indirect breach or negligent performance or failure or delay in performance of the Contract by the Supplier;

19.1.3 defects in materials, quality, workmanship or performance of the Deliverables; and

19.1.4 breach by the Supplier of clauses 11 (Quality, health, safety and environment), 12 (Counterfeit Goods), 13 (Sanctions & export controls), 14 (Security), 22 (Intellectual property rights), 24 (Anti-bribery), 25 (GDPR and the processing of personal data), 26 (Anti-slavery) or 27 (Anti-tax evasion facilitation).

19.2 If any IPR Claim is made or is reasonably likely to be made against the Customer, the Supplier shall promptly and at its own expense either:

19.2.1 procure for the Customer the right to continue using and possessing the relevant Intellectual Property Rights; or

19.2.2 modify or replace the infringing part of the Intellectual Property Rights and without adversely affecting the functionality of the Intellectual Property Rights as set out in the Contract so as to avoid the infringement or alleged infringement,

provided that if, having used reasonable endeavours, neither of the above can be accomplished on reasonable terms, the Supplier shall (without prejudice to the indemnity above) refund the price paid by Customer in respect of the affected Intellectual Property Rights.

## **20 Insurance**

20.1 The Supplier shall have in place contracts of insurance with reputable insurers incorporated in the United Kingdom insuring against all risks that a prudent Supplier should consider reasonable, for the period covering the full term of the Contract and at least six years following the end of the Warranty Period, including at a minimum (or for amounts equivalent to the total of the Prices if higher):

20.1.1 Employers' liability insurance for not less than £5,000,000 per claim;

20.1.2 Public liability insurance for not less than £5,000,000 per claim;

20.1.3 Product liability insurance for not less than £5,000,000 per claim; and

20.1.4 Professional indemnity insurance for not less than £1,000,000 per claim.

- 20.2 The Supplier shall in addition insure any of the Customer's Goods, equipment or materials in the Supplier's possession against the usual risks, including accident, fire and theft, for their full replacement value until the risk in them passes to the Customer.
- 20.3 On request, the Supplier shall supply so far as is reasonable evidence of the maintenance of the insurance and all of its terms from time to time applicable.

## **21 Limitation of liability**

- 21.1 Notwithstanding any other provisions in the Contract, the Customer's aggregate liability to the Supplier under the Contract for any reason whatsoever whether in contract, tort (including negligence), indemnity or breach of statutory duty, restitution or otherwise for any injury, death, loss or damage howsoever caused shall be limited to the total Price payable by the Customer to the Supplier in accordance with the Contract.
- 21.2 Notwithstanding any other provisions in the Contract, the Customer shall not be liable to the Supplier under any legal theory (including but not limited to indemnity, breach of contract or statutory duty, tort including negligence and strict liability in tort) for any loss of profit, loss of revenue, increased overheads, loss of use, loss of production, loss of contracts, loss of opportunity, loss or corruption of data, cost of capital, financing costs, or for any purely financial or economic loss or for any special, incidental, indirect or consequential damage whatsoever that may be suffered by the Supplier, its customers or third parties (collectively "**Indirect Losses**"). The Supplier waives, on its own behalf and on behalf of its insurers, any right to claim from the Customer, its suppliers, subcontractors or its insurers, any compensation or indemnification whatsoever for any Indirect Losses caused by the Customer, its suppliers or subcontractors (other than the Supplier).
- 21.3 Without limiting the Customer's entitlement to recover other types of loss, the parties agree that the Customer may recover the following from the Supplier as direct loss:
- 21.3.1 the cost of selecting, procuring, installing and testing replacement goods or services;
- 21.3.2 wasted expenditure or unnecessary charges incurred by the Customer; and
- 21.3.3 liability to third parties (including End Users).

## **22 Intellectual property rights**

- 22.1 All Intellectual Property Rights in any Deliverables created or developed by the Supplier (or its subcontractors) pursuant to the Contract or arising as a result of the supply of the Deliverables, shall vest in the Customer. If, and to the extent, that the ownership of any Intellectual Property Rights in such materials vest in the Supplier (or its subcontractors) by operation of law, the Supplier hereby assigns (or procures assignment from its subcontractors of) ownership of such Intellectual Property Rights to the Customer by way of a present assignment of future rights that shall take place immediately on them coming into existence, all its Intellectual Property Rights in such materials (with full title guarantee and free from all third party rights).
- 22.2 The Supplier shall, promptly at the request of the Customer, do (or procure to be done) all such further acts and things and execute all such other documents as the Customer may from time to time require for the purpose of securing the full benefit of the Contract, including all rights, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with clause 22.1.
- 22.3 All Intellectual Property Rights in any materials provided by the Customer to the Supplier shall remain the property of the Customer (or any End User if applicable).

22.4 Without prejudice to clause 22.1, the Supplier hereby grants the Customer a perpetual, transferable, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use, copy and reproduce:

22.4.1 any Intellectual Property Rights vested in or licensed to the Supplier (or its subcontractors) on the date of the Contract that are used pursuant to the Contract or the Deliverables to the extent not falling within clause 22.1; and

22.4.2 any Intellectual Property Rights created during the Contract to the extent not falling within clause 22.1,

including any modifications to or derivative versions of any such Intellectual Property Rights, which the Customer requires in order to exercise its rights and take the benefit of the Contract including the Goods and/or Services provided.

### **23 Confidentiality and announcements**

23.1 The Supplier shall keep confidential all Confidential Information of the Customer, any Affiliate of the Customer, any End User and any Affiliate of any End User and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:

23.1.1 any information which was in the public domain at the date of the Contract;

23.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;

23.1.3 any information which the Supplier can evidence is independently developed by the Supplier without using information supplied by the Customer, any Affiliate of the Customer, by any End User or by any Affiliate of any End User; or

23.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.

23.2 This clause shall remain in force for a period of five years from the expiry of the Warranty Period (or termination of the Contract, if earlier).

23.3 The Supplier shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.

23.4 To the extent any Confidential Information is Protected Data such Confidential Information may be disclosed or used only to the extent such disclosure or use is in compliance with and does not conflict with the provisions of clause 25.

23.5 The Supplier shall not publicise its involvement with the Customer, End User or Contract (including in any publicity literature or website or through the media or exhibition) without the prior written consent of the Customer.

### **24 Anti-bribery**

24.1 For the purposes of this clause 24 the expressions '**adequate procedures**' and '**associated with**' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.

- 24.2 The Supplier shall comply with the Bribery Act 2010 and all Applicable Laws in connection with bribery or anti-corruption including ensuring that it has in place adequate procedures to prevent bribery and ensure that:
- 24.2.1 all of the Supplier Personnel;
  - 24.2.2 all others associated with the Supplier; and
  - 24.2.3 all of the Supplier's subcontractors;
- involved in performing the Contract so comply.
- 24.3 Without limitation to clause 24.2, the Supplier shall not make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.
- 24.4 The Supplier shall immediately notify the Customer as soon as it becomes aware of a breach (or possible breach) by the Supplier of any of the requirements in this clause 24 or of a breach (or possible breach) by the Customer of any of the requirements of the Bribery Act 2010.
- 24.5 Any breach of this clause 24 by the Supplier shall be deemed a material breach of the Contract that is not remediable and shall entitle the Customer to immediately terminate the Contract by notice under clause 30.1.1.

## **25 GDPR and the processing of personal data**

- 25.1 The parties agree that the Customer is a Controller and that the Supplier is a Processor for the purposes of processing Protected Data pursuant to the Contract. The Supplier shall, and shall ensure its Sub-Processors and each of the Supplier Personnel shall, at all times comply with all Data Protection Laws in connection with the processing of Protected Data and the provision of the Deliverables and shall not by any act or omission cause the Customer (or any other person) to be in breach of any of the Data Protection Laws.
- 25.2 The Supplier shall indemnify and keep indemnified the Customer against:
- 25.2.1 all losses, claims, damages, liabilities, fines, interest, penalties, costs, charges, sanctions, expenses, compensation paid to Data Subjects or a Data Protection Supervisory Authority (including compensation to protect goodwill and ex gratia payments), demands and legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation by, or imposed by, a Data Protection Supervisory Authority) arising out of or in connection with any breach by the Supplier of its obligations under this clause 25; and
  - 25.2.2 all amounts paid or payable by the Customer to a third party which would not have been paid or payable if the Supplier's breach of this clause 25 had not occurred.
- 25.3 The Supplier shall only process (and shall ensure Supplier Personnel only process) the Protected Data in accordance with clause 25, the Contract and the Customer's written instructions from time to time (including when making any transfer to which clause 25.7 relates) except where otherwise required by applicable law (and in such a case shall inform the Customer of that legal requirement before processing). The Supplier shall immediately inform the Customer if any instruction relating to the Protected Data infringes or may infringe any Data Protection Law.

- 25.4 The Supplier shall:
- 25.4.1 not permit any processing of Protected Data by any agent, subcontractor or other third party (except its own employees that are subject to an enforceable obligation of confidence with regards to the Protected Data) without the prior specific written authorisation of that Sub-Processor by the Customer and in which case each Sub-Processor shall be under a binding written contract with the Supplier containing substantially the same obligations as under this clause 25;
  - 25.4.2 ensure that access to Protected Data is limited to the authorised persons who need access to it to supply the Deliverables; and
  - 25.4.3 remain fully liable to the Customer under the Contract for all the acts and omissions of each Sub-Processor and each of the Supplier Personnel as if they were its own.
- 25.5 The Supplier shall (at its own cost and expense):
- 25.5.1 promptly provide such information and assistance (including by taking all appropriate technical and organisational measures) as the Customer may require in relation to the fulfilment of the Customer's obligations to respond to requests for exercising the Data Subjects' rights under applicable Data Protection Laws; and
  - 25.5.2 provide such information, co-operation and other assistance to the Customer as the Customer requires to ensure compliance with the Customer's and the End User's obligations under Data Protection Laws.
- 25.6 The Supplier shall (at no cost to the Customer) record and refer all requests and communications received from Data Subjects or any Data Protection Supervisory Authority to the Customer which relate (or which may relate) to any Protected Data promptly (and in any event within two days of receipt) and shall not respond to any without the Customer's express written approval and strictly in accordance with the Customer's instructions unless and to the extent required by applicable law.
- 25.7 The Supplier shall not process and/or transfer, or otherwise directly or indirectly disclose, any Protected Data in or to any country or territory outside the United Kingdom without the prior written authorisation of the Customer.
- 25.8 The Supplier shall promptly (and in any event within 24 hours):
- 25.8.1 notify the Customer if it (or any of its Sub-Processors or the Supplier Personnel) suspects or becomes aware of any suspected, actual or threatened occurrence of any Personal Data Breach in respect of any Protected Data; and
  - 25.8.2 provide all information as the Customer requires to report the circumstances referred to in clause 25.8.1 to a Data Protection Supervisory Authority and to notify affected Data Subjects under Data Protection Laws.
- 25.9 The Supplier shall (and shall ensure that each of the Sub-Processors and Supplier Personnel shall) without delay (and in any event within three days), at the Customer's written request, either securely delete or securely return all the Protected Data to the Customer in such form as the Customer reasonably requests after the earlier of:
- 25.9.1 the end of the provision of the relevant Deliverables related to processing of such Protected Data; or

25.9.2 once processing by the Supplier of any Protected Data is no longer required for the purpose of the Supplier's performance of its relevant obligations under the Contract,

and securely delete existing copies (except to the extent that storage of any such data is required by applicable law and, if so, the Supplier shall inform the Customer of any such requirement).

## **26 Anti-slavery**

26.1 The Supplier undertakes and warrants that:

26.1.1 neither the Supplier nor any of its officers, employees, agents or subcontractors:

- (a) has committed an offence under the Modern Slavery Act 2015 (a "**MSA Offence**"); or
- (b) has been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
- (c) is aware of 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;

26.1.2 it shall comply with the Modern Slavery Act 2015 and any reasonable modern slavery policy requirements issued by the Customer;

26.1.3 it has implemented due diligence procedures to ensure compliance with the Modern Slavery Act 2015 in its business and supply chain, and those of its officers, employees, agents or subcontractors, which will be made available to the Customer on request at any time throughout the Contract; and

26.1.4 it 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 the Supplier's obligations under clause 26.1. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Supplier's obligations.

26.2 Any breach of clause 26.1 by the Supplier shall be deemed a material breach of the Contract and shall entitle the Customer to terminate the Contract pursuant to clause 30.1.1 with immediate effect.

## **27 Anti-tax evasion facilitation**

27.1 For the purposes of this clause 27:

27.1.1 the expressions '**associated with**', '**prevention procedures**', '**UK Tax Evasion Offence**' and '**Foreign Tax Evasion Offence**' shall be construed in accordance with Part 3 of the Criminal Finances Act 2017 ("**CFA 2017**") and guidance published under it;

27.1.2 **Corporate Failure to Prevent Offence** means an offence under section 45 and/or section 46 of CFA;

27.1.3 **Supplier Associated Persons** means all or any of the following:

- (a) persons associated with the Supplier ("**Supplier's Associates**"); and
- (b) persons associated with any of the Supplier's Associates;

in each case, involved in performing services for or on behalf of the Supplier in connection with the Goods or Services and the Contract.

- 27.2 The Supplier shall ensure that it and the Supplier Associated Persons shall not by any act or omission commit, or cause, facilitate or contribute to the commission by any person including the Customer, of a:
- 27.2.1 Corporate Failure to Prevent Offence;
  - 27.2.2 UK Tax Evasion Offence; or
  - 27.2.3 Foreign Tax Evasion Offence
- in connection with the performance of the Contract.
- 27.3 The Supplier shall not solicit or engage with or take steps to solicit or engage with any person associated with the Customer to facilitate the commission of a UK Tax Evasion Offence or a Foreign Tax Evasion Offence in connection with the performance of the Contract.
- 27.4 The Supplier shall pay, in full, all taxes due and payable relating to all monies, remuneration, profit and value received or payable by the Supplier or any Supplier Associated Persons in connection with the performance of the Contract.
- 27.5 Without prejudice to clause 27.2, the Supplier shall ensure that it and all relevant Supplier Associated Persons have in place such **prevention procedures** as it is reasonable in all the circumstances to expect the Supplier and such persons to have in place to prevent any breach of this clause 27.
- 27.6 The Supplier shall immediately notify the Customer as soon as it becomes aware of any allegation, investigation, evidence or report relating to a breach or possible breach of any of the requirements in this clause 27.
- 27.7 Any breach of this clause 27 by the Supplier shall be deemed a material breach of the Contract that is not remediable and entitle the Customer to immediately terminate the Contract by notice under clause 30.1.1.

## **28 EDF Group ethics & compliance**

- 28.1 The Customer complies with applicable laws and regulations applicable on international sanctions, money laundering and the financing of terrorism.
- 28.2 To this end, the Customer fights against fraud and corruption in all its forms, whether public or private, active or passive, direct or indirect, exercised by any person acting on its behalf, in the course of business relations with the Customer.
- 28.3 As part of the Contract, the Supplier undertakes to comply with all applicable laws and regulations relating to corruption, international sanctions, money laundering and the financing of terrorism.
- 28.4 The Supplier certifies that:
- 28.4.1 if requested by the Customer, it has signed the declaration of compliance available on the EDF Purchasing Portal;
  - 28.4.2 if requested by the Customer, it has fully, accurately and sincerely completed, signed and returned all questionnaires sent by the Customer; and

28.4.3 its owners, shareholders, officers, directors and employees are not on any international sanctions lists, notably those drawn up by the European Union, the United States, the United Kingdom, the United Nations and France.

28.5 The Supplier undertakes not to use this Contract to (i) disguise the origin or destination of illegally obtained resources or (ii) directly or indirectly finance illegal activities. The Supplier undertakes to inform the Customer without delay of (i) any change in its situation with regard to the certificates provided under this clause 28 and (ii) any breach of its commitments as defined in this clause 28. The Supplier acknowledges that any act of such a nature as to breach its undertakings shall constitute sufficient grounds for the Customer to terminate the Contract without notice or compensation, and may take any other action necessary to preserve its rights.

## **29 Force majeure**

29.1 A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:

29.1.1 promptly notifies the other party of the Force Majeure event and its expected duration; and

29.1.2 uses best endeavours to minimise the effects of that event.

29.2 If, due to Force Majeure, a party:

29.2.1 is or shall be unable to perform a material obligation; or

29.2.2 is delayed in or prevented from performing its obligations for a continuous period exceeding 14 days or for a total of more than 30 days in any consecutive period of 60 days;

the parties shall (unless the Contract is terminated in accordance with clause 30.1.6), within 30 days, renegotiate the Contract to achieve, as nearly as possible, the original commercial intent.

## **30 Termination**

30.1 The Customer may terminate the Contract and any other contract which it has with the Supplier at any time by giving notice in writing to the Supplier if:

30.1.1 the Supplier commits a breach of the Contract and such breach is not remediable;

30.1.2 the Supplier commits a breach of the Contract which is not remedied within 14 days of receiving written notice of such breach;

30.1.3 the Supplier commits a breach of any other agreement, contract or purchase order that the Customer has with the Supplier (and for the avoidance of doubt such a breach shall also constitute a breach of the Contract);

30.1.4 the Customer has a right to terminate as explicitly stated elsewhere in the Contract;

30.1.5 the Supplier has failed to pay any amount due under the Contract on the due date and such amount remains unpaid 30 days after the Customer has given notification that the payment is overdue;

30.1.6 following an event of Force Majeure:

(a) the parties fail to renegotiate the Contract in accordance with clause 29.2;

(b) the Supplier is or shall be unable to perform a material obligation; or



- (c) the Supplier is delayed in or prevented from performing its obligations for a continuous period exceeding 14 days or for a total of more than 30 days in any consecutive period of 60 days;
- 30.1.7 any consent, licence or authorisation held by the Supplier is revoked or modified such that the Supplier is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled;
- 30.1.8 the Supplier undergoes a change of Control;
- 30.1.9 if the Supplier directly or indirectly (in the opinion of the Customer) brings the reputation of the Customer, or the Customer's Affiliates, or the End User, or the End User's Affiliates into disrepute or does anything (in the opinion of the Customer) that may cause harm to the reputation of the Customer, or the Customer's Affiliates, or the End User, or the End User's Affiliates;
- 30.1.10 the Supplier stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
- 30.1.11 the Supplier is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Customer reasonably believes that to be the case;
- 30.1.12 the Supplier becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
- 30.1.13 the Supplier becomes subject to a moratorium under Part A1 of the Insolvency Act 1986;
- 30.1.14 the Supplier becomes subject to a restructuring plan under Part 26A of the Companies Act 2006;
- 30.1.15 the Supplier becomes subject to a scheme of arrangement under Part 26 of the Companies Act 2006;
- 30.1.16 the Supplier has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
- 30.1.17 the Supplier has a resolution passed for its winding up;
- 30.1.18 the Supplier has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
- 30.1.19 the Supplier is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title in those items;
- 30.1.20 the Supplier is subject to any events or circumstances analogous to those in clauses 30.1.10 to 30.1.19 in any jurisdiction; or
- 30.1.21 the Supplier takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 30.1.10 to 30.1.20 including for the avoidance of doubt, but not limited to, giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.

- 30.2 If the Supplier becomes aware that any event has occurred, or circumstances exist, which may entitle the Customer to terminate the Contract under this clause 30, it shall immediately notify the Customer in writing.
- 30.3 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Customer at any time up to the date of termination.
- 30.4 The Customer may terminate the Contract for convenience in accordance with clause 31.

### **31 Termination for convenience and cancellation**

- 31.1 The Customer shall have the right at any time, by written notice to the Supplier, to terminate for convenience or cancel the Contract and the Purchase Order for the Deliverables or for any part of the Deliverables which have not yet been, in the case of Goods, delivered to, and in the case of Services, performed for, the Customer.
- 31.2 In relation to any Contract and Purchase Order terminated for convenience or cancelled or part-cancelled under clause 31.1, on receipt of validly issued and properly documented evidence (to the Customer's satisfaction), the Customer shall pay for:
  - 31.2.1 in respect of 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 any reasonable costs that have been contractually committed to by the Supplier acting reasonably and in accordance with clause 17 (which cannot be used for other orders or cancelled); and
  - 31.2.2 in respect of any Services, that part of the Price that relates to the Services which, at the time of cancellation have been provided.
- 31.3 For the avoidance of doubt, no payment shall be made by the Customer under this clause 31 for any Indirect Losses.
- 31.4 To the maximum extent possible, the Supplier shall mitigate all costs relating to the Contract and the Purchase Order immediately upon receipt of notice of termination or cancellation under this clause 31.

### **32 Language**

The language of all Deliverables and communications is English.

### **33 Notices**

- 33.1 Any notice or other communication given by a party under the Contract shall be in writing, in English and:
  - 33.1.1 be sent to the relevant party at its registered office address; or
  - 33.1.2 in respect of a notice given by the Customer, to any email address used by the Supplier in communication with the Customer from time to time.
- 33.2 Notices may be given, and are deemed received:
  - 33.2.1 by hand: on receipt of a signature at the time of delivery;
  - 33.2.2 by Royal Mail first class post: at 9.00 am on the second Business Day after posting;

33.2.3 by Royal Mail International Tracked & Signed post: at 9.00 am on the fourth Business Day after posting; and

33.2.4 by email: at 9.00am on the next Business Day after being sent.

33.3 Any change to the contact details of a party shall be notified to the other party in accordance with clause 33.1 and shall be effective:

33.3.1 on the date specified in the notice as being the date of such change; or

33.3.2 if no date is so specified, five Business Days after the notice is deemed to be received.

33.4 This clause does not apply to notices given in legal proceedings or arbitration.

#### **34 Time**

Unless stated otherwise, time is of the essence for any date or period specified in the Contract in relation to the Supplier's obligations only.

#### **35 Further assurance**

The Supplier shall at the request of the Customer, and at the Supplier's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

#### **36 Entire agreement**

36.1 The parties agree that the Contract, the Purchase Order and any documents entered into pursuant to them constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

36.2 Each party acknowledges that it has not entered into the Contract, the Purchase Order, or any documents entered into pursuant to them in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract, the Purchase Order, or any documents entered into pursuant to them. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

#### **37 Variation**

No variation of the Contract (including the Purchase Order) shall be valid or effective unless it is in writing, refers to the Contract and is duly approved in writing by, or on behalf of, the Customer.

#### **38 Assignment**

38.1 The Supplier may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Customer's prior written consent.

38.2 The Customer shall be entitled at any time to assign, or encumber any right or obligation under the Contract to any third party, in whole or in part, without the Supplier's consent.

#### **39 Set off**

39.1 The Customer shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Supplier under the Contract or under any other contract or order which the Customer has with the Supplier.

39.2 The Supplier shall pay all sums that it owes to the Customer under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

#### **40 Severance**

40.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

40.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with the minimum such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

#### **41 Waiver**

41.1 No failure, delay or omission by the Customer in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

41.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Customer shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Customer.

41.3 A waiver of any term, provision, condition or breach of the Contract by the Customer shall only be effective if given in writing and signed by the Customer, and then only in the instance and for the purpose for which it is given.

#### **42 Compliance with law**

The Supplier shall comply with Applicable Law and shall maintain such licences, authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

#### **43 Conflicts within contract**

If there is a conflict between the terms contained in the Conditions and the terms of the Purchase Order, schedules, appendices or annexes to the Contract, the terms of the Purchase Order shall prevail to the extent of the conflict. The Supplier shall submit any other conflicts or ambiguities to the Customer in writing for clarification as soon as the Supplier becomes aware of it.

#### **44 Third party rights**

A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

#### **45 Dispute resolution**

45.1 Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 45.

- 45.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a formal dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.
- 45.3 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedure:
- 45.3.1 within ten Business Days of service of the notice, the contract or project managers of each of the parties shall meet to discuss the dispute and attempt to resolve it; and
- 45.3.2 if the dispute has not been resolved within ten Business Days of the first meeting of the contract or project managers, then the matter shall be referred to the managing directors or projects and engineering directors (or persons of equivalent seniority) of each of the parties. The managing directors or projects and engineering directors (or equivalent) shall meet within five Business Days to discuss the dispute and attempt to resolve it.
- 45.4 The Customer may issue formal legal proceedings at any time whether or not the steps referred to in clause 45.3 have been completed.
- 45.5 The rights and remedies provided in the Contract for the Customer only are cumulative and not exclusive of any rights and remedies provided by law.

#### **46 Governing law & jurisdiction**

- 46.1 The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 46.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).

**The terms and conditions which apply to and govern the Purchase Order are the Conditions.**

**The parties agree that all other terms and conditions are expressly excluded (unless a separate bespoke written contract is agreed between the Customer and the Supplier in replacement of these Conditions, in which case, that contract shall apply).**

**The Supplier has read and accepts the Purchase Order and Contract subject to the Conditions.**

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Registered in England and Wales  
Company Number: 7442871  
VAT Number: 111 1246 81

