

## Welland Homes Limited

### Terms and Conditions for the Supply of Goods and Services

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#### Part A - Introduction

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##### 1.1 Definitions:

- **Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- **Charges:** the charges payable by the Customer for the supply of the Services in accordance with clause 6 (Charges and payment). (services)
- **Commencement Date:** has the meaning given in clause 13
- **Conditions:** the terms and conditions set out in this document as varied from time to time in accordance with clause 28
- **Contract:** the contract between the Customer and the Supplier for the sale and purchase of the Goods or the supply of Services (as appropriate) in accordance with these Conditions.
- **Customer:** Welland Homes Limited (registered in England and Wales with company number 09651061).
- **Customer Materials:** has the meaning set out in clause 9 or 16 as appropriate.
- **Deliverables:** all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts). Services
- **Delivery Date:** the date specified in the Order or if none is specified, such date as may be agreed by the Customer and the Supplier
- **Delivery Location:** the address for delivery of Goods as set out in the Order.
- **Goods:** the goods (or any part of them) set out in the Order.
- **GDPR:** means the General Data Protection Regulations;
- **Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

- **Order:** the Customer's order for the Goods or Services as set out in the Customer's purchase order form or in the Customer's written acceptance of the Supplier's quotation
  - **Party:** the Supplier or the Customer (as appropriate) and "Parties" shall mean both of them;
  - **Personal Data:** personal data as defined in the Data Protection Act 1998 and 2018 which is processed by the Supplier or any Staff on behalf of the Customer pursuant to or in connection with
  - **Services:** the services, including any Deliverables, to be provided by the Supplier under the Contract, as set out in the Specification.
  - **Specification:** any specification for the Goods or Services (as appropriate) (including any related plans and drawings) agreed by the Customer and the Supplier
  - **Staff:** means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the agreement
  - **Supplier:** the person or firm from whom the Customer purchases the Goods or Services.
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## 1.2 Interpretation

- (a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a Party includes its successors and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) A reference to being agreed in writing or nominated in writing includes being agreed or nominated in writing by email BUT where any clause requires notification or notice to be given such notification or notice must be issued in accordance with the notice clause in Part D.
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## Part B - Terms And Conditions That Relate To The Supply Of Goods

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### 2. Basis of contract

2.1. 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 law, trade custom, practice or course of dealing.

2.2. The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions.

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

- (a) the Supplier issuing a written acceptance of the Order; and
  - (b) the Supplier doing any act consistent with fulfilling the Order,
- at which point the Contract shall come into existence.

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### **3. Goods**

3.1. The Supplier shall ensure that the Goods shall:

- (a) correspond with their description and any applicable Specification;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;
- (c) where they are manufactured products, be free from defects in design, material and workmanship and remain so for 12 months after delivery; and
- (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods

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

3.3. The Customer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

3.4. If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

3.5. The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.

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### **4. Delivery**

4.1. The Supplier shall ensure that:

- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;

(b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.; and

(c) if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

4.2. The Supplier shall deliver the Goods:

(a) on the Delivery Date; and

(b) at the Delivery Location; and

(c) during the Customer's normal business hours, or as instructed by the Customer.

4.3. Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location provided the Supplier has secured a signature of receipt from a representative of the Customer.

4.4. 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 in an instalment shall entitle the Customer to the remedies set out in clause 5.

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## **5. Customer remedies**

5.1. If the Goods are not delivered on the Delivery Date, or do not comply with the undertakings set out in clause 3.1, then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, the Customer may exercise any one or more of the following rights and remedies:

(a) to terminate the Contract;

(b) to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;

(c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

(d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;

(e) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods from a third party; and

(f) to claim damages for any other costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

5.2. These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

5.3. The Customer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

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## **6. Title and risk**

6.1. The risk in the Goods shall pass to the Customer on completion of delivery.

6.2. Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods.

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## **7. Price and payment**

7.1. The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date the Contract came into existence.

7.2. The price of the Goods:

(a) excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and

(b) includes the costs of packaging, insurance and transport of the Goods unless specified within the Order or otherwise agreed by the Customer and the Supplier.

7.3. No extra charges shall be effective unless agreed in writing with the Customer.

7.4. The Supplier may invoice the Customer for price of the Goods plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery. The Supplier shall ensure that the invoice includes the date of the Order, the invoice number, the Customer's order number (if any), the Supplier's VAT registration number and any supporting documents that the Customer may reasonably require.

7.5. The Customer shall pay correctly rendered invoices within Thirty (30) days of receipt of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier.

7.6. If a Party fails to make any payment due to the other Party under the Contract by the due date for payment, then the defaulting Party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when the base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from the date being Ten (10) days after the dispute is resolved until payment.

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## **8. Customer materials for bespoke Goods**

8.1. The Supplier acknowledges that all materials, equipment and tools, drawings, Specifications, and data supplied by the Customer to the Supplier (Customer Materials) and all rights in the Customer Materials are and shall remain the exclusive property of the Customer. The Supplier shall keep the Customer Materials in safe custody at its own risk, maintain them in good condition until returned to the Customer and not dispose or use the same other than in accordance with the Customer's written instructions or authorisation.

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## **9. Indemnity**

9.1. The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer as a result of or in connection with:

(a) 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, 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 for death, personal injury or damage to property arising out of or in connection with defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and

(c) any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, 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 subcontractors.

9.2. This clause shall survive termination of the Contract.

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## **10. Insurance**

10.1. During the term of the Contract and for a period of Six (6) years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

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## **11. Compliance with relevant laws and policies**

11.1. In performing its obligations under the Contract, the Supplier shall:

(a) comply with all applicable laws, statutes, regulations and codes from time to time in force; and

11.2. The Customer may immediately terminate the Contract for any breach of this clause.

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## **12. Termination**

12.1. The Customer may terminate the Contract in whole or in part at any time before delivery of the Goods with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.

12.2. Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:

(a) the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within Fourteen 14 days of that party being notified in writing to do so;

(b) the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

(c) the Supplier takes any step or action in connection with the Supplier being made bankrupt, entering any composition or arrangement with its creditors, having a receiver appointed to any of its assets, or ceasing to carry on business;

(d) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(e) the Supplier's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy.

12.3. On termination or expiry of the Contract, the Supplier shall immediately return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

12.4. Termination or expiry of the Contract, however arising, shall not affect any of the Parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

12.5. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

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## **Part C - Terms And Conditions That Relate To The Provision Of Services**

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### **13. Basis of contract**

13.1. The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

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

- (a) the Supplier issuing written acceptance of the Order; or
- (b) any act by the Supplier consistent with fulfilling the Order,

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

13.3. 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 law, trade custom, practice or course of dealing.

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### **14. Supply of Services**

14.1. The Supplier shall from the Commencement Date and for the duration of the Contract provide the Services to the Customer in accordance with the terms of the Contract.

14.2. The Supplier shall meet any performance dates for the Services specified in the Order or that the Customer notifies to the Supplier and time is of the essence in relation to any of those performance dates.

14.3. In providing the Services, the Supplier shall:

- (a) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
- (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- (d) ensure that the Services will conform with all descriptions, standards and specifications set out in the Specification, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
- (g) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;

(h) comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply from time to time to the provision of the Services, and with the Mandatory Policies;

(i) observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;

(j) hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (Customer Materials) 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;

(k) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services.

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## **15. Customer remedies**

15.1. If the Supplier fails to perform the Services by the applicable dates, the Customer shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights:

(a) to terminate the Contract with immediate effect by giving written notice to the Supplier;

(b) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;

(c) to recover from the Supplier any costs incurred by the Customer in obtaining substitute services from a third party;

(d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided; and

(e) to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

15.2. If the Supplier has supplied Services that do not comply with the requirements of clause 14.3(d) then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights:

(a) to terminate the Contract with immediate effect by giving written notice to the Supplier;

(b) to return the Deliverables to the Supplier at the Supplier's own risk and expense;

(c) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);

(d) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;

(e) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to comply with clause 14.3(d).

15.3. These Conditions shall extend to any substituted or remedial services provided by the Supplier.

15.4. The Customer's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

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## **16. Customer's obligations**

16.1. The Customer shall:

(a) provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services;

(b) provide such necessary information for the provision of the Services as the Supplier may reasonably request.

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## **17. Charges and payment**

17.1. The Charges for the Services shall be set out in the Order and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

17.2. The Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant purchase order number.

17.3. In consideration of the supply of the Services by the Supplier, the Customer shall pay the invoiced amounts within Thirty (30) days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.

17.4. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (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 Services at the same time as payment is due for the supply of the Services.

17.5. If a Party fails to make any payment due to the other Party under the Contract by the due date for payment, then the defaulting Party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when the base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from the date being Ten (10) days after the dispute is resolved until payment.

17.6. The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services and shall allow the Customer to inspect such records at all reasonable times on request.

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## **18. Intellectual property rights**

18.1. All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any Customer Materials) shall be owned by the Supplier.

18.2. The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy the Deliverables (excluding Customer Materials) for the purpose of receiving and using the Services and the Deliverables.

18.3. The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.

18.4. All Customer Materials are the exclusive property of the Customer.

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## **19. Indemnity**

19.1. The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with:

(a) any claim brought against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Services (excluding the Customer Materials); and

(b) any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Services.

19.2. This clause shall survive termination of the Contract.

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## **20. Insurance**

20.1. The Supplier shall take out and maintain at all times the following insurance policies:

20.1.1. employer's liability insurance to provide an indemnity of not less than five million pounds (£5,000,000) in respect of any one claim or series of claims arising out of one incident; and

20.1.2. public liability insurance to provide an indemnity of not less than five million pounds (£5,000,000) in respect of any one claim or series of claims arising out of one incident;

20.1.3. professional indemnity insurance to provide an indemnity of not less than one million pounds (£1,000,000) in respect of any one claim or series of claims arising out of one incident.

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## **21. Termination**

21.1. Without limiting or affecting any other right or remedy available to it, the Customer may terminate the Contract:

(a) with immediate effect by giving written notice to the Supplier if:

(i) there is a change of control of the Supplier; or

(ii) the Supplier's financial position deteriorates to such an extent that in the Customer's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

(iii) the Supplier commits a breach of clause 14.3(h) (complying with applicable law etc),

(b) for convenience by giving the Supplier One (1) months' written notice.

21.2. Without limiting or affecting any other right or remedy available to it, either Party may terminate the Contract with immediate effect by giving written notice to the other Party if:

(a) the other Party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of Fourteen (14) days after being notified in writing to do so;

(b) the other Party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business [or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction]; or

(c) the other Party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

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## **22. Consequences of termination**

22.1. On termination of the Contract for any reason or on expiry, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

22.2. Termination or expiry of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

22.3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

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## Part D - General Terms

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### 23. Force majeure

Neither Party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for Three (3) months, the Party not affected may terminate the Contract by giving 30 days' written notice to the affected Party.

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### 24. Confidentiality

24.1. Subject to clauses 24.4 to 24.6 each Party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other Party, except as permitted by the Contract.

24.2. Each Party may disclose the other Party's confidential information:

(a) to its employees, officers, representatives, contractors, sub-contractors or advisers who need to know such information for the purposes of carrying out the Party's obligations under the Contract. Each Party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other Party's confidential information comply with this clause ; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

24.3. Subject to clause 24.4 to 24.6 neither Party shall use the other Party's confidential information for any purpose other than to perform its obligations under the Contract.

24.4. The Supplier acknowledges that the Customer is subject to the requirements of the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("EIR") and any successor legislation and may be required to disclose information (as defined in section 84 of the FOIA) concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

24.5. The Supplier shall:

(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 the Environmental Information Regulations 2004;

(b) transfer to the Customer all requests for information relating to this agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;

(c) provide the Customer with a copy of all information (as defined in section 84 of the FOIA) 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 Working 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.

24.6. Notwithstanding any other provision in the agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

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## **25. Assignment and other dealings**

25.1. The Customer may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

25.2. The Supplier may not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Customer.

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## **26. Sub-contracting**

The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any sub-contracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

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## **27. Entire agreement**

The Contract constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

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## **28. Variation**

Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Customer.

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## **29. Waiver**

No failure or delay by a Party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict

the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

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### **30. Severance**

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision of the Contract is deemed deleted under this clause the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

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### **31. Notices**

31.1. Any notice to be given to a Party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

31.2. Any notice shall be deemed to have been received:

- (i) if delivered by hand, at the time the notice is left at the proper address;
  - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- (b) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
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### **32. Third party rights**

Except where any obligations of the Customer or the Supplier are assigned in accordance with the terms of the Contract the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

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### **33. Governing law**

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England.

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### **34. Jurisdiction**

Each Party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

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### **35. Modern Slavery**

35.1. The Supplier undertakes, warrants and represents that:

(a) Neither the Supplier nor of any of its officers, employees, agents or subcontractors has:

(i) Committed an offence under the Modern Slavery Act 2015

(ii) Been notified that it is subject to an investigation relating to an alleged MSA offence of prosecution under the Modern Slavery Act 2015; or

(iii) 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

(b) It shall comply with the Modern Slavery Act 2015.

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### **36. Protection of Personal Data and Security of Data**

36.1. The Supplier shall, and shall procure that all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Contract shall, comply with any notification requirements under the GDPR and both Parties shall duly observe all their obligations under the GDPR which arise in connection with the agreement.

36.2. Notwithstanding the general obligation in the above clause, where the Supplier is processing Personal Data for the Customer as a data processor (as defined by the GDPR) the Supplier shall:

(a) ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the GDPR;

(b) provide the Customer with such information as the Customer may reasonably request to satisfy itself that the Supplier is complying with its obligations under the GDPR;

(c) promptly notify the Customer of:

(i) any breach of the security requirements of the Customer; and

(ii) any request for personal data; and

(d) ensure that it does not knowingly or negligently do or omit to do anything which places the Customer in breach of the Customer's obligations under the GDPR.

36.3. When handling Customer data (whether or not Personal Data), the Supplier shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Supplier from time to time.

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### **37. Prevention of Fraud and Corruption**

37.1. The Supplier shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in

relation to the obtaining or execution of the agreement or for showing or refraining from showing favour or disfavour to any person in relation to the agreement.

37.2. The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

37.3. If the Supplier or the Staff engages in conduct prohibited by this clause 37 or commits fraud in relation to the agreement or any other contract with the Crown (including the Customer) the Customer may:

37.3.1. terminate the agreement and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the agreement; or

37.3.2. recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause.