

Accent Housing Limited General Terms and Conditions for the Supply of Goods & Services



Agreed terms:

1. Definitions and Interpretation

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 Goods and / or Services, by the Supplier, as agreed between the parties from time to time;

Commencement Date: the date on which the Supplier starts to provide the Goods and / or Services to the Customer;

Company Questionnaire: means the questionnaire issued by the Customer and completed by the Supplier;

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly;

Customer: means Accent Housing Limited, a Registered Society under the Co-operative and Community Benefit Societies Act 2014 (registration number IP19229R) whose registered office is at Scorex House, 3rd Floor, 1 Bolton Road, Bradford, England, BD1 4AS;

Customer Materials: all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier;

Deliverables: all documents, products and materials developed by the Supplier or its agents, subcontractors and personnel as part of or in relation to the Goods and / or Services in any form, including without limitation computer programs, data, reports and specifications (including drafts);

Goods: means the goods, including without limitation any Deliverables, to be provided by the Supplier to the Customer subject to these terms and conditions;

Group: in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company;

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, moral rights, trade 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 trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

Order: means an order placed by the Customer for the provision of certain goods and / or services from time to time in such format as the Customer may determine, for this purpose an Order may constitute a purchase order issued by the Customer to the Supplier;

Services: the services, including without limitation any Deliverables, to be provided by the Supplier to the Customer subject to these terms and conditions.

Supplier: means the supplier named on the Accent portals, in the form of Contract or Purchase Order; and

Supplier IPRs: all Intellectual Property Rights either subsisting in the Deliverables (excluding any Customer Materials incorporated in them) or otherwise necessary or desirable to enable the Customer to receive and use the Goods and / or Services, owned by or otherwise in the possession of the Supplier at the Commencement Date or which come into existence after the Commencement Date otherwise than as a direct result of the performance of this agreement or any Order.

1.2 Interpretation:

- (a) A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision includes any subordinate legislation made from time to time under that statute or statutory provision.
- (b) 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.
- (c) The Schedule(s) form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedule(s).
- (d) The headings within this agreement are for descriptive purposes only and do not affect the interpretation of the terms and conditions of this agreement.

2. Commencement, term and basis of this agreement

- 2.1** This agreement shall commence on the Commencement Date and, subject to termination as provided for below, this agreement shall continue in full force and effect until such time as the Customer elects to provide the Supplier with written notice of its termination, pursuant to clause 13.1 (at the Customer's sole discretion and without prejudice to any provision intended to operate after termination).
- 2.2** From time to time the Customer, including any entity within the Customer's Group (as if it were the Customer), may place Orders with the Supplier for the provision of the Goods and / or Services. The Customer makes no warranty, representation or guarantee as to the minimum number of Orders, if any, which may be placed under this agreement nor any minimum spend.
- 2.3** Each Order placed under this agreement is subject to the terms and conditions of this agreement and forms part of this agreement. Individual Orders do not constitute separate contracts.

- 2.4** This agreement does not form a relationship of exclusivity for the provision of goods and / or services and the Customer may freely procure goods and /or services of the same or similar nature to the Goods and / or Services from any other third party.
- 2.5** In the event the aggregate total of the Charges, paid or payable under this agreement exceeds, or is likely to exceed, certain financial thresholds (determined solely by the Customer) or the Customer deems necessary for other reasons, the Customer reserves the right to require the Supplier to enter into a separate contract for the provision of certain goods and / or services on such terms required by the Customer.

3. Supply of the Goods and Services

- 3.1** The Supplier shall supply the Goods and / or Services to the Customer from the Commencement Date in accordance with this agreement. The terms and conditions of this agreement apply to the provision of the Goods and / or Services to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 3.2** In supplying the Services, the Supplier shall:
- (a) perform the Services with the highest level of care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - (b) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
 - (c) only use personnel who are suitably skilled and experienced to perform the tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in full;
 - (d) ensure that it obtains, and maintains all consents, licences and permissions (statutory, regulatory, contractual or otherwise) it may require and which are necessary to enable it to comply with its obligations in this agreement;
 - (e) ensure that the Services and Deliverables shall conform in all respects with the Customer's requirements, whether express or implied, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
 - (f) provide all equipment, tools, vehicles and other items required to provide the Services;
 - (g) ensure that the Deliverables, and all goods, materials, standards and techniques used in providing the Services are of the best quality and are free from defects in workmanship, installation and design;
 - (h) comply with all applicable laws, statutes, regulations and codes from time to time in force;
 - (i) observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises from time to time and are notified to the Supplier;

- (j) hold all Customer Materials in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
- (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
- (l) perform the Services in accordance with any agreed milestones and/or deadlines. Time for performance of the Services is of the essence of this agreement.

3.3 In supplying the Goods, the requirements of sub-clauses 3.2 (a) to (l) (inclusive), shall apply (insofar as applicable to the provision of the Goods) as if set out in full in this clause 3.3, save that references to “Services” are substituted with the term “Goods”. Without prejudice to the foregoing, the Supplier shall ensure the Goods:

- (a) correspond with their description, any samples provided and any specification;
- (b) are of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, whether expressly or impliedly, and in this respect the Customer relies on the Supplier’s skill and judgement;
- (c) free from defects in design, material and workmanship and remain so for 12 (twelve) months after delivery (or such longer period as may be referred to in any description or specification); and
- (d) comply with all applicable statutory and regulatory requirements relating to the manufacturing, labelling, packaging, storage, delivery and handling of the Goods.

3.3 Risk in the Goods will remain with the Supplier until such time as the Goods are delivered to a location nominated by the Customer and expressly accepted by the Customer, following a reasonable opportunity to inspect the Goods. The Supplier will ensure the Goods are appropriately insured whilst risk remains with the Supplier.

3.4 Without prejudice to clause 5.1, title in the Goods will pass to the Customer upon delivery or payment of the Charges for the Goods, whichever occurs first.

3.5 The Supplier will use all reasonable endeavours to secure the assignment of the benefit of any manufacturers’ warranties and / or guarantees, associated with the Goods, to the Customer.

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

3.7 The Supplier shall notify the Customer in writing upon the occurrence of a change of Control of the Supplier and/or the resignation or appointment of any director of the Supplier. Such notification shall be made in writing within 14 days of the event taking place and be

accompanied by such information as may be reasonably necessary to enable the Customer to carry out conflict checks and to verify the impact of the change (if any). Where a change in Control or the appointment or resignation of a director gives rise to a conflict of interest the Customer may terminate this agreement under clause 15.3.

4. Customer's obligations

4.1 The Customer shall:

- (a) provide such access to the Customer's premises and data, and such office accommodation and other facilities as may reasonably be requested by the Supplier and agreed with the Customer in writing in advance, for the purposes of providing the Goods and / or Services; and
- (b) provide such necessary information for the provision of the Goods and / or Services as the Supplier may reasonably request.

4.2 A failure by the Customer to comply with the terms of this agreement can only relieve the Supplier from complying with its obligations under this agreement with effect from the date on which the Supplier notifies the Customer in writing and in reasonable detail of the Customer's failure and its effect or anticipated effect on the provision of the Goods and / or Services.

5. Title to Deliverables and Customer Materials

5.1 Title to any Deliverables that are goods or in any physical media on which Deliverables are stored and title to any goods or materials transferred to the Customer as part of the Services shall pass to the Customer on the earlier of their delivery to the Customer or payment of the Charges for them. The Supplier transfers the Deliverables and all such goods and materials to the Customer free from all liens, charges and encumbrances.

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

6. Intellectual property

6.1 The Supplier and its licensors shall retain ownership of all Supplier IPRs. The Customer and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials.

6.2 The Supplier grants the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free and irrevocable licence to copy, use and modify the Supplier IPRs for the purpose of receiving, using and taking full benefit of the Goods and Services for the duration of this agreement, including for the duration of any exit assistance provided pursuant to clause 14(b), and thereafter.

6.3 The Customer may sub-license the rights granted in clause 6.2 to any of the Customer's Group, its customers and/or other suppliers.

6.4 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable, non-sublicensable licence to copy and modify the Customer Materials for the term of this

agreement solely for the purpose of providing the Goods and / or Services to the Customer in accordance with this agreement.

- 6.5** The Supplier assigns to the Customer, with full title guarantee, all Intellectual Property Rights vesting within the Deliverables, as of the date of creation of such Deliverables, save for the Supplier IPRs which are licensed to the Customer pursuant to clause 6.2.
- 6.6** 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 any claim brought against the Customer for actual or alleged infringement of a third party's rights (including any Intellectual Property Rights) arising out of, or in connection with, the receipt, use or onward supply of the Goods and / or Services by the Customer and its licensees and sub-licensees. This clause 6.6 shall survive termination of this agreement.

7. Charges and payment

- 7.1** In consideration for the provision of the Goods and / or Services, the Customer shall pay the Supplier the Charges in accordance with this clause 7.
- 7.2** All amounts payable by the Customer exclude amounts in respect of value added tax (**VAT**) which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.
- 7.3** Unless agreed otherwise between the parties, the Supplier shall submit invoices for the Charges plus VAT if applicable to the Customer monthly in arrears. Each invoice shall include all supporting information reasonably required by the Customer.
- 7.4** The Customer shall pay each invoice which is properly due and submitted to it by the Supplier within 30 days from receipt of the Supplier's valid VAT invoice, subject to the deduction or withholding of any sums with which the Customer has a bona fide dispute.
- 7.5** In the event the Customer disputes any sums invoiced by the Supplier, pursuant to clause 7.4, the parties will work together in good faith to agree the sums due. The Supplier will provide the Customer with such evidence as is reasonably required to substantiate the sums invoiced by the Supplier. In the event the disputed sums have not been resolved within 30 Business Days from the date on which the Customer informed the Supplier of the disputed sums, the parties will resolve the dispute in accordance with clause 15.10.
- 7.6** In the event either party fails to make payment of any sums due to the other in connection with this agreement by the due date, the outstanding sums will accrue simple interest at the rate of 4% above the base lending rate of the Bank of England. Interest will not accrue on any disputed sums withheld by the Customer, pursuant to clause 7.4.

7.7 The Customer may at any time set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether liability is present or future, liquidated or unliquidated and without prejudice to any other rights or remedies available to the Customer, whether under this agreement or otherwise.

8. Data Processing

8.1 In this clause 8:

- (a) “Customer Data” means any personal data which is transmitted by or on behalf of the Customer to, or is otherwise processed by, the Supplier under this agreement or which is generated under this agreement;
- (b) “Data Protection Legislation” means all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended;
- (c) “Sub-Processor” means “another processor” as defined within Article 28 of the General Data Protection Regulation (EU 2016/679); and
- (d) “controller”, “data subject”, “personal data”, “personal data breach”, “process” (“processed” to be construed accordingly) and “processor” shall have the same meanings as in the Data Protection Legislation.

8.2 The parties acknowledge that in relation to any Customer Data the Customer is a controller and the Supplier is a processor. The Supplier shall comply with its obligations under the Data Protection Legislation and shall not cause or contribute to any breach by the Customer of its obligations under the Data Protection Legislation.

8.3 Where the Supplier processes Customer Data under or in connection with this agreement, the Supplier shall:

- (a) save as required otherwise by law, only process such Customer Data as is necessary to perform its obligations under this agreement, and only in accordance with the Customer’s documented instructions;
- (b) put in place appropriate technical and organisational measures to meet its own obligations under the Data Protection Legislation;
- (c) ensure the Supplier staff who will have access to Customer Data are subject to appropriate confidentiality obligations;
- (d) be entitled to engage Sub-Processors to process Customer Data subject to the Supplier ensuring that equivalent requirements to those set out in this clause are imposed on any sub-processor(s), the Supplier remaining fully liable to the Customer for the performance of the Sub-Processor’s obligations and where applicable, providing to the Customer reasonable prior notice of any addition, removal or replacement of any such Sub-Processors;

- (e) not process or transfer Customer Data outside the United Kingdom without the prior documented consent of the Customer;
- (f) have in place the appropriate technical and organisational security measures to protect the Customer Data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access;
- (g) notify the Customer without undue delay after becoming aware of any personal data breach involving Customer Data, taking into account the nature of processing and the information available to the Supplier;
- (h) take appropriate technical and organisational measures, insofar as is possible, to assist the Customer in responding to requests for data (but the Supplier will not itself respond to any such data subject request except on written instructions from the Customer). Furthermore the Supplier will, upon the request of the Customer, provide assistance to the Customer relating to the Customer's obligations under the Data Protection Legislation taking into account the information available to the Supplier;
- (i) make available to the Customer such information as the Customer reasonably requests to show compliance with the Data Protection Legislation (including but not limited to compliance with the requirements of Article 28 of the General Data Protection Regulation (EU 2016/679)) and permit and contribute to such audits conducted by the Customer (or the Customer's appointed auditors);
- (j) save as may be required by law, at the Customer's sole option either delete or return the Customer Data to the Customer on expiry or termination of this agreement; and
- (k) unless agreed otherwise in writing with the Customer, the Supplier will only process Customer Data in accordance with Schedule 1 to this agreement.

8.4 The Supplier shall inform the Customer in writing if, in the Supplier's opinion, an instruction from the Customer infringes the Data Protection Legislation.

8.5 The Supplier shall indemnify and keep indemnified the Customer against any liability, fines, claims, demands, expenses and costs (including legal fees) arising as a result of or in connection with any breach of this clause 8.

9. Bribery, corruption, slavery and human trafficking

9.1 In performing its obligations under this agreement, the Supplier shall:

- (a) comply with all applicable anti-slavery, human trafficking and anti-bribery & corruption laws, statutes, regulations from time to time in force including but not limited to the Modern Slavery Act 2015, the Criminal Finances Act 2017 and Bribery Act 2010;
- (b) not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 and/or sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct were carried out in the UK;
- (c) include in contracts with its direct subcontractors and suppliers provisions which are at least as onerous as those set out in this clause 9;

- (d) notify the Customer as soon as it becomes aware of any actual or suspected slavery, human trafficking, bribery and/or corruption in a supply chain which has a connection with this agreement;
- (e) maintain a complete set of records to trace the supply chain of all Services provided to the Customer in connection with this agreement;
- (f) permit the Customer and its third party representatives to inspect the Supplier's premises, records, and to meet the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause 9; and
- (g) maintain its own policies and procedures, including but not limited to adequate procedures in connection with the Bribery Act 2010, to ensure the prevention of slavery, human trafficking, bribery and/or corruption within its supply chain.

9.2 The Supplier represents and warrants that:

- (a) it has not been convicted of any offence involving slavery, human trafficking, bribery, fraud, dishonesty, tax evasion and/or corruption; and
- (b) it has not been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery, human trafficking, bribery, dishonest conduct, tax evasion and/or corruption.

9.3 The Customer may terminate this agreement with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of this clause 9.

10. Anti-facilitation of tax evasion

10.1 The Supplier shall:

- (a) not engage in any activity, practice or conduct which would constitute either:
 - (i) a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017; or
 - (ii) a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017;
- (b) comply with the Customer's ethics, anti-bribery and anti-corruption policies (copies of such policies are available on request);
- (c) have and shall maintain in place throughout the term of this agreement such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Supplier) and to ensure compliance with clause 10.1(a);
- (d) notify the Customer in writing if it becomes aware of any breach of clause 10.1(a) or has reason to believe that it or any person associated with it has received a request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the performance of this agreement;

- (e) within six months of the date of this agreement, and annually thereafter, certify to the Customer in writing signed by an officer of the Supplier, compliance with this clause 10.1 by the Supplier and all persons associated with it under clause 10.2. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request.

10.2 The Supplier shall ensure that any person associated with the Supplier who is performing Services in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 10 (the “**Relevant Terms**”). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Customer for any breach by such persons of any of the Relevant Terms.

10.3 Breach of this clause 10 shall be deemed a material breach under clause 13.2.

10.4 For the purposes of this clause 10, the meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017 and a person associated with the Supplier includes but is not limited to any subcontractor of the Supplier.

11. Limitation of liability

11.1 The restrictions on liability in this clause¹¹ apply to every liability arising under or in connection with this agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution, under any indemnity, breach of statutory duty or otherwise.

11.2 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

11.3 Nothing in this agreement shall limit the Supplier's liability under clause 6 (Intellectual Property), Clause 8 (Data Processing), clause 9 (Bribery, corruption, slavery and human trafficking, Clause 10 (Anti-facilitation of tax evasion) and clause 15.2 (Confidentiality) of this agreement.

11.4 Nothing in this agreement limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence; and / or
- (b) fraud or fraudulent misrepresentation.

11.5 Subject to clause 11.4, neither party shall in any circumstances be liable, whether in tort (including without limitation for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

11.6 Subject to clauses 11.4 and 11.5, the Customer's total aggregate liability to the Supplier whether in contract, tort (including negligence), misrepresentation, restitution, under any indemnity or

otherwise shall be limited to a sum equal to 100% (one hundred per cent) of the Charges paid or payable by the Customer under this agreement.

12. Insurance

During the term of this agreement and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance (where relevant to the nature of the Goods and / or Services being provided), employers liability insurance (insofar as required at law), public & product liability insurance and any other policy of insurance which the Supplier deems necessary to cover the liabilities the Supplier may incur under or in connection with this agreement, and shall produce to the Customer on request both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

13. Termination

13.1 The Customer shall be entitled by notice in writing to terminate or suspend this agreement, including any Order, whether in whole or in part at any time (at the Customer's sole discretion) and with immediate effect without payment of compensation to the Supplier or any third party.

13.2 The Customer may terminate this agreement with immediate effect by giving written notice to the Supplier if:

- (a) the Supplier commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 10 Business Days after 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), 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 Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

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

13.4 Termination or expiry of this agreement 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 this agreement which existed at or before the date of termination or expiry.

14. Exit arrangements

On termination of this agreement for whatever reason:

- (a) 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 delivered or returned, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this agreement; and
- (b) the Supplier shall, if so requested by the Customer, provide all assistance reasonably required by the Customer to facilitate the uninterrupted and seamless transition of the provision of the Goods and / or Services to the Customer or any replacement supplier appointed by the Customer.

15. General

15.1 Force majeure. Subject to clause 15.13, neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 4 weeks, the party not affected may terminate this agreement (including any Order) by giving 14 days' written notice to the affected party.

15.2 Confidentiality.

- (a) 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 or of any member of the Group to which the other party belongs, except as permitted by clause 15.2(b).
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 15.2; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under this agreement.

15.3 Conflict of interest. The Supplier warrants that there is no conflict between its own interests and those of the Customer, and it shall immediately notify the Customer in the event that any conflict of interest or potential conflict of interest arises. If a conflict of interest arises or the Customer has reasonable grounds to suspect that a conflict exists (whether or not the Supplier

has notified the conflict pursuant to this clause 15.3, the Customer shall be entitled to immediately terminate this agreement by written notice to the Supplier.

- 15.4 No partnership.** Nothing in the agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 15.5 Independent contractor.** The parties acknowledge that the Supplier's engagement under this agreement is as an independent contractor and shall not be deemed employment and/or create a relationship of employment, including without limitation for the purposes of the UK off-payroll working rules including any relevant primary and secondary legislation and the published practice and guidance of HMRC as enacted, amended or made available from time to time. The Supplier undertakes to pay all tax, employment claims (including without limitation income tax), National Insurance contributions, statutory sick pay, holiday pay, duties, fees, levies and other impositions (including without limitation in relation to IR35) arising under or in connection with this agreement and to indemnify the Customer against any cost, claim, expense, liability, penalty, fine or interest in respect of any failure by the Supplier to do so.
- 15.6 Entire agreement.** This agreement 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.
- 15.7 Variation.** No variation of this agreement, or an Order, shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 15.8 Waiver.**
- (a) A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
 - (b) A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 15.9 Severance.** If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 15.9 shall not affect the validity and enforceability of the rest of this agreement.
- 15.10 Dispute Resolution.** If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (a “**Dispute**”), the parties’ representatives will meet

in good faith in order to resolve the Dispute. If the parties' representatives are unable to resolve the Dispute within 10 (ten) Business Days the Dispute will be escalated to senior representatives of the parties for resolution. Failing resolution between the parties' senior representatives, within 10 (ten) Business Days of the Dispute being escalated, the Dispute will be settled in accordance with the CEDR Model Mediation Procedure current at the time. Unless otherwise agreed between the parties within 10 (ten) Business Days of the Dispute being referred to mediation, the mediator shall be nominated by CEDR.

Neither party may commence any court proceedings in relation to the whole or part of the Dispute until the mediation has been concluded or the parties agree to commence court proceedings prior to the conclusion of the mediation.

15.11 Notices.

- (a) Any notice or other communication given to a party under or in connection with this agreement 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).
- (b) Any notice or communication shall be deemed to have been received:
 - (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and
 - (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 at the time recorded by the delivery service; and
- (c) This clause 15.11 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.
- (d) A notice given under this agreement is not valid if sent by email.

15.12 Third party rights.

This agreement does not give rise to any rights in favour of a third party under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement save that any entity within the Customer's Group may directly enforce the terms of this agreement as if it were the Customer.

15.13 COVID-19. The Supplier shall not be entitled to rely on clause 15.1 due to a delay in the provision of the Goods and / or Services and/or failure to comply with its obligations under this agreement as a result of circumstances associated with COVID-19 and variants thereof (a "**Covid Event**"). Furthermore, if a Covid Event applies the Supplier shall:

- (a) not be entitled to an extension of time for the performance of the Services;
- (b) not be entitled to any increase in the Charges or to be re-imbursed for additional costs and expenses incurred by the Supplier in order to comply with its obligations under this agreement; and

- (c) on becoming aware that a Covid Event may apply, submit to the Customer as soon as possible a mitigation plan which details in full the measures which the Supplier will or is taking to ensure the performance, quality and standards of the provision of the Goods and / or Services are not compromised.

In the event the mitigation plan referenced in clause 15.13(c) does not reasonably meet the Customer's requirements and/or the Supplier fails to act upon those measures detailed within the mitigation plan, within a reasonable period of time so as prevent any impact due to a Covid Event, the Customer will be entitled to terminate this agreement with immediate effect on written notice without incurring any liability to the Supplier.

15.14 Governing law. This agreement, 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 laws of England and Wales.

15.15 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 this agreement or its subject matter or formation.

Schedule 1 - Data Protection

Description	Details
Subject matter of the processing	The processing is necessary in order to ensure the delivery and / or performance of the Goods and Services, respectively, by the Supplier in accordance with this agreement.
Duration of the processing	The personal data will be processed for the duration of the agreement, unless otherwise instructed by the Customer.
Nature and purposes of the processing	<p>The nature of the processing is:</p> <ul style="list-style-type: none"> • collection, • recording, • organisation, • structuring, • storage, • adaptation or alteration, • retrieval, • consultation, • use, • disclosure by transmission, • dissemination or otherwise making available, • alignment or combination, • restriction, • erasure or destruction of data (whether or not by automated means). <p>The purpose of the processing includes: The day-to-day administration of the agreement and performance of the Services and / or delivery of the Goods, by the Supplier.</p>
Categories of personal data	<ul style="list-style-type: none"> • Customer employees' details: • Name; • Work email address; • Work telephone numbers; and • Work address(es).
Categories of data subject	Customer employees (including volunteers, agency works and sub-contractors), Ex employees
Plan for return and destruction of the data once the processing is complete UNLESS requirement under the Data Protection Legislation (as defined in clause 8) to preserve that type of data	Upon the Customer's written direction, all personal data must be securely destroyed within three months following the termination of the agreement, or at any other time unless required by the Data Protection Legislation. The Supplier will provide the Customer with written confirmation that all personal data has been destroyed.