

Terms and Conditions for the Supply of Goods and Services

1 Definitions and interpretation

1.1 In these Conditions the following definitions apply:

Affiliate	means any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;
Bribery Laws	means the Bribery Act 2010;
Business Day	means a day other than a Saturday, Sunday or bank or public holiday when banks generally are open for non-automated business in England;
Conditions	means the Supplier's terms and conditions of sale set out in this document;
Confidential Information	means any commercial, financial or technical information, information relating to the Deliverables which is obviously confidential or has been identified as such, or which is developed by the Customer or Supplier in performing its obligations under, or otherwise pursuant to the Contract. This includes: the operations, processes, product information, know-how, technical information, designs, trade secrets, products, inventions, samples, materials, data, plans, prototypes, formulae, methodologies, processes, specifications, studies or software of the Supplier, or of any of the Supplier's affiliates or of third party licensors of the Supplier and any information, findings, data, studies, results or analysis derived from Confidential Information and/or copies derived therefrom;
Contract	means the agreement between the Supplier and the Customer for the sale and purchase of the Deliverables incorporating these Conditions and the Order;
Control	has the meaning given to it in section 1124 of the Corporation Tax Act 2010;
Controller	shall have the meaning given in applicable Data Protection Laws from time to time;
Customer	means the person who purchases the Deliverables from the Supplier and whose details are set out in the Order;

Customer Background IPR	means any Intellectual Property Rights owned by (licensed to or otherwise controlled by) the Customer prior to the date of this agreement and which is used in the manufacture and supply of the Goods or supply of the Services;
Data Protection Laws	means, as binding on either party or the Services: <ul style="list-style-type: none"> (a) the GDPR; (b) the Data Protection Act 2018; (c) any laws which implement any such laws; and (d) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing;
Data Subject	shall have the meaning in applicable Data Protection Laws from time to time;
Deliverables	means the Goods or Services or both as the case may be;
Force Majeure	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, lightning, earthquake or other natural disaster; war, riot or civil unrest; interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service; or material required for performance of the Contract; strike, lockout or boycott or other industrial action including strikes or other industrial disputes involving the Supplier's or its suppliers' workforce, but excluding the Customer's inability to pay or circumstances resulting in the Customer's inability to pay;
GDPR	means the General Data Protection Regulation, Regulation (EU) 2016/679;
Goods	means the goods and related accessories, spare parts and documentation and other physical material set out in the Order and to be supplied by the Supplier to the Customer;
Intellectual Property Rights	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information, 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.

International Organisation	has the meaning given in the applicable Data Protection Laws from time to time;
Know-how:	unpatented, technical and other information which is not in the public domain including information comprising or relating to concepts, inventions, ideas, discoveries, data, formulae, research models, specifications, Materials (including information as to biological or chemical structure or functions), methods, research plans, procedures for experiments and tests and results of experimentation and testing.
Location	means the address(es) for delivery of the Goods and performance of the Services as set out in the Order;
Material(s):	compounds, fragments, proteins, biologic reagents, substances, solutions and any other chemical or biological substance and any fragments, derivatives and/or progeny thereof and any Know-how associated with any such items.
Modern Slavery Policy	means the Supplier's anti-slavery and human trafficking policy in force and notified to the Customer from time to time;
Order	means the Customer's order for the Deliverables in substantially the same form as set out in the Customer's order form;
Personal Data	has the meaning given in the applicable Data Protection Laws from time to time;
Personal Data Breach	has the meaning given in the applicable Data Protection Laws from time to time;
Price	has the meaning given in clause 3.1;
processing	has the meaning given to it in applicable Data Protection Laws from time to time (and related expressions, including process , processed , processing , and processes shall be construed accordingly);

Processor	has the meaning given to it in applicable Data Protection Laws from time to time;
Protected Data	means Personal Data received from or on behalf of the Customer in connection with the performance of the Supplier's obligations under the Contract;
Services	means the services set out in the Order and to be supplied by the Supplier to the Customer;
Specification	means the description or specification of the Deliverables set out or referred to in the Order;
Sub-Processor	means any agent, subcontractor or other third party (excluding its employees) engaged by the Supplier for carrying out any processing activities on behalf of the Customer in respect of the Protected Data;
Supplier	means Colour Synthesis Solutions Ltd, company number 05697200, registered office, Hexagon Tower Crumpsall Vale, Blackley, Manchester, United Kingdom, M9 8GQ;
Supplier Materials:	means all Materials, equipment, documents and other property of the Supplier
Supplier Background IPR:	means any Intellectual Property Rights owned by (licensed to or otherwise controlled by) the Supplier and which is used in the manufacture and supply of the Goods and/or the supply of the Services.
Supplier Personnel	all employees, officers, staff, other workers, agents and consultants of the Supplier, its Affiliates and any of their sub-contractors who are engaged in the performance of the Services from time to time; and
VAT	means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Deliverables.

1.2 In these Conditions, unless the context otherwise requires:

- 1.2.1 a reference to the Contract includes these Conditions, the Order, and their respective schedules, appendices and annexes (if any);
- 1.2.2 any clause, schedule or other headings in these Conditions are included for convenience only and shall have no effect on the interpretation of these Conditions;
- 1.2.3 a reference to a 'party' means either the Supplier or the Customer and includes that party's personal representatives, successors and permitted assigns;

- 1.2.4 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;
- 1.2.5 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.6 a reference to a gender includes each other gender;
- 1.2.7 words in the singular include the plural and vice versa;
- 1.2.8 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;
- 1.2.9 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form;
- 1.2.10 without prejudice to the provisions of clause 16, a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a party under the Contract; and
- 1.2.11 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.

2 Application of these Conditions

- 2.1 Subject to clause 2.2, these Conditions apply to and form part of the Contract between the Supplier and the Customer and they supersede any previously issued terms and conditions of purchase or supply.
- 2.2 These Conditions do not apply to the supply of goods or services by the Supplier where such supply is specifically governed by a formal written agreement executed by the Supplier and the Customer including but not limited to the Supplier's (i) Manufacturing and Supply Agreement; (ii) R&D Agreement; and (iii) FTE R&D Agreement. In such circumstances, the provision of the relevant execute agreement shall prevail.
- 2.3 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Supplier otherwise agrees in writing.
- 2.4 No variation of these Conditions or to an Order or to the Contract, shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of the Customer.
- 2.5 Each Order by the Customer to the Supplier shall be an offer to purchase the Deliverables subject to these Conditions.
- 2.6 An Order may be withdrawn or amended by the Customer at any time before acceptance by the Supplier. An Order shall lapse unless accepted by the Supplier before the expiry of 14

days after the date of the Order. If the Supplier is unable to accept an Order, it shall notify the Customer promptly.

- 2.7 The offer constituted by an Order shall remain in effect and capable of being accepted by the Supplier until withdrawn by the Customer giving notice to the Supplier after the expiry of 30 Business Days from the date on which the Customer submitted the Order.
- 2.8 The Supplier may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Deliverables shall arise, until the earlier of:
 - 2.8.1 the Supplier's written acceptance of the Order; or
 - 2.8.2 the Supplier delivering or performing the Deliverables or notifying the Customer that they are ready to be delivered or performed (as the case may be).
- 2.9 Rejection by the Supplier of an Order, including any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by the Customer.
- 2.10 The Supplier may issue quotations to the Customer from time to time. Quotations are invitations to treat only. They are not an offer to supply Deliverables and are incapable of being accepted by the Customer.
- 2.11 Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Goods and Services described in them. They shall not form part of the Order or have any contractual force.

3 Price

- 3.1 The price for the Deliverables shall be as set out in the Order or, in default of such provision, shall be calculated in accordance with the Supplier's scale of charges (**Price**).
- 3.2 The Prices are exclusive of:
 - 3.2.1 delivery, insurance, or describe relevant elements of the services which are not included in the standard price which shall be charged in addition at the Supplier's standard rates, and
 - 3.2.2 VAT.
- 3.3 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.
- 3.4 The Supplier will undertake the labelling and packaging of the Goods in its standard packaging and labelling. If the Customer requires bespoke packaging and/or labelling which is different to the Supplier's standard packaging and labels, any additional costs relating to the procurement and application of the packaging and labelling will be agreed by the parties and paid by the Customer in addition to the Prices for the Goods.
- 3.5 The Supplier may increase the Prices at any time by giving the Customer not less than 15 Business Days' notice in writing provided that the increase does not exceed 50% of the Prices in effect immediately prior to the increase.
- 3.6 Notwithstanding clause 3.5, the Supplier may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of

supplying the relevant Deliverables which exceeds 20% and which is due to any factor beyond the control of the Supplier.

- 3.7 All payments payable to the Supplier by the Customer shall become immediately due and payable (a) on termination of the Contract for any reason; or (b) if the Customer becomes subject to any of the events listed in clause 19.1.1 to 19.1.4 inclusive. This clause is without prejudice to any right to claim for interest under the law or under this agreement.

4 Payment

- 4.1 The Supplier may invoice the Customer for the Deliverables prior to delivery or performance or at any time after delivery or performance (as the case may be) of the Deliverables in accordance with the Order or as otherwise agreed by the parties.

- 4.2 The Customer shall pay all invoices:

4.2.1 in full without deduction or set-off, in cleared funds;

4.2.2 within the time period set out in the Order or where no time frame is indicated or otherwise agreed by the parties, 30 days of the date of each invoice; and

4.2.3 to the bank account nominated by the Supplier.

- 4.3 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:

4.3.1 the Supplier may, without limiting its other rights, charge interest on such sums at 4% a year above the base rate of the Bank of England from time to time in force, and

4.3.2 interest shall accrue on a daily basis and apply from the due date for payment until actual payment in full, whether before or after judgment.

5 Credit limit

The Supplier may, but is under no obligation to, set and vary credit limits from time to time and withhold all further supplies if the Customer exceeds such credit limit.

6 Delivery and performance

- 6.1 The Goods shall be delivered by the Supplier to the Location on the date(s) specified in the Order. The Goods shall be deemed delivered by the Supplier only on arrival of the Goods at the Location.

The Services shall be performed by the Supplier at the Location on the date(s) specified in the Order. The Services shall be deemed delivered by the Supplier only on completion of the performance of the Services at the Location.

- 6.2 The Supplier may deliver or perform the Deliverables in instalments. Any delay in performance or defect in an instalment shall not entitle the Customer to cancel any other instalment.

- 6.3 Each delivery or performance of the Deliverables shall be accompanied by a delivery note stating:

- 6.3.1 the date of the Order;
 - 6.3.2 the relevant Customer and Supplier details;
 - 6.3.3 if Goods, the product numbers and type and quantity of Goods in the consignment;
 - 6.3.4 if Services, the category, type and quantity of Services performed;
 - 6.3.5 any special instructions, handling and other requests; and
 - 6.3.6 in the case of Goods, whether any packaging material is to be returned, in which case the Customer shall, after the Goods are unpacked, make them available for collection by the Supplier at the Supplier's expense.
- 6.4 Time is not of the essence in relation to the performance or delivery of the Deliverables. The Supplier shall use its reasonable endeavours to meet estimated dates for delivery and performance, but any such dates are approximate only.
- 6.5 The Supplier shall not be liable for any delay in or failure of performance caused by:
- 6.5.1 the Customer's failure to: (i) make the Location available, (ii) prepare the Location as required for the Deliverables or (iii) provide the Supplier with adequate instructions for performance or delivery or otherwise relating to the Deliverables;
 - 6.5.2 Force Majeure.

7 Risk

Risk in the Goods shall pass to the Customer on delivery.

8 Title

- 8.1 Title to the Goods shall pass to the Customer once the Supplier has received payment in full and cleared funds for the Goods.
- 8.2 Until title to the Goods has passed to the Customer, the Customer shall:
- 8.2.1 hold the Goods as bailee for the Supplier;
 - 8.2.2 store the Goods separately from all other material in the Customer's possession;
 - 8.2.3 take all reasonable care of the Goods and keep them in the condition in which they were delivered;
 - 8.2.4 insure the Goods from the date of delivery: (i) with a reputable insurer (ii) against all risks (iii) for an amount at least equal to their Price (iv) noting the Supplier's interest on the policy;
 - 8.2.5 ensure that the Goods are clearly identifiable as belonging to the Supplier;
 - 8.2.6 not remove or alter any mark on or packaging of the Goods;
 - 8.2.7 inform the Supplier immediately if it becomes subject to any of the events or circumstances set out in clauses 18.1.1 to 18.1.4 or 18.2.1 to 18.2.11; and

- 8.2.8 on reasonable notice permit the Supplier to inspect the Goods during the Customer's normal business hours and provide the Supplier with such information concerning the Goods as the Supplier may request from time to time.
- 8.3 Notwithstanding clause 8.2, the Customer may use or resell the Goods in the ordinary course of its business until such time as it becomes aware or ought reasonably to have become aware that an event specified in clauses 18.1.1 to 18.1.4 or 18.2.1 to 18.2.11 has occurred or is likely to occur.
- 8.4 If the Customer resells the Goods in accordance with clause 8.3, title to the Goods shall pass to the Customer immediately prior to the resale.
- 8.5 If, at any time before title to the Goods has passed to the Customer, the Customer informs the Supplier, or the Supplier reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clauses 18.1.1 to 18.1.4 or 18.2.1 to 18.2.11, the Supplier may:
- 8.5.1 require the Customer at the Customer's expense to re-deliver the Goods to the Supplier; and
- 8.5.2 if the Customer fails to do so promptly, enter any premises where the Goods are stored and repossess them.

9 Warranty

- 9.1 The Supplier warrants that, for a period of **6** months from delivery (the **Warranty Period**), the Deliverables shall:
- 9.1.1 conform in all material respects to any sample, their description and to the Specification;
- 9.1.2 be free from material defects in design, material and workmanship;
- 9.1.3 if Goods, be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
- 9.1.4 if Services, be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II, s 13;
- 9.1.5 be fit for purpose and any purpose held out by the Supplier and set out in the Order; and
- 9.1.6 any media on which the results of the Services are supplied shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 9.2 The Customer warrants that it has provided the Supplier with all relevant, full and accurate information as to the Customer's business and needs.
- 9.3 The Supplier shall, at its option, correct, repair, remedy, re-perform or refund the Deliverables that do not comply with clause 9, provided that the Customer:
- 9.3.1 serves a written notice on Supplier not later than five Business Days from delivery or performance in the case of defects discoverable by a physical inspection, or within a reasonable period of time from delivery or performance in the case of latent defects;

- 9.3.2 such notice specifies that some or all of the Deliverables do not comply with clause 9.1 and identifying in sufficient detail the nature and extent of the defects; and
- 9.3.3 gives the Supplier a reasonable opportunity to examine the claim of the defective Deliverables.
- 9.4 The provisions of these Conditions shall apply to any Deliverables that are corrected, repaired, remedied or re-performed with effect from delivery or performance of those Deliverables.
- 9.5 Except as set out in this clause 9:
 - 9.5.1 the Supplier gives no warranty and makes no representations in relation to the Deliverables; and
 - 9.5.2 shall have no liability for their failure to comply with the warranty in clause 9.1.
 - 9.5.3 All warranties and conditions (including the conditions implied by ss 12–16 of the Supply of Goods and Services Act 1982 and ss 13–15 of the Sale of Goods Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted.

10 Anti-bribery

- 10.1 For the purposes of this clause 10 the expressions '**adequate procedures**' and '**associated with**' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- 10.2 Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that:
 - 10.2.1 all of that party's personnel;
 - 10.2.2 all others associated with that party; and
 - 10.2.3 all of that party's subcontractors;

involved in performing the Contract so comply.
- 10.3 Without limitation to clause 10.2, neither party shall 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.
- 10.4 Each party shall immediately notify the other as soon as it becomes aware of a breach or possible breach of any of the requirements in this clause 10.

11 Anti-slavery

- 11.1 The Customer undertakes, warrants and represents that:
 - 11.1.1 neither the Customer nor any of its officers, employees, agents or subcontractors has:

- (a) committed an offence under the Modern Slavery Act 2015 (an **MSA Offence**);
- (b) 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;

11.1.2 it shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy;

11.1.3 it shall notify the Supplier 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 Customer's obligations under clause 11.1. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Customer's obligations.

12 Indemnity and insurance

12.1 The Customer shall indemnify, and keep indemnified, the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the Supplier as a result of or in connection with the Customer's breach of any of the Customer's obligations under the Contract.

12.2 The Customer shall have in place contracts of insurance with reputable insurers incorporated in the United Kingdom to cover its obligations under the Contract. On request, the Customer shall supply so far as is reasonable evidence of the maintenance of the insurance and all of its terms from time to time applicable.

13 Limitation of liability

13.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 13.

13.2 Subject to clauses 13.5 and 13.6, the Supplier's total liability shall not exceed the sum of 100% of the total charges payable under this agreement in respect of the relevant Goods and Services.

13.3 Subject to clauses 13.5 and 13.6, the Supplier shall not be liable for consequential, indirect or special losses.

13.4 Subject to clauses 13.5 and 13.6, the Supplier shall not be liable for any of the following (whether direct or indirect):

13.4.1 loss of profit;

13.4.2 loss or corruption of data;

13.4.3 loss of use;

13.4.4 loss of production;

13.4.5 loss of contract;

- 13.4.6 loss of opportunity;
 - 13.4.7 loss of savings, discount or rebate (whether actual or anticipated);
 - 13.4.8 harm to reputation or loss of goodwill.
- 13.5 The limitations of liability set out in clauses 13.2 to 13.4 shall not apply in respect of any indemnities given by either party under the Contract.
- 13.6 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:
- 13.6.1 death or personal injury caused by negligence;
 - 13.6.2 fraud or fraudulent misrepresentation;
 - 13.6.3 any other losses which cannot be excluded or limited by applicable law;
 - 13.6.4 any losses caused by wilful misconduct.

14 Intellectual Property Rights

- 14.1 The Supplier is and shall remain the owner of all Supplier Background IPR (or where applicable, the third party from whom it's right to use the Intellectual Property Rights has derived) and nothing in this agreement shall operate to transfer any Supplier Background IPR to the Customer.
- 14.2 The Customer is and shall remain the owner of all Customer Background IPR (or where applicable, the third party from whom it's right to use the Intellectual Property Rights has derived) and nothing in this agreement shall operate to transfer any Customer Background IPR to the Supplier.
- 14.3 The Customer grants to the Supplier, or shall procure the direct grant to the Supplier of, a fully paid-up, worldwide, non-exclusive, royalty-free licence, with the right to sub-licence, to use, copy and modify the Customer Background IPR for the term of the Contract for the purpose of manufacturing and supplying the Products to the Customer.
- 14.4 All Intellectual Property Rights in or arising out of or in connection with the manufacture and supply of Products and/or the supply of the Services (other than Customer Background IPR) shall be owned by the Supplier.

15 Confidentiality and announcements

- 15.1 The Customer shall keep confidential all Confidential Information of the Supplier and of any Affiliate of the Supplier and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:
- 15.1.1 any information which was in the public domain at the date of the Contract;
 - 15.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
 - 15.1.3 any information which is independently developed by the Customer without using information supplied by the Supplier or by any Affiliate of the Supplier; or

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

except that the provisions of clauses 15.1.1 to 15.1.3 shall not apply to information to which clause 15.4 relates.

15.2 This clause shall remain in force for a period of two years from the date of the Contract and, if longer, two years after termination of the Contract.

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

15.4 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 does not conflict with any provisions of clause 16.

16 Processing of personal data

16.1 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 Customer shall at all times comply with all Data Protection Laws in connection with the processing of Protected Data. The Customer shall ensure all instructions given by it to the Supplier in respect of Protected Data (including the terms of the Contract) shall at all times be in accordance with Data Protection Laws.

16.2 The Supplier shall process Protected Data in compliance with the obligations placed on it under Data Protection Laws and the terms of the Contract.

16.3 The Customer shall indemnify and keep indemnified the Supplier against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, 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 supervisory authority) arising out of or in connection with any breach by the Customer of its obligations under this clause 16.

16.4 The Supplier shall:

16.4.1 only process (and shall ensure Supplier Personnel only process) the Protected Data in accordance with the Contract (and not otherwise unless alternative processing instructions are agreed between the parties in writing) except where otherwise required by applicable law (and shall inform the Customer of that legal requirement before processing, unless applicable law prevents it doing so on important grounds of public interest); and

16.4.2 without prejudice to clause 16.1, if the Supplier believes that any instruction received by it from the Customer is likely to infringe the Data Protection Laws it shall promptly inform the Customer and be entitled to cease to provide the relevant Services until the parties have agreed appropriate amended instructions which are not infringing.

16.5 Taking into account the state of technical development and the nature of processing, the Supplier shall ensure that it has in place the technical and organisational measures to protect the Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.

- 16.6 The Supplier shall:
- 16.6.1 not permit any processing of Protected Data by any agent, subcontractor or other third party (except its or its Sub-Processors' own employees in the course of their employment that are subject to an enforceable obligation of confidence with regards to the Protected Data) without the prior written authorisation of the Customer;
 - 16.6.2 prior to the relevant Sub-Processor carrying out any processing activities in respect of the Protected Data, appoint each Sub-Processor under a written contract containing materially the same obligations as under this clause 16 that is enforceable by the Supplier and ensure each such Sub-Processor complies with all such obligations;
 - 16.6.3 remain fully liable to the Customer under the Contract for all the acts and omissions of each Sub-Processor as if they were its own; and
 - 16.6.4 ensure that all persons authorised by the Supplier or any Sub-Processor to process Protected Data are subject to a binding written contractual obligation to keep the Protected Data confidential.
- 16.7 The Supplier shall (at the Customer's cost):
- 16.7.1 assist the Customer in ensuring compliance with the Customer's obligations pursuant to Articles 32 to 36 of the GDPR (and any similar obligations under applicable Data Protection Laws) taking into account the nature of the processing and the information available to the Supplier; and
 - 16.7.2 taking into account the nature of the processing, assist the Customer (by appropriate technical and organisational measures), insofar as this is possible, for the fulfilment of the Customer's obligations to respond to requests for exercising the Data Subjects' rights under Chapter III of the GDPR (and any similar obligations under applicable Data Protection Laws) in respect of any Protected Data.
- 16.8 The Supplier shall not process and/or transfer, or otherwise directly or indirectly disclose, any Protected Data in or to countries outside the United Kingdom or to any International Organisation without the prior written consent of the Customer.
- 16.9 The Supplier shall, in accordance with Data Protection Laws, make available to the Customer such information that is in its possession or control as is necessary to demonstrate the Supplier's compliance with the obligations placed on it under this clause 16 and to demonstrate compliance with the obligations on each party imposed by Article 28 of the GDPR (and under any equivalent Data Protection Laws equivalent to that Article 28), and allow for and contribute to audits, including inspections, by the Customer (or another auditor mandated by the Customer) for this purpose (subject to a maximum of one audit request in any 12 month period under this clause 16.9).
- 16.10 The Supplier shall notify the Customer without undue delay and in writing on becoming aware of any Personal Data Breach in respect of any Protected Data.
- 16.11 On the end of the provision of the Services relating to the processing of Protected Data, at the Customer's cost and the Customer's option, the Supplier shall either return all of the Protected Data to the Customer or securely dispose of the Protected Data (and thereafter promptly delete all existing copies of it) except to the extent that any applicable law requires

the Supplier to store such Protected Data. This clause 16 shall survive termination or expiry of the Contract.

17 Force Majeure

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

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

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

17.2 If, due to Force Majeure, a party:

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

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

the parties shall, within 30 days, renegotiate the Contract to achieve, as nearly as possible, the original commercial intent.

18 Termination

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

18.1.1 the Customer commits a material breach of the Contract and such breach is not remediable;

18.1.2 the Customer commits a material breach of the Contract which is not remedied within 30 days of receiving written notice of such breach;

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

18.1.4 any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled.

18.2 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if the Customer:

18.2.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;

18.2.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Supplier reasonably believes that to be the case;

18.2.3 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;

- 18.2.4 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
 - 18.2.5 has a resolution passed for its winding up;
 - 18.2.6 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;
 - 18.2.7 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within *seven* days of that procedure being commenced;
 - 18.2.8 has a freezing order made against it;
 - 18.2.9 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title in those items;
 - 18.2.10 is subject to any events or circumstances analogous to those in clauses 18.2.1 to 18.2.9 in any jurisdiction;
 - 18.2.11 takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 18.2.1 to 18.2.10 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.
- 18.3 The Supplier may terminate the Contract at any time by giving not less than **four** weeks' notice in writing to the Customer if the Customer undergoes a change of Control.
- 18.4 The right of the Supplier to terminate the Contract pursuant to clause 18.2 shall not apply to the extent that the relevant procedure is entered into for the purpose of amalgamation, reconstruction or merger (where applicable) where the amalgamated, reconstructed or merged party agrees to adhere to the Contract.
- 18.5 If the Customer becomes aware that any event has occurred, or circumstances exist, which may entitle the Supplier to terminate the Contract under this clause 18, it shall immediately notify the Supplier in writing.
- 18.6 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Supplier at any time up to the date of termination.
- 18.7 On termination of the Contract:
- 18.7.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of the supply of the Deliverables but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - 18.7.2 the Customer shall return all of the Supplier Materials and any Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

- 18.8 Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 18.9 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

19 Notices

- 19.1 Any notice given by a party under these Conditions shall:
- 19.1.1 be in writing and in English;
 - 19.1.2 be signed by, or on behalf of, the party giving it (except for notices sent by email); and
 - 19.1.3 be sent to the relevant party at the address set out in the Contract
- 19.2 Notices may be given, and are deemed received:
- 19.2.1 by hand: on receipt of a signature at the time of delivery;
 - 19.2.2 by Royal Mail Recorded Signed For post: at 9.00 am on the second Business Day after posting;
 - 19.2.3 by Royal Mail International Tracked & Signed or Royal Mail International Signed post: at 9.00 am on the fourth Business Day after posting; and
 - 19.2.4 by email: on receipt of a delivery receipt email from the correct address.
- 19.3 Any change to the contact details of a party as set out in the Contract shall be notified to the other party in accordance with clause 19.1 and shall be effective:
- 19.3.1 on the date specified in the notice as being the date of such change; or
 - 19.3.2 if no date is so specified, 5 Business Days after the notice is deemed to be received.
- 19.4 All references to time are to the local time at the place of deemed receipt.
- 19.5 This clause does not apply to notices given in legal proceedings or arbitration.

20 Cumulative remedies

The rights and remedies provided in the Contract for the Supplier only are cumulative and not exclusive of any rights and remedies provided by law.

21 Time

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

22 Further assurance

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

23 Entire agreement

- 23.1 The parties agree that the Contract and any documents entered into pursuant to it 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.
- 23.2 Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.
- 23.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.

24 Variation

No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, the Supplier.

25 Assignment

- 25.1 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's prior written consent, which it may withhold or delay at its absolute discretion.
- 25.2 Notwithstanding clause 25.1, the Customer may perform any of its obligations and exercise any of its rights granted under the Contract through any Affiliate provided that it gives the Supplier prior written notice of such subcontracting or assignment including the identity of the relevant Affiliate. The Customer acknowledges and agrees that any act or omission of its Affiliate in relation to the Customer's rights or obligations under the Contract shall be deemed to be an act or omission of the Customer itself.

26 Set off

- 26.1 The Supplier shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which the Supplier has with the Customer.
- 26.2 The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

27 No partnership or agency

The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

28 Equitable relief

The Customer recognises that any breach or threatened breach of the Contract may cause the Supplier irreparable harm for which damages may not be an adequate remedy.

Accordingly, in addition to any other remedies and damages available to the Supplier, the Customer acknowledges and agrees that the Supplier is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

29 Severance

- 29.1 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.
- 29.2 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 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.

30 Waiver

- 30.1 No failure, delay or omission by the Supplier 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.
- 30.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Supplier shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Supplier.
- 30.3 A waiver of any term, provision, condition or breach of the Contract by the Supplier shall only be effective if given in writing and signed by the Supplier, and then only in the instance and for the purpose for which it is given.

31 Compliance with law

The Customer shall comply with all laws, enactments, regulations, regulatory policies, guidelines and industry codes applicable to it and shall maintain such 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.

32 Conflicts within contract

If there is a conflict between the terms contained in the Conditions and the terms of the Order, schedules, appendices or annexes to the Contract, the terms of the Conditions shall prevail.

33 Costs and expenses

The Customer shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of the Contract (and any documents referred to in it).

34 Third party rights

34.1 Except as expressly provided for in clause 34.2, 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.

34.2 Any Affiliate of the Supplier shall be entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract. The consent of any such Affiliate is not required in order to rescind or vary the Contract or any provision of it.

35 Governing law

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.

36 Jurisdiction

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).