

Terms and conditions for the supply of goods and services (Revised Feb 2020)

1. INTERPRETATION

The following definitions and rules of interpretation apply in this agreement.

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.

Commencement Date: has the meaning given in *Clause 2.2*.

Conditions: these terms and conditions as amended from time to time in accordance with clause 17.9.

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

Control: shall be defined as in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be construed accordingly.

Customer: Freebridge Community Housing Limited registered in England and Wales with company number 29744R.

Customer Materials: has the meaning set out in *Clause 5.3(j)*.

Data Protection Legislation: (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679), the Data Protection Act 2018 and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.

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).

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any related plans and drawings that is agreed in writing by the Customer and the Supplier.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks 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 (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: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form.

Personal Data: means any information relating to an identified or identifiable natural person (**data subject**) that is processed by the Supplier as a result of, or in connection with, the provision of the services under the Contract; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Services: the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

Service Specification: the description or specification for Services agreed in writing by the Customer and the Supplier.

Supplier: the person or firm from whom the Customer purchases the Goods and/or Services.

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 personal representatives, successors and permitted assigns.

(c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory 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 **writing or written** includes fax and email.

2. BASIS OF CONTRACT

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

2.2 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**).

2.3 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 trade, custom, practice or course of dealing.

2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified. These Conditions apply unless another form of contract is specified by the Customer or is agreed in writing between the parties.

3. SUPPLY OF GOODS

3.1 The Supplier shall ensure that the Goods shall:

- (a) correspond with their description and any applicable Goods Specification;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;
- (c) where they are manufactured products, be free from defects in design, materials 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; and

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 in respect of the Goods.

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 comply 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.

4. DELIVERY OF GOODS

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) it states clearly on the delivery note any requirement for the Customer to return any packaging material for the Goods to the Supplier. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.

4.2 The Supplier shall deliver the Goods:

- (a) on the date specified in the Order or, if no such date is specified, then within 30 days of the date of the Order;
- (b) to the location set out in the order or as instructed by the Customer before delivery (**Delivery Location**); and
- (c) during the Customer's normal hours of business on a Business Day, or as instructed by the Customer.

- 4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 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 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 6.1*.
- 4.5 Title and risk in the Goods shall pass to the Customer on completion of delivery.

5. SUPPLY OF SERVICES

- 5.1 The Supplier shall from the Commencement Date and for the duration of the Contract supply the Services to the Customer in accordance with the terms of the Contract.
- 5.2 The Supplier shall meet any performance dates for the Services that the Customer notifies to the Supplier and time is of the essence in relation to any of those performance dates.
- 5.3 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 and Deliverables will conform with all descriptions and specifications set out in the Service 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 to the provision of the Services;
 - (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 upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;

(l) comply with any additional obligations as set out in the Service Specification

6. CUSTOMER REMEDIES

6.1 If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, 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 and/or delivery of the Goods which the Supplier attempts to make;

(c) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods and/or 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/or Goods that it has not delivered; 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.

6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in *Clause 3.1*, then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights, whether or not it has accepted the Goods:

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

(b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;

(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 expenditure incurred by the Customer in obtaining substitute goods from a third party; and

(f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with *Clause 3.1*.

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

6.4 The Customer's rights under the Contract are in addition to its rights and remedies implied by statute and common law.

7. CUSTOMER'S OBLIGATIONS

7.1 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; and

8. CHARGES AND PAYMENT

8.1 The price for the Goods:

- (a)** 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 at the Commencement Date or as agreed in writing;
- (b)** shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Customer.

8.2 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.

8.3 In respect of Goods, the Supplier shall invoice the Customer within 15 days of supply. Invoices received after this time may not be accepted. Invoices received more than 89 days from delivery will not be accepted and will be returned to the Supplier. In respect of Services, the Supplier shall invoice the Customer within 15 days of the completion of the Service. Invoices received after this time may not be accepted. Invoices received more than 89 days from completion of the service will not be accepted and will be returned to the Supplier. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to supply details and valid Freebridge Purchase Order Number.

8.4 In consideration of the supply of Goods and/or Services by the Supplier, the Customer shall pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.

8.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

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

8.7 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Customer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 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.
- 9.2 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 perpetual and irrevocable licence to copy and modify the Deliverables (excluding Customer Materials) for the purpose of receiving and using the Services and the Deliverables.
- 9.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted by *Clause 9.2*.
- 9.4 All Customer Materials are the exclusive property of the Customer.

10. INDEMNITY

- 10.1 The Supplier shall indemnify and keep the Customer indemnified 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 made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding the Customer Materials);
 - (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 the Goods, as delivered, or the Deliverables; and
 - (c) any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.
- 10.2 This *Clause 10* shall survive termination of the Contract.

11. INSURANCE

During the term of the Contract and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance. Public liability insurance shall be for an amount no less than £5,000,000, 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.

12. CONFIDENTIALITY

- 12.1 Each party undertakes that it shall not at any time during the Contract and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by *Clause 12.2*.
- 12.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, subcontractors 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, subcontractors or advisers to whom it discloses the

other party's confidential information must comply with this *Clause 12*; and

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

12.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

13. DATA PROTECTION

13.1 Where this contract involves processing of personal data by the Supplier the following clauses apply:

13.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 1.2 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

13.3 The parties acknowledge that for the purposes of the Data Protection Legislation, Customer is the Controller and the Supplier is the data processor (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation).

13.4 The subject matter, duration, nature and purpose of processing and the Personal Data categories and data subject types which may be processed by the Supplier under the Contract together with any specific processing instructions will be specified in the Goods Specification/the Service Specification (as appropriate).

13.5 The Supplier shall, in relation to any **Personal Data** processed in connection with its obligations under this agreement:

(a) process that Personal Data only on the written instructions of Customer, unless the Supplier is required to do otherwise by law. If it is so required the Supplier shall promptly notify Customer before processing the Personal Data unless prohibited by law. This includes not using the Personal Data other than for the purposes supplied and not disclosing the Personal Data to any third party;

(b) ensure that it has in place at all times appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

(c) ensure that all employees, personnel and agents who have access to and/or process Personal Data

- a. are obliged to keep the Personal Data confidential;
- b. have undertaken training in the laws relating to handling Personal Data; and
- c. are aware both of the Suppliers duties and their personal duties and obligations under this Agreement

(d) not transfer or otherwise process any Personal Data outside of the European Economic Area unless the prior written consent of Customer has been obtained and the following conditions are fulfilled:

- (i) The Supplier has provided appropriate safeguards in relation to the transfer in accordance with the requirements of the Data Protection Legislation;

- (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by Customer with respect to the processing of the Personal Data;
- (e) assist Customer in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (f) notify Customer immediately if it receives any complaint, notice or communication that relates directly or indirectly to the processing of the Personal Data or to Customer's or the Supplier's compliance with the Data Protection Legislation;
 - (g) notify Customer within 3 days of receipt by the Supplier if it receives a request from a data subject for access to their Personal Data or to exercise any of their related rights under the Data Protection Legislation;
 - (h) notify Customer within 24 hours and without undue delay on becoming aware of a Personal Data Breach and the Supplier shall take reasonable and prompt steps to mitigate the effects and to minimise any damage resulting from the Personal Data Breach. The Supplier agrees that Customer has the sole right to determine whether to provide notice of any breach of the Personal Data to any affected data subjects, supervisory authorities, regulators or others and the Supplier shall not inform any third party of any breach of Personal Data without first obtaining Customer's consent, unless otherwise required by law;
 - (i) at the written direction of Customer, delete or return Personal Data and copies thereof to Customer on termination of this Agreement unless required by law to store the Personal Data; and
 - (j) maintain complete and accurate records and information to demonstrate its compliance with this clause 1.5 and allow for audits by Customer or Customer's designated auditor.
- 13.6** Before allowing any sub-processor to process any Personal Data related to this Agreement, the Supplier must:
- (a) notify Customer in writing of the intended Sub-Processor and processing;
 - (b) obtain the written consent of Customer;
 - (c) enter into a written agreement with the Sub-processor that contains terms substantially the same as those set out in this Agreement, in particular in relation to requiring appropriate technical and organisational data security measures; and
 - (d) provide Customer with such information regarding the Sub-processor as Customer may reasonably require, including a copy of any written agreement entered into between the Supplier and the Sub-processor.
- 13.7** The Supplier shall remain fully liable for all acts or omissions of any Sub-processor
- 13.8** Either party may, at any time on not less than 30 days' notice, revise this Clause 13 by replacing it with any applicable controller to processor standard clauses or similar terms forming party of an applicable certification scheme (which shall apply when replaced by attachment to this Agreement).

14. TERMINATION

- 14.1** Without 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 5.3*;

(b) for convenience by giving the Supplier 3 months' written notice.

14.2 Without 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 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), 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.

15. CONSEQUENCES OF TERMINATION

15.1 On termination of the Contract, 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.

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

15.3 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.

16. 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 it if such delay or failure results from events, circumstances or causes beyond its reasonable control.

17. GENERAL

17.3 Assignment and sub-contracting.

- (a) The Customer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.
- (b) The Supplier shall not assign or sub-contract this contract or any part thereof without the consent in

writing of the Customer.

- (c) The Supplier may not substitute any goods or materials specified within the Contract Documents for any others without the consent in writing of the Customer.
- (d) If the Supplier has without the previous consent in writing of the Customer sub-let any part of the Services the Customer may determine this contract notwithstanding that the Supplier may have subsequently ceased to employ the sub-contractor.
- (e) It shall be a condition of any consent to sub-let any part of the services that the employment of the sub-contractor shall cease immediately upon the determination (for whatever reason) of the suppliers employment under this contract.

17.2 Prevention of Corruption.

The Customer shall be entitled to terminate the contract forthwith and to recover from the Supplier the amount of any loss resulting from such termination if:

- (a) the Supplier shall, in the opinion of the Customer, have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to this Contract or any other contract, whether with the Customer or anyone else; or
- (b) the like acts shall have been done by any person employed by the Supplier or acting on his behalf and whether with or without his knowledge; or
- (c) in relation to any contract whether with the Customer or anyone else, the Supplier or any person employed by him or acting on his behalf and whether with or without his knowledge, shall have committed any offence under the Bribery Act 2010 (or any amendments of it) or given any fee or reward or solicited or accepted any form of money or taken any reward collection or charge for providing the Service other than bona fide charges previously approved in writing by the Customer.

17.3 Anti bribery

- (a) For the purposes of this clause 17.3 the expressions '**adequate procedures**' and '**associated with**' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- (b) The Supplier shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and ensure that:
 - (i) all of its personnel;
 - (ii) all others associated with it; and
 - (iii) all of its subcontractorsInvolved in performing the Contract so comply
- (c) Without limitation to clause 17.3(c), the Supplier warrants and undertakes not to 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.
- (d) The Supplier represents and warrants to Customer that it has not, prior to the date of this Agreement, bribed or attempted to bribe any Relevant Party in order to secure and/or retain any

business or business advantage with Customer whether in connection with this Contract or otherwise. For the purpose of this clause Relevant Party means Customer or any Charity employees, agents, representatives, affiliates or persons employed by or acting on behalf of Customer, any public or government officials or employees, public international organisations, political parties, or private individuals or other entities.

- (e) The Supplier agrees that its books, records and all accounts shall accurately reflect any and all payments in respect of transactions of the Supplier whether under this Contract or otherwise and Customer (and Customer's authorised representatives) shall have the right to inspect, audit and to take copies of the Supplier's books, records and accounts at any time on prior written notice.
- (f) The Supplier shall immediately notify Customer as soon as it becomes aware of a breach or possible breach of any of the requirements in this clause 17.3.
- (g) Any breach of clauses 17.4(c) to 17.4(e) by the Supplier shall be deemed a material breach of the Contract and shall entitle Customer to terminate the Contract with immediate effect.
- (h) Without prejudice to Customer's other rights in this Agreement, Customer shall not be required to make any payments to the Supplier that might otherwise be due from Customer if such payments are related to a transaction in connection with which the Supplier has breached this clause 17.3.

17.4 Anti-slavery

- (a) The Supplier undertakes, warrants and represents that:
 - (i) neither the Supplier nor any of its officers, employees, agents or subcontractors has:
 - (a) committed an offence under the Modern Slavery Act 2015 (a MSA Offence); or
 - (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;
 - (ii) it shall comply with the Modern Slavery Act 2015;
 - (iii) its responses to Customer's modern slavery and human trafficking questions and/or due diligence questionnaire are complete and accurate; and
 - (iv) it shall notify Customer immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of the Supplier's obligations under clause 17.4(a), such notice to set out full details of the circumstances concerning the breach or potential breach of the Supplier's obligations.
- (c) Any breach of clause 17.4(a) by the Supplier shall be deemed a material breach of the Contract and shall entitle Customer to terminate the Contract with immediate effect
- (d) The Supplier shall implement due diligence procedures for its subcontractors and suppliers and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.
- (e) The Supplier agrees that it shall maintain a set of records to accurately reflect the supply chain of all Goods and Services provided to Customer in connection with this Contract and Customer (and Customer's authorised representatives) shall have the right to inspect, audit and to take copies of the Supplier's records in relation to or connection with the same at any time on prior written notice.

17.5 Notices.

- (a) Any notice or other communication 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); or sent by fax to its main fax number or sent by email to the address specified in the contract.
- (b) A notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; 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; if sent by fax or email, at 9.00 am on the next Business Day after transmission.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

17.6 Severance.

If any provision or part-provision of the Contract 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 shall not affect the validity and enforceability of the rest of the Contract.

17.7 Waiver.

A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Contract 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 the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

17.8 No partnership or agency.

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

17.9 Entire agreement.

The Contract constitutes the entire contract 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.

17.10 Third party rights.

- (a) Unless it expressly states otherwise, 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.
- (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

17.11 Variation.

- (a) 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 parties or their authorised representatives.
- (b) The Customer may, without invalidating this contract order any change in the Goods and/or Services or the order or period in which they are to be carried out. Any such variation will be communicated to the Supplier in writing.

17.12 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 and Wales.

17.13 Jurisdiction.

Each party irrevocably agrees that the courts of England and Wales 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.

End of document