SPERRY RAIL (INTERNATIONAL) LIMITED

TERMS AND CONDITIONS FOR THE PURCHASE OF DELIVERABLES

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions, the following words and expressions shall have the following meanings unless inconsistent with the context:

"Acceptance Criteria" such minimum criteria set out in the Order which the Deliverables shall satisfy which shall include but not be limited to compliance with the obligations set out in Condition 3.1 and as more particularly defined in Condition 8.1;

"Account Manager" the individual identified to the Supplier as such in the Order or otherwise in writing;

"Brexit" the United Kingdom's exit from the European Union the scope and timing for which shall be set out and ratified by primary legislation and/or devolved legislation within the laws of England and Wales;

"Brexit Change in Law" following Brexit the following occurs: (a) the UK Government imposes specific costs which adversely affect the supply of the Deliverables; (b) there is a divergence between the rules applicable in the UK and the EU which adversely affects the supply of the Deliverables; (c) the Supplier suffers passporting issues within its labour force and/or supply chain issues excluding matters which the Supplier as a competent and commercial supplier should have foreseen as at the Commencement Date as likely consequences of Brexit; (d) any changes to tariffs or other specific costs imposed on goods and services on account of Brexit which adversely affect the supply of the Deliverables; and/or

any other matter which the Customer considers (acting reasonably) shall be a Brexit Change in Law specific to the Supplier's business;

"Commencement Date" as set out in Condition 2.2;

"Conditions" these terms and conditions;

"**Confidential Information**" without limitation, business, commercial, economic, financial, operational, technical, administrative, marketing, planning and staff information and data relating to the Supplying Party or its interests disclosed including any Intellectual Property Rights to the Receiving Party whether before, during or after the provision of the Deliverables, whether in written, oral, pictorial or any other form, and all information, data, know-how, trade secrets, formulae, processed, designs, photographs, drawings, specifications, software programs, samples or other material attributable to or deriving its existence from the provision of the Deliverables. "**Supplying Party**" and "**Receiving Party**" shall have the meanings ascribed in Condition 16;

"Contract" the contract for the supply of Deliverables from the Supplier to the Customer in accordance with Condition 2.2;

"Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures" as defined in the Data Protection Legislation;

"Customer" Sperry Rail (International) Limited registered in England and Wales with company number 0437479, and whose registered office is at Derwent House, RTC Business Park, London Road, Derby, DE24 8DP;

"Data Protection Legislation" the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party;

"Deliverables" Goods, Services, 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, including without limitation computer programs, data, reports and specifications (including drafts);

"Delivery Date" the date(s) on which the Supplier shall deliver the Deliverables in accordance with Condition 7.2 and as specified in the Order or as otherwise notified by the Customer to the Supplier from time to time;

"Delivery Location" such location as is set out in the Order or as otherwise instructed by the Customer from time to time prior to delivery;

"Document(s)" without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form;

"General Change in Law" a change in Law which comes into effect after the Commencement Date, where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which would affect and/or relate to a comparable supply of works and/or services of the same or a similar nature to the supply of the Deliverables;

"Goods" the goods (or any part of them) as set out in the Order to be supplied to the Customer;

"Group Company" in relation to a company, that company, any Subsidiary or Holding Company from time to time, and any Subsidiary from time to time of a Holding Company of that company;

"Holding Company" has the meaning given in Condition 1.9;

"Input Materials" all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier and any requirements set out in the Order;

"Intellectual Property Rights" all patents, industrial designs, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

"Law" any legal provision a party must comply with including any legislation which on the date of the Contract has been published: (a) in a draft Bill as part of a Government Departmental Consultation Paper; (b) in a Bill; or (c) in a draft statutory instrument or (d) as a proposal in the Official Journal of the European Union; or (e) subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, enforceable EU right within the meaning of section 2 of the European Communities Act 1972, bye-law, regulation, order, mandatory guidance or code of practice, judgment of a court of law, or requirement of any regulatory body, whether in the UK or elsewhere;

"Order" the Customer's order for the supply of Deliverables, as set out in the Customer's purchase order form or otherwise in writing, including the Specification and any other document specified in the purchase order or identified as forming part of the Customers' order;

"**Proposal**" any proposal, tender, estimate, scope of works or quotation submitted to the Customer by the Supplier prior to the Contract being made;

"Services" the services to be provided by the Supplier under the Contract as set out in the Order;

"Specific Change in Law" a change in Law which comes into effect after the Commencement Date that relates specifically to the business of the Customer, and which would not affect a comparable supply of works and/or services of the same or a similar nature to the supply of the Deliverables or a Brexit Change in Law;

"Specification" any specification or description for the Deliverables (including any relevant plans or drawings) either produced by the Customer or produced by the Supplier and agreed in writing by the Customer;

"Standards" the specific standards to be met in relation to the Deliverables and such standards as more particularly set out in the Order;

"Subsidiary" has the meaning given in Condition 1.9;

"Supplier" the person or firm from whom the Customer purchases the Deliverables;

"UK Data Protection Legislation" means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation (*(EU) 2016/679*); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) as amended; and

"Working Day" a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.

1.2 References to any statute or statutory provision include, unless the context otherwise requires, a reference to the statute or statutory provision as modified or re-enacted and in force from time to time and any subordinate legislation made from time to time under the relevant statute or statutory provision.

1.3 References to "**persons**" include natural persons, firms, partnerships, companies, corporations, associations and organisations, (in each case whether or not having separate legal personality).

1.4 Use of any gender includes the other genders.

1.5 Words in the singular include the plural and words in the plural include the singular.

1.6 Any reference to "**writing**" or any cognate expression includes communications by post and email but excludes facsimile and text messages.

1.7 The headings to Conditions do not affect the interpretation of these Conditions.

1.8 Any phrase introduced by the term "**include**", "**including**", "**in particular**" or any similar expression will be construed as illustrative and will not limit the sense of the words preceding that term.

1.9 A reference to a "**Holding Company**" or a "**Subsidiary**" means a holding company or a subsidiary as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee) by way of security or in connection with the taking of security, or (b) its nominee.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Deliverables 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 The Customer may cancel an Order at any time within 48 hours of Order placement, without liability to the Supplier for any loss (including loss or profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of such cancellation.

3. DELIVERABLES

3.1 In providing the Deliverables, the Supplier shall:

(a) co-operate with the Customer in all matters relating to the Deliverables, and comply with all instructions of the Customer;

(b) in providing the Deliverables use its 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 this Contract;

(d) ensure that the Deliverables shall:

(i) conform and correspond with all descriptions and any applicable specifications set out in the Specification including the Standards;

(ii) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979);

(iii) be fit for any purpose held out by, or expressly or impliedly made known to, the Supplier by the Customer and shall remain so for 12 months after delivery or such other time period set out in the Order, and in this respect the Customer relies on the Supplier's skill and judgment;

(iv) where applicable, be free from defects in design, materials and workmanship and remain so for 12 months after delivery or such other time period set out in the Order; and

(v) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Deliverables including but not limited to the Standards;

(e) where the Supplier is not the manufacturer of the Deliverables, the Supplier shall use its best endeavours to transfer to the Customer the benefit of any warranty or guarantee given to the Supplier in relation to the Deliverables, but in any event this shall not affect the warranty set out in Conditions 3.1(d)(iii) or 3.1(d)(iv);

(f) provide all such other items as are required to provide the Deliverables;

(g) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables will be free from defects in workmanship, installation and design;

(h) obtain and at all times maintain all necessary licences, permissions, authorisations, permits and consents, and comply with all applicable laws and regulations;

(i) observe all health and safety rules and regulations and any other security requirements that apply at any of the Delivery Location;

(j) hold the Input Materials in safe custody at its own risk, maintain the Input Materials in good condition until returned to the Customer, and not dispose of or use the Input Materials other than in accordance with the Customer's written instructions or authorisation; and

(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 Deliverables.

3.2 The Customer shall have the right to inspect and test the Deliverables at any time before the Delivery Date.

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

3.4 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Deliverables and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Customer shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

4. CHANGES TO THE DELIVERABLES

4.1 The Customer and the Supplier shall meet as and when deemed reasonably necessary by the Customer to discuss matters relating to the Deliverables. If the Customer wishes to change the scope or execution of the Deliverables, it shall submit details of the requested change to the Supplier in writing.

4.2 If the Customer requests a change to the scope or execution of the Deliverables, the Supplier shall, within a reasonable time, and where reasonably practicable, provide a written estimate to the Customer of:

(a) the likely time required to implement the change;

(b) any variations to the price arising from the change;

(c) the likely effect of the change on the Order; and

(d) any other impact of the change on the Conditions.

4.3 The Customer will indicate acceptance of a change to the Deliverables in writing to the Supplier in accordance with Condition 25.1.

5. PACKAGING

5.1 The Supplier shall ensure where applicable that:

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

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

(c) if the Supplier requires the Customer to return any packaging material for the Deliverables to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.

6. TITLE AND RISK

6.1 Title in the Deliverables shall pass to the Customer at the Delivery Date or on the date the Customer makes payment for the Deliverables in accordance with Condition 12, whichever is sooner.

6.2 Risk in the Deliverables shall pass to the Customer on acceptance in accordance with Condition 8 below.

7. DELIVERY

7.1 The Supplier shall from the Commencement Date provide the Deliverables to the Customer in accordance with the terms of the Contract.

7.2 The Supplier shall deliver the Deliverables to the Customer at the Delivery Location on the Delivery Date. The time for delivery of the Deliverables shall be of the essence to the Contract.

7.3 Delivery of the Deliverables shall be completed on the completion of unloading of the Deliverables at the Delivery Location.

7.4 If the Supplier delivers less than the quantity of Deliverables ordered, the Customer may reject the Deliverables and any rejected Deliverables shall be returnable at the Supplier's risk and expense. If the Supplier delivers less than the quantity of Deliverables ordered, and the Customer accepts the delivery, a pro rata adjustment shall be made to the invoice for the Deliverables.

7.5 The Supplier shall not deliver the Deliverables in instalments without the Customer's prior written consent. Where it is agreed that the Deliverables 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 Condition 9.

8. ACCEPTANCE

8.1 Acceptance of the Deliverables shall take place upon the signing of an acceptance certificate by the Customer (or its nominated representative), on satisfaction of the Acceptance Criteria.

9. CUSTOMER REMEDIES

9.1 If the Supplier fails to deliver or perform the Deliverables by the Delivery Date, the Customer shall, without limiting its other rights or remedies, 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 or delivery of the Deliverables 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) where the Customer has paid in advance for Deliverables that have not been provided by the Supplier, to have such sums refunded by the Supplier; 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.

9.2 If the Supplier has delivered Deliverables that do not comply with the undertakings set out in Condition 3.1, then, without limiting its other rights or remedies, the Customer shall have one or more of the following rights, whether or not it has accepted the Deliverables:

(a) to reject the Deliverables (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;

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

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

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

(e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute goods and/or services 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 Deliverables in accordance with Condition 3.1.

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

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

10. RESTRICTIONS

10.1 The Supplier shall not, without the prior written consent of the Customer, at any time from the date of the Contract to the expiry of 6 months after the termination of the Contract, solicit or entice away from the Customer or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of the Customer.

10.2 Any consent given by the Customer in accordance with Condition 10.1 shall be subject to the Supplier paying to the Customer a sum equivalent to 20% of the then current annual remuneration of the Customer's employee or sub-contractor or, if higher, 20% of the annual remuneration to be paid by the Supplier to that employee or sub-contractor.

10.3 The Supplier shall not canvass, solicit or otherwise seek the custom of, or have any dealings with any person who is at any time during the term of the Contract, or who at any time during the period of 12 months immediately preceding the date of the Contract has been, a supplier, contractor, client or customer of the Customer ("**Restricted Party**"), in relation to the supply of deliverables, goods, products or services the same as or similar to those supplied either by or to the Customer.

10.4 The Supplier shall not induce or attempt to induce a Restricted Party to cease conducting, or to reduce the amount of business conducted with, or to vary adversely the terms upon which it conducts business with the Customer, or do any other thing which is reasonably likely to have such an effect.

10.5 The undertakings in Condition 10 are intended for the benefit of, and shall be enforceable by the Customer, and apply to actions carried out by the Supplier in any capacity and whether directly or indirectly, on the Supplier's behalf or on behalf of, or jointly with, any other person.

10.6 Each of the undertakings in this Condition 10:

(a) is considered fair and reasonable by the parties;

(b) is a separate undertaking by the Supplier; and

(c) shall be enforceable separately and independently of the Customer's right to enforce any one or more of the other undertakings contained in this Condition.

11. CUSTOMER'S OBLIGATIONS

11.1 The Customer shall:

(a) provide the Supplier with, or, where applicable use its reasonable endeavours to procure, reasonable access at reasonable times to the Delivery Location for the purpose of providing the Deliverables; and

(b) provide such Input Materials as the Supplier may reasonably request for the provision of the Deliverables and the Customer considers reasonably necessary for the purpose of providing the Deliverables. For the avoidance of doubt, the time of delivery for providing Input Materials shall not be of the essence of the Contract.

12. PRICE AND PAYMENT

12.1 The price for the Deliverables:

(a) shall be the price set out in the Order; and

(b) shall be inclusive of the costs of packaging, insurance and delivery of the Deliverables, unless otherwise agreed in writing by the Customer;

(c) shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the provision of the Deliverables; and

no extra charges shall be effective unless agreed in writing and signed by the Customer in advance or as expressly set out in the Order.

12.2 The Supplier shall invoice the Customer on or at any time after acceptance of the Deliverables by the Customer in accordance with Condition 8. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant Order number.

12.3 In consideration of the supply of Deliverables by the Supplier, the Customer shall pay the invoiced amounts in accordance with the Order, or if no such date is specified then 30 days of the end of the month in which the invoice was received by the Customer.

12.4 Unless otherwise stated in the Order, all amounts payable by the Customer under the Contract are inclusive of VAT chargeable from time to time or any other sales tax which will be charged at the rate in force at the time of provision of the Deliverables.

12.5 If the Customer fails to pay any amount properly due and payable by it under the Contract, the Supplier shall have the right to charge interest on the overdue amount at the rate of 1% per annum above the base rate for the time being of the Bank of England accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment. This Condition 12.5 shall not apply to payments that the Customer disputes in good faith.

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

12.7 The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part. The Customer may, without limiting its other rights or remedies, set off any amount owing to it by the Supplier against any amount payable by the Customer to the Supplier.

13. CHANGE IN LAW

13.1 **No release**

The Supplier shall neither be relieved of its obligations under the Contract to supply the Deliverables, nor be entitled to an increase in the price as the result of:

(a) a General Change in Law; or

(b) a Specific Change in Law where the effect of that Specific Change in Law on the Deliverables is known at the Commencement Date; or

(c) a Brexit Change in Law.

13.2 **Notification**

If a Specific Change in Law occurs or will occur during the term of the Contract, the Supplier shall notify the Customer of the likely effects of that change, including:

(a) whether any change is required to the Deliverables, or the price; and

(b) whether any relief from compliance with the Supplier's obligations is required, including any obligation to achieve any milestones or to meet any of its obligations at any time.

13.3 **Mitigation**

As soon as practicable after any notification in accordance with Condition 13.2, the parties shall discuss and agree the matters referred to in that notice and any ways in which the Supplier can mitigate the effect of the Specific Change of Law, including:

(a) providing evidence that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its suppliers and subcontractors;

(b) demonstrating that a foreseeable Specific Change in Law had been taken into account by the Supplier before it occurred;

(c) giving evidence as to how the Specific Change in Law has affected the cost of providing the Deliverables; and

(d) demonstrating that any expenditure that has been avoided has been taken into account in amending the price.

14. INDEMNITY AND LIABILITY

14.1 The Supplier shall keep the Customer indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Customer as a result of or in connection with:

(a) 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 Deliverables, to the extent that the defect in the Deliverables is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

(b) any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Deliverables, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and

(c) 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, receipt or use of the Deliverables.

14.2 The Supplier shall at all times take all steps to mitigate its losses under the Contract.

14.3 For the duration of the Contract and for a period of 2 years thereafter, the Supplier shall maintain in force, with a reputable insurance company; professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

14.4 For the purposes of Condition 14.1, a reference to the Customer shall include any Group Company of the Customer, and the provisions of this Condition shall be for the benefit of the Customer and each Group Company, and shall be enforceable by each such Group Company in addition to the Customer.

14.5 Subject to the provisions of Conditions 14.6 and 14.7 below, the Customer's maximum aggregate liability to the Supplier arising out of or in connection with this Contract (whether in contract, tort (including negligence) under any indemnity or otherwise) shall be limited to an amount equivalent to the price due to the Supplier in respect of the Deliverables delivered to the Customer.

14.6 The Customer shall have no liability in respect of any:

(a) loss of profits.

(b) loss of sales or business.

(c) loss of agreements or contracts.

(d) loss of anticipated savings.

(e) loss of use or corruption of software, data or information.

(f) loss of or damage to goodwill.

(g) indirect or consequential loss.

14.7 Nothing in these Conditions shall limit a party's liability for:

(a) death or personal injury caused by its negligence or the negligence of its employees, agents and/or sub-contractors;

(b) fraud committed by it or its employees, agents and/or subcontractors; or

(c) any other liability which cannot be excluded by law.

14.8 This Condition 14 shall survive termination of the Contract.

15. INTELLECTUAL PROPERTY RIGHTS

15.1 The Supplier acknowledges that the Customer is the owner or licensee of all the Intellectual Property Rights in the Input Materials. Under no circumstances shall any of the Intellectual Property Rights in the Input Materials transfer to the Supplier.

15.2 The Supplier warrants that it has full clear and unencumbered title to all the Deliverables and that at the date of delivery of such items to the Customer, it will have full and unrestricted rights to sell and transfer all such items to the Customer.

15.3 The Supplier assigns to the Customer, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the Deliverables.

15.4 The Supplier shall obtain waivers of all moral rights in the Deliverables to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

15.5 The Supplier shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with Condition 15.3.

15.6 All Input Materials are the exclusive property of the Customer (or its licensor as applicable). The Customer grants to the Supplier a non-exclusive licence (without the right to sub-licence) to use any Intellectual Property Rights in the Input Materials for the purpose of making reasonable use of the Input Materials.

16. PROTECTION OF CONFIDENTIAL INFORMATION

16.1 Notwithstanding termination of the Contract, each party ('**Receiving Party**') shall keep the Confidential Information of the other party ('**Supplying Party**') confidential and secret, the Receiving Party shall only use the Confidential Information of the Supplying Party as necessary to supply of the Deliverables (in the case of the Supplier) or as necessary for the purpose of making reasonable use of the Deliverables (in the case of the Customer) and for performing the Receiving Party's obligations under the Contract. The Receiving Party shall inform its officers, employees and agents of the Receiving Party's obligations under the provisions of this Condition 16, and ensure that they meet such obligations.

16.2 The obligations of Condition 16.1 shall not apply to any information which:

(a) was known or in the possession of the Receiving Party before it was provided to the Receiving Party by the Supplying Party;

(b) is, or becomes, publicly available through no fault of the Receiving Party;

(c) is provided to the Receiving Party without restriction or disclosure by a third party, who did not breach any confidentiality obligations by making such a disclosure;

(d) was developed by the Receiving Party (or on its behalf) without direct access to, or use or knowledge of the Confidential Information supplied by the Supplying Party; or

(e) is required to be disclosed by order of a court of competent jurisdiction.

16.3 This Condition 16 shall survive termination of the Contract.

17. DATA PROTECTION

17.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Condition 17 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this Condition 17, **"Applicable Laws"** means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **"Domestic UK Law"** means any Data Protection Legislation and any other law that applies in the UK.

17.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and the Supplier is the processor.

17.3 Without prejudice to the generality of Condition 17.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:

(a) process that personal data only on the documented written instructions of the Customer unless the Supplier is required by Applicable Laws to otherwise process that personal data. Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing personal data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;

(b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, 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 personnel who have access to and/or process personal data are obliged to keep the personal data confidential;

(d) not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

(i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;

(ii) the data subject (as defined in the Data Protection Legislation) 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 the Customer with respect to the processing of the personal data;

(e) assist the Customer, at the Customer's cost, 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 the Customer without undue delay on becoming aware of a personal data breach;

(g) at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Contract unless required by Applicable Law to store the personal data; and

(h) maintain complete and accurate records and information to demonstrate its compliance with this Condition 17 and allow for audits by the Customer or the Customer's designated auditor and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

17.4 The Customer does not consent to the Supplier appointing any third party processor of Personal Data under the Contract.

18. ANTI-BRIBERY AND ANTI-CORRUPTION

18.1 The Supplier shall:

(a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Requirements**");

(b) promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Contract;

(c) within 1 month of the commencement of the Contract, and annually thereafter, certify to the Customer in writing signed by an officer of the Supplier, compliance with this Condition 18 by the Supplier and all persons associated with it under Condition 18.2. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request.

18.2 The Supplier shall ensure that any of its personnel (which shall include any employee or contractor engaged by the Supplier to perform the Contract) do 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 Condition 18 ("**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.

18.3 Breach of this Condition 18 shall be deemed a material breach under Condition 19.1(a).

19. TERMINATION AND CONSEQUENCES

19.1 Without prejudice to any other remedies or rights whether under the Contract or otherwise, the Customer may terminate the Contract at any time by written notice to the Supplier and the notice taking effect as specified in the notice if:

(a) the Supplier commits a material or persistent breach of any of these Conditions, and (if such a breach is remediable), fails to remedy that breach within 3 days of being notified in writing;

(b) the Supplier suspends, or threatens to suspend, payment of its debts or makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction);

(c) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of any property or assets of the Supplier;

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

(e) the Customer reasonably apprehends that any of the events mentioned above is about to occur and notifies the Supplier accordingly.

19.2 For the purposes of Condition 19.1(a), a breach shall be considered capable of remedy if the Supplier can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).

19.3 Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier, or in accordance with Condition 20, in which case the Customer shall pay the Supplier fair and reasonable compensation for any work in progress on any other Deliverables at the date of termination but such compensation shall not include loss of anticipated profits or any consequential loss and shall be subject at all times to the provisions of Condition 14.2.

19.4 In any of the circumstances in these Conditions in which the Customer may terminate the Contract, the Customer may instead terminate part of the Contract in respect of the Deliverables, and the Contract shall continue in respect of the remaining supply.

19.5 On termination of the Contract or any part of it for any reason:

(a) the Supplier shall immediately return all Input Materials to the Customer at its own cost. If the Supplier fails to do so, then the Customer may, without limiting its other rights or remedies, enter the Supplier's premises and take possession of them. Until they have been returned the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;

(b) the Supplier shall immediately deliver to the Customer all Deliverables which are capable of delivery. If the Supplier fails to do so, then the Customer may without limiting its other rights or remedies enter the Supplier's premises and take possession of them. Until they have been delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract. Where the Supplier has not yet invoiced the Customer for such Deliverables then it shall do so and payment shall be due in accordance with Condition 12;

(c) the Supplier shall immediately discontinue work on the Order and shall within 1 month following termination submit any claim for monies due from the Customer under the Contract subject to the provisions Condition 14.2. The Customer shall not be liable to the Supplier for any claims received from the Supplier in accordance with this Condition 19.5(c) more than 1 month after termination;

(d) the Customer shall be entitled at its option, to purchase any Deliverables which are not ready for delivery or are otherwise incomplete. The Customer will be entitled to offer a price for them based on their completeness and conformity to the Specification, not to be unreasonably refused by the Supplier. For the avoidance of doubt, the Customer shall not be obliged to also pay compensation under Condition 17.3 in respect of any Deliverables which it chooses to purchase;

(e) each party shall return, delete or destroy all Confidential Information and all other information which has been provided to it by the other party belonging to that other party in whatever medium in accordance with the instructions of that other party;

(f) any licence granted by these Conditions shall terminate, in particular those granted under Condition 15;

(g) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and

(h) Conditions which expressly or by implication have effect after termination shall continue in full force and effect.

20. FORCE MAJEURE

20.1 The Customer shall not be liable to the Supplier or be deemed to be in breach of this Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Contract, if the delay or failure was due to any cause beyond the Customer's reasonable control such as (but without limitation) any strike, lock-out or other form of industrial action, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or government order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors or inability to procure materials required for performance of the Contract.

20.2 The Supplier shall promptly notify the Customer in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 1 week, the Customer may terminate the Contract by written notice to the Supplier and the provisions of Condition 19.3 shall apply.

21. NOTICES

21.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Notices:

(a) sent by post shall be deemed served on the next Working Day following posting where the notice is sent and received within the United Kingdom, or 7 Working Days following posting where the notice is sent and/or received outside of the United Kingdom;

(b) delivered personally shall be deemed served at the time of personal delivery, provided the same occurs on a Working Day;

(c) sent by email shall be deemed served at the time of transmission provided that the transmission occurs on a Working Day and a confirmatory copy of the email is sent by post within 24 hours of transmission of the email.

21.2 To prove service it shall be sufficient to show that the email was transmitted to the email address of the other party or that the envelope containing the notice was properly addressed and posted.

22. ENTIRE AGREEMENT

22.1 Each Contract constitutes the entire agreement between the parties in relation to its subject matter, supersedes any previous agreement or understanding and may not be varied except in writing between the parties. All other terms and conditions express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.

23. NO PARTNERSHIP OR AGENCY

23.1 Nothing in the Contract 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 another party in any way.

24. FURTHER ASSURANCE

24.1 Each party to the Contract shall at the request and expense of the other execute and do any deeds and other things reasonably necessary to carry out the provisions of the Contract or to make it easier to enforce.

25. ASSIGNMENT

25.1 The Customer may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

25.2 The Supplier shall not, without the prior written consent of the Customer, assign, transfer, charge, sub-contract or deal in any manner with all or any of its rights or obligations under the Contract.

25.3 In the event that the Supplier enters into any sub-contract in connection with this Contract it shall:

(a) remain responsible to the Customer for the performance of its obligations under the Contract notwithstanding the appointment of any sub-contractor and be responsible for the acts omissions and neglects of its sub-contractors; and

(b) impose obligations on its sub-contractor in substantially similar terms as those imposed on it pursuant to this Contract where appropriate and applicable and shall procure that the sub-contractor complies with such terms.

26. VARIATION

26.1 Any variation, including any additional terms and conditions, to the Contract shall only be binding when agreed in writing and a copy of the variation provided to the Supplier by the Account Manager.

27. SEVERANCE

27.1 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions shall remain in full force and effect.

28. WAIVER

28.1 A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by the Customer to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

29. CUMULATIVE REMEDIES

29.1 All rights and remedies available to either of the parties under the terms of the Contract or under the general law are to be cumulative, and no exercise by either of the parties of any such right or remedy is to restrict or prejudice the exercise of any other right or remedy granted by the Contract or otherwise available to that party.

30. THIRD PARTY RIGHTS

30.1 Subject to Condition 30, a person who is not a party to the Contract will not have any rights under any term of the Contract.

30.2 Any Group Company of the Customer will be entitled to enforce the rights of the Customer under this Contract as if it were the Customer.

31. GOVERNING LAW AND JURISDICTION

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