

**STANDARD TERMS AND CONDITIONS**

**FOR SALE OF GOODS**

**SCTS TC5**

1. DEFINITIONS AND INTERPRETATION

[2. SUPPLY OF GOODS 8](#_Toc405276855)

[3. VARIATION OF THE CONTRACT 10](#_Toc405276856)

[4. PAYMENT AND CHARGES 10](#_Toc405276857)

[5. CONFIDENTIALITY 10](#_Toc405276858)

[6. Information 11](#_Toc405276859)

[7. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS 14](#_Toc405276860)

[8. TERMINATION 14](#_Toc405276861)

[9. PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES 15](#_Toc405276862)

[10. PREVENTION OF BRIBERY AND CORRUPTION 16](#_Toc405276863)

[11. NON-DISCRIMINATION 17](#_Toc405276864)

[12. PREVENTION OF FRAUD 17](#_Toc405276865)

[13. TRANSFER AND SUB-CONTRACTING 17](#_Toc405276866)

[14. WAIVER 18](#_Toc405276867)

[15. CUMULATIVE REMEDIES 18](#_Toc405276868)

[16. FURTHER ASSURANCES 18](#_Toc405276869)

[17. SEVERABILITY 18](#_Toc405276870)

[18. ENTIRE AGREEMENT 18](#_Toc405276871)

[19. NOTICES 19](#_Toc405276872)

[20. DISPUTES AND LAW 20](#_Toc405276873)

DEFINITIONS AND INTERPRETATION

* 1. **Definitions**

In the Contract, unless the context otherwise requires, the following provisions shall have the meanings given to them below:

**“Authority”** means the Scottish Courts and Tribunals Service, Saughton House, Broomhouse Drive, Edinburgh EH11 3XD;

**“Authority’s Anti Slavery and**

**Human Trafficking Policy”** means the Anti Slavery and Human Trafficking Policy of the Authority, as may be in place and/or updated from time to time

**“Authority’s Confidential Information”** means all the Authority’s information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and Purchasers of the Authority , including all Intellectual Property Rights, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked “confidential”) or which ought reasonably be considered to be confidential;

**“Authority’s Representative”** means the representative of the Authority appointed by the Authority from time to time in relation to the Contract and notified to the Purchaser;

**“Change in Law”** means a change in the Law or a new requirement to comply with any existing Law or existing Law ceasing to apply to a party;

**“Commercially Sensitive Information”** means the Confidential Information comprising commercially sensitive information:

1. relating to the Purchaser, it’s IPR or its business or information which the Purchaser has indicated to the Authority that, if disclosed by the Authority, would cause the Purchaser significant commercial disadvantage or material financial loss;
2. that constitutes a trade secret;

**“Confidential Information”** means as the context allows, the Authority’s Confidential Information and/or the Purchaser’s Confidential Information;

**“Contract”** means the written agreement between the Authority and the Purchaser constituted by the Authority’s acceptance of the Purchaser’s offer to purchase the Goods, these terms and conditions, and any other documents incorporated into them by reference or attachment;

**“Contract Charges”** means the prices (exclusive of any applicable VAT), payable by the Purchaser to the Authority under the Contract for the Delivery by the Authority of the Goods;

**“Contract Mediator”** has the meaning set out in clause 22.2.5.1;

**“Crown”** means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

**“Data Protection Laws”** means any law, statute, subordinate legislation, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of Personal Data to which a party is subject including the Data Protection Act 2018 and any statutory modification or re-enactment thereof and the GDPR;

**“Delivery”** means the time at which the Goods have been delivered by the Authority in respect of the Contract and accepted by the Purchaser and **“Deliver”**, **“Delivered”** and **“Delivering”** shall be construed accordingly;

**“EIR**” means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations;

**“FOISA”** meansthe Freedom of Information (Scotland) Act 2002, and any subordinate legislation made under the Act from time to time together with any guidance and /or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;

**“Fraud”** means any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts or defrauding or attempting to defraud or conspiring to defraud the Crown;

**“GDPR”** means the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

**“Goods”** means the goods being supplied to the Purchaser by the Authority in terms of this Contract;

**“Good Industry Practice”** means standards, practices, methods and procedures conforming to the Law and the requirements of any Regulatory Body which is responsible for regulating the Purchaser and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in providing Goods similar to the Goods;

**“Intellectual Property Rights” or “IPR”** means:

1. copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, service marks, logos, database rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, design rights (whether registerable or otherwise), know-how, trade secrets and moral rights and other similar rights or obligations;
2. applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
3. all other rights whether registerable or not having equivalent or similar effect in any country or jurisdiction (including but not limited to the United Kingdom) and the right to sue for passing off;

**“Information”** has the meaning given under section 73 of the Freedom of Information (Scotland) Act 2002;

**“Law”** means any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, rule of common law, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of Court or directives or requirements of any Regulatory Body, delegated or subordinate legislation;

**“Material Breach”** means a material breach of this Contract;

**“Order”** means an order for the provision of the Goods placed by the Authority with the Purchaser;

**“Party”** means the Purchaser or the Authority and **“Parties”** shall mean both of them;

**“Purchaser”** means the individual, firm, company or other organisation or body contracting to purchase any goods from the Authority;

**“Purchaser’s Staff”**  means all the persons employed by the Purchaser from time to time in relation to the Contract;

**“Premises”** means land or buildings owned or occupied by the Authority;

**“Processing”** has the meaning given in the Data Protection Laws and cognate expressions shall be construed accordingly;

**“Prohibited Act”** means;

1. directly or indirectly offering, promising or giving any person working for or engaged by the Authority a financial or other advantage to induce that person to perform improperly a relevant function or activity or reward that person for improper performance of a relevant function or activity; or
2. committing any offence:

2.1 under the Bribery Act 2010; or

2.2 under legislation creating offences concerning fraudulent acts; or

2.3 at common law concerning fraudulent acts in relation to this Contract or any other contract with the Authority ; or

1. defrauding, attempting to defraud or conspiring to defraud the Authority;

**“Regulatory Bodies”** means government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract and “**Regulatory Body**” shall be construed accordingly;

**“Request for Information”** means a request for information relating to the provision of the Goods or an apparent request for such information under FOISA or EIR;

**“Supervisory Authority”** has the meaning given in Data Protection Laws;

**“Term”** means the term of this Contract as determined in accordance with the Contract;

**“VAT”** means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and

**“Working Day”** means any day other than a Saturday, Sunday or public holiday in Scotland.

**Interpretation**

The interpretation and construction of the Contract shall be subject to the following provisions:

1.1.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;

1.1.2 words importing the masculine include the feminine and the neuter;

1.1.3 the words “include”, “includes” and “including” “for example” and “in particular” and words of similar effect are to be construed as if they were immediately followed by the words “without limitation” and shall not limit the general effect of the words which precede them;

1.1.4 references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;

1.1.5 the Appendices, Annexes and Schedules form part of these terms and shall have effect as if set out in full in the body of these terms and any reference to these terms includes the Appendices Annexes and Schedules;

1.1.6 references to any statute, enactment, order, regulation, code, official guidance or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, code, official guidance or instrument as amended or replaced by any subsequent enactment, modification, order, regulation, code, official guidance or instrument (whether such amendment or replacement occurs before or after the date of the Contract);

1.1.7 headings are included in the Contract for ease of reference only and shall not affect the interpretation or construction of the Contract;

1.1.8 references to “Clauses”, the “Appendices” the “Annexes” and “Schedules” are, unless otherwise provided, references to the clauses of, the Appendices to, the Annexes to and the Schedules to these terms and references to “paragraphs” are, unless otherwise provided, references to paragraphs of the respective Annexes in which the references are made;

1.1.9 terms or expressions contained in the Contract which are capitalised but which do not have an interpretation in Clause 1.1shall be interpreted in accordance with the Contract; and

1.1.10 a reference to a Clause is a reference to the whole of that Clause unless stated otherwise.

SUPPLY OF GOODS

* 1. **Goods** 
     1. The Authority shall supply the Goods to the Purchaser in accordance with the provisions of the Contract.
     2. The Goods shall be to the reasonable satisfaction of the Purchaser. The Purchaser acknowledges that he has had an opportunity to examine the Goods prior to entering into the Contract. Whether the Purchaser has taken that opportunity to examine the Goods, the Purchaser has been deemed to purchase the Goods subject to all defects and imperfections. The Purchaser shall not be entitled to reject (either in whole or in part) the Goods because of any defects or imperfections in the Goods, or to claim any compensation or damages of whatsoever nature in respect of such defects or imperfections.
     3. All conditions, terms and warranties implied by, or expressly stated to apply to contracts of a type like the Contract by, statute or common law which may lawfully be excluded from the Contract are hereby so excluded.
     4. Any representation, statement or warranty concerning the Goods or their condition or quality made by any agent, employee or representative of the Authority, whether in writing or orally and whether made before or after the Contract was entered into, shall be deemed to have been made for guidance only, and no warranty or guarantee in respect of the accuracy of such representation, statement or warranty is given or is to be implied. Any such representation, statement or warranty may not be accurate and the Purchaser shall be deemed not to have relied on, waives any claim in respect of any breach of, or misrepresentation (whether negligent or otherwise) contained in, any such condition, representation, statement or warranty.
     5. The Purchaser shall be deemed not to have relied upon, and shall not in the future rely upon, the skill and judgement of the Authority or any of the Authority’s Representatives, employees or agents to any extent in selecting the Goods or in determining their quality or condition or suitability for any purpose.
     6. Any description of the Goods given by the Authority, whether orally or in writing, before or after the Contract is entered into, is given by way of identification only, and shall not result in the sale of the Goods in such a manner to constitute a sale by description, nor shall any such description be deemed to import any statement or representation concerning the Goods or their quality or condition.
     7. The Authority shall have no liability to the Purchaser for any loss or damage (including loss or damage caused by the negligence of the Purchaser or Purchaser’s Staff) arising out of or in connection with the purchase, possession, use or resale by the Purchaser of the Goods provided that nothing in this Clause shall exclude the liability of the Authority referred to in Clause 5.1
  2. **Delivery**

Unless an alternative method of Delivery is agreed between the Authority and the Purchaser in writing, the Purchaser shall collect the Goods from the offices, store or other Premises notified by the Authority, the time and date of such collection to be agreed between the Parties provided always that:-

* + 1. the Purchaser shall not be entitled to collect the Goods until payment in full of the Contract Charges have been made to the Authority, and
    2. the Purchaser shall collect the Goods within ten (10) Working Days of the date on which the Purchaser makes payment of the Contract Charges to the Authority.
  1. **Title and Risk in relation to the Goods**
     1. Risk in the Goods shall, pass from the Authority to the Purchaser at the time of collection of the Goods by or on behalf of the Purchaser from the Seller, or on Delivery of the Goods by the Authority to the Purchaser or a third party on behalf of the Purchaser, whichever shall be applicable and which, in both cases, shall be immediately prior to the loading of the Goods onto or into the means of transport being used to transport the Goods from the Premises to the Purchaser or the third party accepting Delivery on behalf of the Purchaser. In the event that the Purchaser (or any third party acting on behalf of the Purchaser) does not collect the Goods or accept Delivery of the Goods at the time agreed between the Parties or within the period referred to in Clause 2.2.2, then risk in the Goods shall pass to the Purchaser at such agreed time or on expiry of the period referred to in Clause 2.2.2, whichever shall be the earlier, notwithstanding that Delivery of the Goods has not taken place or that the Goods have not been collected.
     2. The property in the Goods shall not pass from the Authority to the Purchaser until the Authority has received payment in full of the Contract Charges.
     3. The Purchaser shall not sell or otherwise transfer or purport to sell or otherwise transfer the property (or any other interest) in, or grant any security over or otherwise enter into any transaction or dealing of whatsoever nature concerning the Goods to or any third party until property in the Goods has passed to the Purchaser in accordance with the provisions of the Clause.

VARIATION OF THE CONTRACT

* 1. The Contract shall not be varied in any manner whatsoever except with the written agreement of the Authority. Without prejudice to the foregoing generality the failure of the Authority to insist upon strict performance of any term of the Contract, or the failure of the Authority to exercise any right or remedy to which it is entitled in terms of or in respect of any term of the Contract, shall not be taken as agreement on part of the Authority to any variation of any term or part of the Contract.
  2. No representation, statement or warranty given by the Authority’s Representative, whether made in writing or orally and whether made before or after the Parties entered into the Contract, will modify, vary or supersede any term of the Contract (except insofar as they modify, vary or supersede same in writing in accordance with the provisions of Clause 3.1). The Contract constitutes the whole agreement between the Authority and the Purchaser, and in entering into the Contract, the Purchaser shall be deemed not to have relied on, and waives any claim in respect of any breach of, or misrepresentation (whether negligent or otherwise) contained in, any such representation, statement or warranty.

PAYMENT AND CHARGES

* 1. The Authority shall provide to the Purchaser an invoice in respect of the Contract Charges due and payable to the Authority by the Purchaser as soon as reasonably practicable after the Contract has been entered into. The Purchaser shall pay the amount shown on the invoice as being payable by the Purchaser to the Authority within fourteen (14) days of the date of the invoice. The time within which the Purchaser is to pay for the Goods shall be of the essence of the Contract.
  2. The Purchaser shall make any payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Purchaser has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Purchaser. The Authority may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Purchaser against any amount payable by the Authority to the Purchaser.
  3. If the Purchaser fails to make any payment due to the Authority by the due date for payment, then the Purchaser shall pay interest on the overdue amount. Interest shall be payable by the Purchaser in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 on the late payment of any undisputed sums of money properly invoiced by the Authority in respect of the Goods.
  4. All payments due shall be made in cleared funds to such bank account as the Authority may from time to time direct in writing.

LIABILITY AND INSURANCE

* 1. **Liability**
     1. The Authority or Purchaser cannot exclude or limit liability for:
        1. death or personal injury; or
        2. fraud or fraudulent misrepresentation by it or its employees.
     2. Without prejudice to any right or remedy which the Authority may have, the Purchaser shall indemnify the Authority against all actions, claims, costs, demands, expenses and losses which may be made against or incurred by the Authority as a result of or in connection with any damage to property or any injury to any person (whether fatal or otherwise) which arises from any defect in the Goods or their possession, use or resale by the Purchaser or any other party or any negligent or wrongful act or omission of the Purchaser.

CONFIDENTIALITY

* 1. **Information**
     1. Except to the extent set out in this Clause 6.2or where disclosure is expressly permitted elsewhere in the Contract, each Party shall:
     2. treat the other Party’s Confidential Information as confidential and safeguard it accordingly; and
        1. not disclose the other Party’s Confidential Information to any other person without the owner’s prior written consent.
     3. Clause 6.1.1shall not apply to the extent that:
        1. such disclosure is a requirement of Law or any competent Regulatory Body placed upon the Party making the disclosure, including any requirements for disclosure under the FOISA, or EIR pursuant to Clause 6.2 (Freedom of Information); or
        2. such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner; or
        3. such information was obtained from a third party without obligation of confidentiality; or
        4. such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
        5. it is independently developed without access to the other Party’s Confidential Information.
     4. The Purchaser may only disclose the Authority’s Confidential Information to those members of the Purchaser’s Staff who are directly involved in the Contract and who need to know the Information, and shall ensure that such individuals are aware of and shall comply with these obligations as to confidentiality.
     5. The Purchaser shall not, and shall procure that the Purchaser’s Staff do not, use any of the Authority’s Confidential Information received otherwise than for the purposes of the Contract.
     6. Nothing in the Contract shall prevent the Authority from disclosing the Purchaser’s Confidential Information:
        1. to any Crown body on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown body save as required by Law;
        2. to any consultant, supplier or other person engaged by the Authority for any purpose relating to or connected with the Contract (on the basis that the information shall be held by such consultant, supplier or other person in confidence and is not to be disclosed to any third party);
        3. for the purpose of the examination and certification of the Authority’s accounts; or
        4. for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.
     7. The Authority shall use reasonable endeavours to ensure that any government department, employee, third party or sub-contractor to whom the Purchaser’s Confidential Information is disclosed pursuant to Clause 6.1.5 is made aware of the Authority’s obligations of confidentiality.
     8. Nothing in this Clause 6.1shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other Party’s Confidential Information or an infringement of IPR.
     9. In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in performance of the Contract, the Purchaser undertakes to maintain adequate security arrangements that meet the requirements of Good Industry Practice.
     10. The Purchaser shall, at all times during and after the performance of the Contract, indemnify the Authority and keep the Authority fully indemnified against all losses, damages, costs or expenses and other liabilities (including legal fees) incurred by, awarded against or agreed to be paid by the Authority arising from any breach of the Purchaser’s obligations under this Clause 6.1except and to the extent that such liabilities have resulted directly from the Authority’s instructions.
  2. **Freedom of Information**
     1. The Purchaser acknowledges that the Authority is subject to the requirements of FOISA and EIR and shall assist and co-operate with the Authority to enable the Authority to comply with its Information disclosure obligations.
     2. The Purchaser shall:
        1. transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;
        2. provide the Authority with a copy of all Information relating to a Request for Information in its possession, or control, in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may specify) of the Authority ‘s request; and
        3. provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to the Request for Information within the time for compliance set out in section 10 of the FOISA or regulation 5 of the EIR.
     3. The Authority shall be responsible for determining in its absolute discretion and notwithstanding any other provision in the Contract or any other contract whether the Commercially Sensitive Information and/or any other Information including Purchaser’s Confidential Information, is exempt from disclosure in accordance with the provisions of the FOISA or the EIR.
     4. In no event shall the Purchaser respond directly to a Request for Information unless authorised in writing to do so by the Authority.
     5. The Purchaser acknowledges that (notwithstanding the provisions of Clause 6.2) the Authority may, be obliged under the FOISA or the EIR to disclose information concerning the Purchaser or the Goods:
        1. in certain circumstances without consulting the Purchaser; or
        2. following consultation with the Purchaser and having taken the Purchaser’s views into account, provided always that where Clause 6.2.1applies the Authority shall, take reasonable steps, where appropriate, to give the Purchaser advanced notice, or failing that, to draw the disclosure to the Purchaser’s attention after any such disclosure.
     6. The Purchaser shall ensure that all Information is retained for disclosure in accordance with the provisions of the Contract and in any event in accordance with the requirements of Good Industry Practice and shall permit the Authority on reasonable notice to inspect such records as requested from time to time.
     7. The Purchaser acknowledges that the Commercially Sensitive Information is of an indicative nature only and that the Authority may be obliged to disclose it in accordance with Clause 6.2.1.
  3. **Transparency**
     1. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of FOISA, the content of the Contract is not Confidential Information. The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOISA.
     2. Notwithstanding any other term of the Contract, the Purchaser hereby gives consent to the Authority to publish the Contract to the general public in its entirety (subject only to redaction of any information which is exempt from disclosure in accordance with the provisions of the FOISA), including any changes to the Contract agreed from time to time.
     3. The Authority may consult with the Purchaser to inform its decision regarding any redactions but the Authority shall have the final decision in its absolute discretion.
     4. The Purchaser shall assist and cooperate with the Authority to enable the Authority to publish the Contract.
  4. **Blacklisting**

The Purchaser must not commit any breach of the Employment Relations Act 1999 (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or commit any breach of the Data Protection Laws by unlawfully processing Personal Data in connection with any blacklisting activities. Breach of this term is a Material Breach which shall entitle the Authority to terminate the Contract.

WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

* 1. The Purchaser warrants, represents and undertakes to the Authority that:
     1. it has full capacity and all necessary consents licences, permissions (statutory, regulatory, contractual or otherwise) to enter into the Contract;
     2. the Contract is executed by a duly authorised representative of the Purchaser;
     3. in entering the Contract it has not committed any Fraud; and
     4. it has not committed any offence under the Prevention of Corruption Acts 1889 to 1916, or the Bribery Act 2010;

1. **CHANGE IN LAW**
   1. The Authority shall have the opportunity to be relieved of its obligations to supply the Goods to the Purchaser in accordance with the provisions of this Contract or be entitled to an increase in the Contract Charges as the result of a Change in Law.

TERMINATION

* 1. The Authority may, without prejudice to any other right or remedy which it may have, terminate the Contract with immediate effect by written notice to the Purchaser in the event that:-
     1. any payment due by the Purchaser to the Authority is not made by the due date; or
     2. the Purchaser commits (knowingly or otherwise) any breach of these terms and conditions;
     3. a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, the Purchaser’s creditors; or
     4. a shareholders’, members’ or partners’ meeting is convened for the purpose of considering a resolution that the Purchaser be wound up or a resolution for the winding-up of the Purchaser is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
     5. a petition is presented for the winding-up of the Purchaser (which is not dismissed within five (5) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors’ meeting is convened in respect of the Purchaser pursuant to section 98 of the Insolvency Act 1986; or
     6. a receiver, administrative receiver or similar officer is appointed over the whole or any part of the Purchaser’s business or assets; or
     7. 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 the Purchaser’s assets and such attachment or process is not discharged within ten (10) Working Days;
     8. an application is made in respect of the Purchaser either for the appointment of an administrator or for an administration order and an administrator is appointed, or notice of intention to appoint an administrator is given; or
     9. if the Purchaser is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or
     10. the Purchaser suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or
     11. the Purchaser demerges into two or more firms, merges with another firm, incorporates or otherwise changes its legal form and the new entity has or could reasonably be expected to have a materially less good financial standing or weaker credit rating than the Purchaser; or
     12. being a “small company” within the meaning of section 382(3) of the Companies Act 2006, a moratorium in respect of the Purchaser comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
     13. the Purchaser being an individual dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983; or
     14. the Purchaser being an individual or any partner or partners in the Purchaser who together are able to exercise control of the Purchaser where the Purchaser is a firm shall at any time become bankrupt or shall have a receiving order or administration order made against him or them, or shall make any composition or arrangement with or for the benefit for his or their creditors, or shall make any conveyance or assignment for the benefit of his or their creditors, or shall purport to do any of these things, or appears or appear unable to pay or to have no reasonable prospect of being able to pay a debt within the meaning of section 268 of the Insolvency Act 1986, or he or they shall become apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985, or any application shall be made under any bankruptcy or insolvency act for the time being in force for sequestration of his or their estate(s) or a trust deed shall be granted by him or them on behalf of his or their creditors; or
     15. any event similar to those listed in Clauses 9.1.1 to 9.1.14occurs under the law of any other jurisdiction.

PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES

* 1. The Purchaser shall not make any press announcements or publicise the Contract in any way without the Authority’s prior written approval and shall take reasonable steps to ensure that the Purchaser’s Staff and professional advisors comply with this Clause 10. Any such press announcements or publicity proposed under this Clause 10 shall remain subject to the rights relating to Confidential Information and Commercially Sensitive Information.
  2. Subject to the rights in relation to Confidential Information and Commercially Sensitive Information, the Authority shall be entitled to publicise the Contract in accordance with any legal obligation upon the Authority including any examination of the Contract by the auditors.
  3. The Purchaser shall not do anything or permit to cause anything to be done, which may damage the reputation of the Authority or bring the Authority into disrepute.

PREVENTION OF BRIBERY AND CORRUPTION

* 1. The Purchaser shall not:
     1. offer or give, or agree to give, to any employee, agent, servant or representative of the Authority, or any other public body or any person employed by or on behalf of the Authority any gift or other consideration of any kind which could act as an inducement or a reward for any act or failure to act in relation to the Contract; or
     2. engage in, and shall procure that all the Purchaser’s Staff or any person acting on the Purchaser’s behalf shall not commit, in connection with the Contract, a Prohibited Act under the Bribery Act 2010, or any other relevant laws, statutes, regulations or codes in relation to bribery and anti-corruption.
  2. The Purchaser warrants, represents and undertakes that it has not:
     1. paid commission or agreed to pay commission to the Authority, or any person employed by or on behalf of the Authority in connection with the Contract; and
     2. entered into the Contract with knowledge, that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Authority or any other public body or any person employed by or on behalf of the Authority in connection with the Contract, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the Authority and the Authority before execution of the Contract.
  3. The Purchaser shall:
     1. immediately notify the Authority if it suspects or becomes aware of any breach of this Clause 11;
     2. respond promptly to any of the Authority ‘s enquiries regarding any breach, potential breach or suspected breach of this Clause 11 and the Purchaser shall co-operate with any investigation and allow the Authority to audit Purchaser’s books, records and any other relevant documentation in connection with the breach; and
     3. have, maintain and enforce an anti-bribery policy (which shall be disclosed to the Authority on request) to prevent the Purchaser and any of the Purchaser’s Staff or any person acting on the Purchaser’s behalf from committing a Prohibited Act and shall enforce it where appropriate.
  4. If the Purchaser, any member of the Purchaser’s Staff or any person acting on the Purchaser’s behalf, in all cases whether or not acting with the Purchaser’s knowledge breaches:
     1. this Clause 11; or
     2. the Bribery Act 2010 in relation to the Contract or any other contract with the Authority or any other public body or any person employed by or on behalf of the Authority or a public body in connection with the Contract, the Authority shall be entitled to terminate the Contract by written notice with immediate effect.
  5. Without prejudice to its other rights and remedies under this Clause 11, the Authority shall be entitled to recover in full from the Purchaser and the Purchaser shall on demand indemnify the Authority in full from and against:
     1. the amount of value of any such gift, consideration or commission; and
     2. any other loss sustained by the Authority in consequence of any breach of this Clause 11.

NON-DISCRIMINATION

The Purchaser shall not unlawfully discriminate within the meaning and scope of any Law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise).

PREVENTION OF FRAUD

* 1. The Purchaser shall take all reasonable steps, in accordance with Good Industry Practice, to prevent any Fraud by the Purchaser and any member of the Purchaser’s Staff.
  2. The Purchaser shall notify the Authority immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur save where complying with this provision would cause the Purchaser or any member of the Purchaser’s Staff to commit an offence under the Proceeds of Crime Act 2002 or the Terrorism Act 2000.
  3. If:
     1. the Purchaser breaches any of its obligations under Clause 13.1 and Clause 13.2; or
     2. the Purchaser or any member of the Purchaser’s Staff commits any Fraud in relation to the Contract or any other contract with the Authority or any other person, the Authority may recover in full from the Purchaser and the Purchaser shall on demand indemnify the Authority in full against any and all losses sustained by the Authority in consequence of the relevant breach or commission of Fraud, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Goods and any additional expenditure incurred by the Authority in relation thereto.

ANTI SLAVERY AND HUMAN TRAFFICKING

* 1. Compliance with Anti Slavery and Human Trafficking Laws And Policies
     1. In performing its obligations under the Contract, the Purchaser shall:
        1. comply with all applicable anti slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and
        2. comply with the Authority’s Anti Slavery and Human Trafficking Policy; and
        3. not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK.
  2. Due Diligence
     1. The Purchaser represents and warrants that:
        1. neither the Purchaser nor any of its officers or employees:
           1. has been convicted of any offence involving slavery and human trafficking; and
           2. to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.
     2. The Purchaser shall implement due diligence procedures to ensure that there is no slavery or human trafficking in its supply chains.
  3. Reports
     1. The Purchaser shall notify the Authority as soon as it becomes aware of:
        1. any breach, or potential breach, of the Authority’s Anti Slavery and Human Trafficking Policy; or
        2. any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract.

TRANSFER AND SUB-CONTRACTING

* 1. The Authority may assign novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
     1. any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
     2. any private sector body which substantially performs the functions of the Authority.
  2. Any change in the legal status of the Authority shall not, subject to this Clause 15, affect the validity of the Contract. In such circumstances, the Contract shall bind and inure to the benefit of any successor body to the Authority.

WAIVER

* 1. The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.
  2. No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Clause 21
  3. A waiver by either Party of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

1. **CUMULATI**V**E REMEDIES**

Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

FURTHER ASSURANCES

Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents which may be necessary to give effect to the meaning of the Contract.

SEVERABILITY

* 1. If any provision of the Contract is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.
  2. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Contract, the Authority and the Purchaser shall immediately commence good faith negotiations to remedy such invalidity.

ENTIRE AGREEMENT

* 1. The Contract, together with the other documents referred to therein constitute the entire agreement and understanding between the Parties in respect of the matters dealt with in them and supersede, cancel and nullify any previous agreement between the Parties in relation to such matters.
  2. Each of the Parties acknowledges and agrees that in entering into the Contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in the Contract.
  3. The Purchaser acknowledges that it has entered into the Contract in reliance on its own due diligence alone; and
  4. Nothing in Clauses 20.1and 20.2shall operate:
     1. to exclude Fraud or fraudulent misrepresentation;
  5. The Contract may be executed in counterparts each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

NOTICES

* 1. Except as otherwise expressly provided in the Contract, no notice or other communication from one Party to the other shall have any validity under the Contract unless given or made in writing by or on behalf of the Party sending the communication.
  2. Any notice or other communication given or made by either Party to the other shall:
     1. be given by letter (sent by hand, post or a recorded signed for delivery service), facsimile or electronic mail confirmed by letter; and
     2. unless the other Party acknowledges receipt of such communication at an earlier time, be deemed to have been given:
        1. if delivered personally, at the time of delivery;
        2. if sent by pre-paid post or a recorded signed for service two (2) Working Days after the day on which the letter was posted provided the relevant communication is not returned as undelivered;
        3. if sent by electronic mail, two (2) Working Days after posting of a confirmation letter; and
        4. if sent by facsimile, on the day of transmission if sent before 16:00 hours on any Working Day and otherwise at 9:00 hours on the next Working Day and provided that at time of transmission of the facsimile an error-free transmission report is received by the Party sending the communication.
        5. For the purposes of Clause 21.2, the address, email address and fax number of each Party shall be the address, email address and fax number specified in the Letter of Appointment.
  3. Either Party may change its address for service by serving a notice in accordance with this Clause 21.
  4. For the avoidance of doubt, any notice given under the Contract shall not be validly served if sent by electronic mail (email) and not confirmed by a letter.

DISPUTES AND LAW

* 1. **Governing Law and Jurisdiction**

The Contract shall be governed by and interpreted in accordance with the Laws of Scotland and the Parties agree to submit to the exclusive jurisdiction of the Scottish courts any dispute that arises in connection with the Contract.

* 1. **Dispute Resolution**
     1. The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the level of representative of each Party specified in the Letter of Appointment.
     2. Nothing in this Dispute Resolution Procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
     3. If the dispute cannot be resolved by the Parties pursuant to Clause 22.2.1, the Parties shall refer it to mediation pursuant to the procedure set out in Clause 22.2.5 unless:
        1. the Authority considers that the dispute is not suitable for resolution by mediation; or
        2. the Purchaser does not agree to mediation.
     4. The obligations of the Parties under the Contract shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Purchaser and the Purchaser’s Staff shall comply fully with the requirements of the Contract at all times.
     5. The procedure for mediation is as follows:
        1. a neutral adviser or mediator (the **“Contract Mediator”)** shall be chosen by agreement between the Parties or, if they are unable to agree upon a Contract Mediator within ten (10) Working Days after a request by one Party to the other or if the Contract Mediator agreed upon is unable or unwilling to act, either Party shall within ten (10) Working Days from the date of the proposal to appoint a Contract Mediator or within ten (10) Working Days of notice to either Party that he is unable or unwilling to act, apply to the President of the Law Society of Scotland for the time being to appoint a Contract Mediator;
        2. the Parties shall within ten (10) Working Days of the appointment of the Contract Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from the President of the Law Society of Scotland for the time being to provide guidance on a suitable procedure;
        3. unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
        4. if the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
        5. failing agreement, either of the Parties may invite the Contract Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties; and
        6. if the Parties fail to reach agreement in the structured negotiations within sixty (60) Working Days of the Contract Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the courts.

1. **DATA PROTECTION**
   1. The Parties agree that all personal data transferred under this Contract will be collected and processed in accordance with the provisions of the Data Protection Laws and any legislation that, in respect of the United Kingdom, replaces, or enacts into United Kingdom domestic law, the GDPR, the proposed Regulation on Privacy and Electronic Communications or any other applicable law relating to data protection and privacy.
   2. [Any personal data which is processed by the Authority will be processed in accordance with its privacy notice, as the same may be amended from time to time.]

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| **SUPPLEMENTARY NOTICE** | | | | | | |
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| **1.** | **PROTECTING THE ENVIRONMENT** |  | | **2.** | | **LATE PAYMENT OF INVOICES** |
|  | Suppliers to the Scottish Courts and Tribunals Service are requested to satisfy themselves that no product will be supplied or used in the Supply of Goods to the Purchaser which will endanger the health of the consumers or others, will cause significant damage to the environment during manufacture, use, or disposal, which consumes a disproportionate amount of energy during manufacture, use, or disposal, which causes unnecessary waste because of over-packaging or because of an unusually short shelf life, or which contains materials derived from threatened species or threatened environments. |  | |  | | Suppliers to the Scottish Courts and Tribunals Service are requested to address complaints regarding late payment of invoices to, in the first instance, the addressee of the invoice and, in the second instance to the Head of Procurement, SCTS Procurement Office, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD. This procedure is suggested as the best practical way of ensuring problems of late payment are resolved, and is not intended to interfere with Suppliers’ legal rights. |
| **THIS NOTICE DOES NOT FORM PART OF THE CONDITIONS OF CONTRACT** | | | | | | | | |