

CPI TERMS AND CONDITIONS OF PURCHASE OF GOODS AND OFF-SITE SERVICES

1 DEFINITIONS & INTERPRETATION

- 1.1 In these Conditions the following words shall have the following meanings unless inconsistent with the context:

Change of Control	means a change in the ability to direct the affairs of another person, whether through the ownership of shares; or the power to appoint directors to the board of a company; or through management contracts; or otherwise;
Conditions	means these terms and conditions for the purchase of Goods and/or Services;
Confidential Information	means the existence and terms of any Order, Specification or Contract and any and all information (whether recorded or supplied in permanent or transitory form) which has been, is now or at any time after the date of these Conditions is disclosed to or made available by CPI to: the Supplier or its Employees; or (where applicable) to any company within the Supplier's Group; or to any other person at the request of the Supplier as recipient; or any information of which the Supplier becomes aware or which comes into the Supplier's control or knowledge as a result of entering into these Conditions or of providing the Services which is of a technical, commercial or financial nature (including software in various stages of development in human or machine readable form, research information, methodologies, knowledge, data, know-how, formulae, processes, designs, drawings, specifications, models, diagrams, flow charts, marketing and development plans, business plans, intellectual property rights, customer information, customer lists, actual or prospective sales contacts, photographs and samples) and which relates to CPI or CPI's business or that of its Group or to any of CPI's customers or their business or that of its Group but shall not include information which:- (a) is accessible from public sources or is or becomes generally available to third parties (other than as a result

of disclosures by the Supplier, by the Employees or by any company within the Supplier's Group, of such information in breach of these Conditions); and/or

- (b) either party can establish to the reasonable satisfaction of the other party that the information was known to the Supplier before the date of these Conditions and that it was not under any obligation of confidence in respect of the relevant information; and/or
- (c) becomes lawfully available to the recipient from a source other than CPI or the End Customer, which source is not bound by any obligation of confidentiality to another party in relation to such information; and/or
- (d) was required to be disclosed by law or by the rules or directions of any court or any authority;

Contract

means, as the context requires, the legally binding agreement between CPI and the Supplier made up of either:

- (a) in a tender situation - the Order, these Conditions, and any Specification; or
- (b) in a non-tender situation - the Order, these Conditions, any Specification and the Supplier's acceptance of the Order whether made in writing (subject always to Conditions 2.1 and 2.4) or through delivering the Goods and/or providing the Services, whichever occurs first); or
- (c) any written agreement between CPI and the Supplier that incorporates these Conditions within a Schedule to such written agreement;

CPI	means the Centre for Process Innovation Limited (Company Number 05002194) whose registered office is at Wilton Centre, Wilton, Redcar, Cleveland, TS10 4RF or where so specified in the Contract, such other member of Centre for Process Innovation Limited's Group that is contracting with the Supplier;
CPI Representative	means CPI's representative named in the Order who will be first point of contact in relation to the Services, or in the absence of any specified person, CPI's internal solicitor and contracts manager;
DDP	means the provisions of the incoterm Delivered Duty Paid as set out in Incoterms 2010, which are incorporated into these Conditions as varied under Condition 5;
Delivery Point	means the locations / addresses specified for delivery of the Goods and/or Services in the Order;
Due Date	means the fixed date(s) for delivery set out in the Order;
Employees	means the staff used by the Supplier to carry out its obligations under the Contract;
Good Industry Practice	means the exercise of that degree of skill, diligence, prudence and foresight which, as at the relevant time, would reasonably and ordinarily be expected from a skilled and experienced provider of the Services seeking in good faith to comply with its contractual obligations to a high standard, and complying with all applicable laws and codes of practice in the same type of undertaking and under the same or similar circumstances and observations;
Goods	means any goods or materials to be supplied to CPI that are specified and/or described in the Order;
Group	in relation to a party, means any subsidiary and/or holding company of that party and any subsidiary of any such holding company from time to time;
Incoterms 2010	means the 2010 edition of the International Chamber of Commerce official rules for the interpretation of trade terms (ISBN 978-92-842-0080-1);
Intellectual Property Rights	means all patents, trade marks, service

	marks, registered designs or any applications for any of the foregoing, copyright (including in any text, computer coding, algorithms, applets, or in any other constituent elements of the Outputs), design right, database rights, topographical rights, unregistered trade marks or other intellectual or industrial property rights, look and feel in any graphical user interface in the Outputs, and all know-how whether subsisting in the United Kingdom or anywhere else in the World;
Month	means a calendar month;
NDA	means CPI's standard non-disclosure agreement from to time in the form provided to the Supplier;
Order	means CPI's written instruction to the Supplier to purchase the Services, which may be in a purchase order, and/or in appropriate circumstances may be set out in a tender award letter and related tender documentation, and which shall incorporate these Conditions;
Outputs	means all research, designs, records, reports, documents, papers, drawings, diagrams, discs, transparencies, photos, graphics, logos, text, typographical arrangements, coding, software, formulas, samples, prototypes and all other materials or items in whatever form, including but not limited to physical items, hard copies and electronic forms, prepared and/or produced by the Supplier in the provision of the Services and any other material to the extent that it reproduces, contains, embodies, or is made according to, CPI's Confidential Information
Parent Company Guarantee	means a performance guarantee issued by the holding company of the Supplier in the form required in the Order;
Performance Bond	means a bank performance bond in the form required in the Order issued by a bank or insurance company first approved by CPI for a sum equal to that required in the Order;
Services	means those services specified to be provided by the Supplier in the Order that relates to the Services;
Specification	means any agreed specification and/or timetable and/or schedule of works against which the Supplier has given a quotation for the supply of Goods and/or Services, or which is attached to or incorporated in the

Order that relates to the Goods and/or the Services;

Supplier

means the company or individual supplying the Goods or Services;

- 1.2 References to any statute or statutory provision shall include any subordinate legislation made under it, and any subsequent legislation that adds to or replaces it.
- 1.3 The descriptive headings to clauses, schedules and paragraphs are inserted for convenience only, have no legal effect and shall be ignored in the interpretation of these Conditions.
- 1.4 Words importing the singular include the plural and vice versa, words importing a gender include every gender and reference to persons include an individual, company, corporation, firm, partnership, unincorporated association or body of persons.
- 1.5 The words and phrases "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible.
- 1.6 Any reference to a "day" shall mean a period of 24 hours running from midnight to midnight, reference to a "working day" shall mean Monday to Friday inclusive but excluding bank holidays and references to times of the day are to London time on the applicable date.

2 BASIS OF PURCHASE

- 2.1 These Conditions are the only basis upon which CPI is prepared to deal with the Supplier and, they shall govern the Contract between CPI and the Supplier to the entire exclusion of all other terms or conditions. These Conditions apply to all of CPI's purchases of the Goods and/or the Services from the Supplier under the Contract.
- 2.2 Each Order for Goods and/or Services by CPI shall be deemed to be an offer by CPI to purchase the Goods and/or Services, subject to these Conditions, which shall be accepted when the first of the following occurs:
 - 2.2.1 the Supplier issues any written documentation (including by email) expressly or impliedly accepting the Order (including by offering to proceed with the supply of the Goods or Services after receipt of the Order); or issues any invoice relating to any part of the Order (subject in each case to Condition 2.4); or
 - 2.2.2 the Supplier accepts the Order verbally expressly or impliedly (including by offering to proceed with the supply of the Goods or Services after receipt of the Order) ; or
 - 2.2.3 the Supplier accepts the Order through conduct by taking any steps towards delivery of the Goods and/or Services (whether by commencing manufacture and/or supply of the Goods or performance of the Services or otherwise); or
 - 2.2.4 the Supplier delivers the Goods and/or Services to CPI.

- 2.3 Once the Supplier accepts any Order in accordance with Condition 2.2, any Specification relating to that Order shall become a binding condition on the Supplier.
- 2.4 No terms or conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgement or acceptance of order, invoice or any other document will form part of the Contract and the Supplier hereby waives any right which it otherwise might have to rely on such terms and conditions.
- 2.5 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of CPI and the Supplier.

3 SUPPLIER'S OBLIGATIONS

- 3.1 The Supplier warrants to CPI that upon delivery and for a period of 18 months thereafter, all Goods it supplies:
 - 3.1.1 are and shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979;
 - 3.1.2 are and shall be fit for purpose within the meaning of the Sale of Goods Act 1979;
 - 3.1.3 shall comply fully and in all respects with the terms of any Specification including any specified quality, grade, technical and/or functional specification.
- 3.2 Without prejudice to any other remedy that CPI may have under these Conditions or otherwise, in the event of a breach by the Supplier of any of the warranties under Condition 3.1, the Supplier shall, at its own cost and at CPI's sole discretion, upon request promptly and in any event within five Working Days:
 - 3.2.1 replace the Goods that are not compliant with any of the warranties with new Goods that are fully compliant; or
 - 3.2.2 repair the Goods to ensure that they are fully compliant with all of the warranties; or
 - 3.2.3 remove the Goods that are no longer compliant with all of the warranties and make a full refund to CPI of all monies paid to the Supplier in relation to such removed Goods,

and all Goods repaired or replaced under this Condition 3.2, if they subsequently fail any of the warranties shall be subject to the remedies of this Condition 3.2.
- 3.3 The Supplier warrants and represents that in respect of all Services which it provides to CPI, it shall:
 - 3.3.1 fulfil its obligations under these Conditions in a conscientious manner and shall deal with CPI in good faith;
 - 3.3.2 maintain the capacity and expertise to provide the Services to CPI and shall provide the Services through experienced, qualified and trained personnel acting with all due skill, care and diligence;

- 3.3.3 discharge its obligations under these Conditions with all due skill, care, and diligence including Good Industry Practice (prevailing as at the relevant time) and in accordance with its own established internal procedures;
- 3.3.4 commit all such resources as are reasonably necessary to ensure that the Services are provided in accordance with the provisions of the Order and any Specification, and in particular but without limitation that:
 - (a) it shall provide appropriate and adequate numbers of Employees who will dedicate sufficient time and energy to ensure that the Services are provided in a timely and efficient manner and in compliance with the agreed Specification); and
 - (b) where any staffing or skill levels are specified in the Specification that it shall ensure that those levels are maintained so as to ensure timely delivery;
- 3.3.5 in carrying out the Services, comply (and will procure that its staff shall comply) with CPI's reasonable instructions in relation to, without limitation, such matters as to the priority to be given to each element of the Services and co-ordination with CPI's operational requirements.
- 3.4 During the term of the Contract, the Supplier shall (without prejudice to the other obligations of the Supplier under these Conditions):
 - 3.4.1 at all times ensure, to the reasonable satisfaction of CPI, the proper performance of the Services by the Supplier (whether by the Employees or otherwise) in accordance with the Specification, and comply with all reasonable requirements as to best practice stipulated by CPI from time to time as to the performance of the Services or the manner in which the Services are provided;
 - 3.4.2 report to CPI on the provision and performance of the Services as reasonably required by CPI;
 - 3.4.3 in performing its obligations under the Contract, comply with all relevant statutory requirements and regulations and all codes of conduct (whether voluntary or otherwise) in force at the time of performance of such obligations;
 - 3.4.4 when appropriate make suggestions to CPI regarding enhancements to the provision of the Services;
 - 3.4.5 where Goods or Services are to be delivered at a third party's premises (for example, at the premises of a customer of CPI), liaise with such third party in respect of delivery a reasonable time before the Due Date and, as far as reasonably practicable, take into account such third party's requirements in so far as they do not conflict with the applicable Specification and the terms of the Contract;

- 3.4.6 deal with any complaints or enquiries received from CPI or CPI's own customers (whether received orally or in writing) in a prompt, courteous and efficient manner. All such complaints and enquiries shall be logged by the Supplier and discussed between the parties as appropriate. If any serious complaints are made, the Supplier shall notify CPI and co-operate with CPI to resolve any problems which arise;
- 3.4.7 not do anything which would be likely to prejudice the reputation of CPI.
- 3.5 CPI may from time to time modify any Specification by way of minor variations of an insignificant nature. CPI shall provide reasonable prior written notice of any such variation of the Specification to the Supplier.
- 3.6 CPI may, during the term of these Conditions and within 3 months of the termination of the Contract, request any information relating to the carrying out of all or any part of the Services and/or in relation to the Goods, and such information shall be supplied by the Supplier as soon as reasonably possible and at no cost to CPI.

4 BRIBERY AND CORRUPTION PREVENTION MEASURES

- 4.1 The Supplier warrants and undertakes to CPI that in connection with the Contract it shall, and it shall procure that all Employees shall:
 - 4.1.1 comply with applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
 - 4.1.2 comply with CPI's anti-bribery and anti-corruption policies in force from time to time, a copy of which shall be provided to the Supplier and to any Employees upon written request;
 - 4.1.3 maintain in place effective accounting procedures and internal controls necessary to record all expenditure in connection with the Agreement;
 - 4.1.4 notify CPI as soon as practicable of any breach of any of the undertakings contained within this Condition of which it becomes aware.
- 4.2 The Supplier shall, upon request by CPI from time to time, promptly confirm in writing that it has complied with its undertakings under Condition 4.1, and shall promptly and fully provide any information reasonably requested by CPI in support of such compliance;
- 4.3 For the avoidance of doubt, any breach by the Supplier of this Condition 4 shall be deemed to be a breach of the Contract which is not capable of remedy for the purposes of Condition 10.1.9.

5 DELIVERY OF GOODS OR SERVICES

- 5.1 The Supplier hereby acknowledges and accepts that timely delivery and continuity of supply of the Goods or Services is of fundamental and critical importance to CPI, and that CPI has contractual obligations with its own customers in connection with the Goods and/or Services.

- 5.2 Time for delivery of all Goods and/or Services shall be of the essence and it shall be a condition that the Supplier shall deliver the Goods or Services at the specified Delivery Point by the relevant Due Dates specified in the relevant Orders.
- 5.3 Unless otherwise specified in the Order, it shall be a condition that the Supplier shall deliver all Goods DDP as varied by this Condition 5 to the Delivery Point specified in the Order. Title to the Goods shall pass to CPI upon physical delivery to the Delivery Point specified in the Order. Risk in the Goods shall transfer upon acceptance by CPI after physical delivery, unless the Goods are also being installed by the Supplier, whereupon risk shall transfer upon successful installation. Title in any rejected Goods shall revert to the Supplier only upon the Supplier's collection of such rejected Goods from the Delivery Point and the full refund by the Supplier of any monies paid by CPI in relation to such rejected Goods. Physical delivery for the purpose of this Condition 5.3 shall include completing the unloading of the Goods at the Delivery Point at the sole risk of the Supplier, which for the avoidance of doubt may include internal locations where so specified in the Order.
- 5.4 The Supplier shall ensure that:
- 5.4.1 upon dispatch of each consignment of the Goods, it shall send a dispatch note to CPI by email to the email address shown in the Specification, which shall include the means of transport, weight, number and volume of Goods, dispatch date and time, and anticipated delivery date and time at the Delivery Point; and
- 5.4.2 each delivery of Goods is accompanied by a delivery note which shows, amongst other things, the order number, date of order, description of the Goods and in the case of part delivery, the outstanding balance remaining to be delivered; and
- 5.4.3 (without prejudice to any statutory obligations on the Supplier) upon delivery, all Goods and their packaging shall contain suitable prominent handling and hazard warning labels in relation to all likely hazards arising from despatching, receiving, handling, using, storing or possessing the Goods, and where it is not practicable for such details to be provided in full on such labelling, they shall be provided in accompanying supplementary literature.
- 5.5 Where CPI agrees in any Order to accept delivery by instalments the Contract will be construed as a single contract in respect of each instalment. Failure by the Supplier to deliver any one instalment in accordance with the provisions of Conditions 5.2 and 5.3 shall entitle CPI at its option to treat the whole Contract as repudiated.
- 5.6 If the Services or any part of them are not performed by the relevant Due Date and/or in accordance with the Specification, and/or if the Goods or any part of them are not delivered by the relevant Due Date (or Due Dates in the case of Goods and/or Services delivered in instalments) and/or in accordance with the Specification (subject to the Supplier having been given the opportunity to promptly carry out remedial steps under Condition 6) then, without prejudice to any other remedy that it may have, and without granting a waiver of the Supplier's breach of these Conditions, CPI may at its sole discretion:

- 5.6.1 procure the provision of any particular Goods and/or Services or any parts thereof which the Supplier has failed to successfully deliver, from a third party at the Supplier's cost, the additional costs to CPI of which the Supplier agrees to reimburse to CPI promptly upon demand; and/or
- 5.6.2 where the Supplier requests an extension of time on the Due Date and in CPI's opinion are realistically capable of achieving delivery on the extended Due Date, opt to give the Supplier an extension of time for the relevant Due Date in return for a discount on the agreed price for such Goods and/or Services, which in the absence of written agreement to the contrary in the Order or elsewhere, shall be a discount of 5% of the original delivery price for each additional Month granted; and/or
- 5.6.3 terminate the Contract and receive a full refund of any instalments of the price paid to the Supplier for such Goods and/or Services (subject to making all non-compliant Goods actually delivered available for removal by the Supplier at the Supplier's own cost).

6 PRE-DISPATCH TESTING AND POST-DELIVERY ACCEPTANCE OF GOODS

- 6.1 Before despatching the Goods, the Supplier shall inspect and test them for compliance with the Specification and/or the Contract. The Seller shall, if requested by CPI, give CPI reasonable notice of such inspections and tests and CPI shall be entitled to be represented thereat. The Seller shall at its own cost also supply to CPI certificates of the results of inspections and tests in such form as CPI may require.
- 6.2 CPI shall be entitled at any reasonable time, at its sole discretion, to inspect and test the Goods during manufacture, processing or storage, and the Seller shall at its own cost provide or procure the provision of all facilities as may reasonably be required by CPI in respect thereof.
- 6.3 If as a result of any inspection or test under Condition 6.1 or 6.2 above, CPI is of the opinion that the Goods do not or are unlikely on completion of manufacture or processing to comply with the Specification and/or the Contract, CPI may notify the Seller, and the Seller shall promptly take at its own expense all steps as may be necessary to ensure full compliance of the Goods with the Specification and/or the Contract upon the delivery on the Due Date.
- 6.4 The provisions of Conditions 6.1, 6.2 and 6.3 above are without prejudice to any other rights or remedies that CPI may have in relation to the Goods, whether under the Contract or otherwise.
- 6.5 Following physical delivery of any Goods, CPI shall inspect the Goods within a reasonable period of time and shall send confirmation of acceptance to the Supplier. In the event that there is any fault with the Goods or that they fail to comply with the Specification and/or the warranties given by the Supplier in Condition 3.1, the Supplier shall promptly remedy this at its own cost, and at CPI's sole discretion, by either:
 - 6.5.1 delivering the correct quantity of non-faulty and/or compliant replacement Goods and removing any faulty and/or not compliant Goods; or

- 6.5.2 attending at the Delivery Point and carrying out any necessary remedial work to ensure that the Goods are fully compliant with the Supplier's warranties.
- 6.6 Unless otherwise specified in the Order, the Supplier shall only invoice CPI following CPI's acceptance of the Goods and/or the Supplier's complete and satisfactory delivery of the Services.
- 6.7 Without prejudice to any other rights and/or remedies that CPI may have, in the event that the Supplier delivers items other than the Goods to CPI, the Supplier shall promptly remove all such items at its own cost, and if it has not done so within 48 hours of CPI requesting it to do so, CPI may dispose of all such items as it sees fit, including treating them as waste, and may recharge the costs of such disposal to the Supplier.
- 6.8 CPI shall not be obliged to return to the Supplier any pallets, packaging, or packing materials for the Goods, whether or not any Goods are accepted by CPI.

7 PRICE AND PAYMENT

- 7.1 The price payable by CPI shall be the applicable price of the relevant Goods and/or Services set out in the relevant Order and unless otherwise agreed in writing by CPI, and shall be exclusive of value added tax (if any).
- 7.2 Unless specified in the Order, all sums payable shall be calculated and paid in £ Sterling.
- 7.3 CPI will accept no variation in the price or extra charges for the supply and delivery of the Goods and/or Services unless such variation to the price or such extra charges for the supply and delivery of the Goods and/or Services has been expressly agreed in advance and in writing by an authorised representative of CPI (including, for the avoidance of doubt, increases in the costs of materials, labour, and/or transport costs, fluctuation in rates of exchange).
- 7.4 All properly issued and undisputed invoices shall be paid within 30 days of the last day of the month in which the invoice was received by CPI. These payment terms shall prevail to the exclusion of any payment terms of the Supplier, express or implied, save in the case that the Supplier's payment terms exceed 30 days of the last day of the month in which the invoice was received by CPI.
- 7.5 Where the Order specifies that any Goods and/or Services shall be paid for in instalments prior to delivery of the Goods and /or Services, CPI may at its sole discretion where so specified in the Order require the Supplier:
 - 7.5.1 to put in place a Performance Bond; and/or
 - 7.5.2 to put in place a Parent Company Guarantee; and/or

- 7.5.3 to hold all monies received from CPI under such instalments upon trust for CPI until CPI's acceptance of the Goods under Condition 6 and/or or the Supplier's complete and satisfactory delivery of the Services (as applicable), at which time they shall become the Supplier's monies, and until such time the Supplier shall keep all monies paid by CPI in instalments unmixed and separate from the general monies of the Supplier in a separate bank account designated as a CPI trust account.
- 7.6 Without prejudice to the generality of Condition 21, CPI shall be entitled to deduct from the price (and any other sums) due to the Supplier any sums that the Supplier may owe to CPI at any time.
- 7.7 If any undisputed sum properly due from CPI to the Supplier is not paid on the due date then interest shall accrue and be payable on any such sum at the rate of one per cent per annum above the business base rate of Barclays Bank plc from time to time, apportioned on a daily basis, until payment in full of the overdue sum and whether before or after judgment.
- 7.8 Time for payment shall not be of the essence (nor made of the essence by notice) of the Contract.

8 INSURANCE

- 8.1 The Supplier shall, unless otherwise agreed by CPI in writing, insure against its liabilities arising out of or in connection with the performance of the Contract including (without prejudice to the generality of the foregoing):
- 8.1.1 employers' liability insurance for no less than £5,000,000 (five million pounds) in respect of any one incident unlimited in any 12 month period;
- 8.1.2 public liability insurance for no less than £5,000,000 (five million pounds) in respect of any one incident unlimited in any 12 month period;
- 8.1.3 professional indemnity insurance for no less than £2,000,000 (two million pounds) in respect of any one incident unlimited in any 12 month period.
- 8.2 The Supplier shall promptly at CPI's request provide CPI with details of all relevant insurance policies and copies of any cover-notes relating to the insurances effected pursuant to this Agreement and will use all reasonable endeavours to procure that:
- 8.2.1 the interests of CPI are duly noted on insurance policies;
- 8.2.2 subrogation rights are waived by the insurers; and
- 8.2.3 such insurance policies include non-avoidance of liability provisions to ensure that an act by the Supplier which negates the terms of an insurance policy will not prejudice the insurance cover benefit to CPI.

- 8.3 If the Supplier shall fail to comply in any respect with the provisions of this Condition 8, CPI shall be entitled (but not obliged) to arrange the insurance cover required by this Condition 8 which the Supplier shall pay for, and the Supplier hereby indemnifies CPI fully and holds it fully indemnified against all costs, claims, demands and liabilities incurred by CPI as a result.

9 LIMITATION OF LIABILITY

- 9.1 Neither party excludes or limits liability to the other party for death or personal injury caused by negligence or for fraud or fraudulent misrepresentation nor where liability cannot be excluded or limited as a matter of law (e.g. breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 (as amended) or Section 2 of the Supply of Goods and Services Act 1982).
- 9.2 Subject to Condition 9.1 above, CPI's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to a maximum of the total price payable in respect of any Goods and/or Services which have given rise to the claim or liability.
- 9.3 Subject to CPI paying all undisputed invoices that have been properly issued for Services that have actually been delivered under the Contract, and to Condition 9.1, CPI shall not be liable to the Supplier for any:
- 9.3.1 loss of profit, (whether direct or indirect); and/or
 - 9.3.2 loss of business; and/or
 - 9.3.3 loss of business opportunity; and/or
 - 9.3.4 depletion of good-will; and/or
 - 9.3.5 loss or corruption of data, or the costs and consequences of any data restoration; and/or
 - 9.3.6 costs of loans, borrowing and/or of temporary financing; and/or
 - 9.3.7 additional staffing costs; and/or
 - 9.3.8 costs, expenses or other claims for any type of special, indirect or consequential loss or compensation (including loss or damage suffered as a result of an action brought by a third party);
- whatsoever and howsoever caused which arises out of or in connection with these Conditions and/or the Contract, even if such loss was reasonably foreseeable or CPI had been advised of the possibility of the Supplier incurring the same.

10 TERMINATION

- 10.1 CPI shall be entitled at its sole discretion to terminate the Contract instantly upon written notice to the Supplier in the event that:

- 10.1.1 an order is made or a resolution is passed for the winding up of the Supplier or circumstances arise which entitle a Court of competent jurisdiction to make a winding-up order of the Supplier; or an order is made for the appointment of an administrator to manage the affairs, business and property of the Supplier or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the Supplier or notice of intention to appoint an administrator is given by the Supplier or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
- 10.1.2 a receiver is appointed of any of the Supplier's assets or undertaking or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Supplier or if any other person takes possession of or sells the other party's assets; or
- 10.1.3 the Supplier makes any arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- 10.1.4 the Supplier is, or is reasonably considered to be unable to pay its debts when they fall due as defined in Section 123 of the Insolvency Act 1986; or
- 10.1.5 any distraint is levied against the other party or its property by any Supplier;
- 10.1.6 the Supplier ceases, or threatens to cease, to carry on business;
- 10.1.7 any action or occurrence analogous to the provisions of Conditions 10.1.1 to 10.1.6 occurs in respect of the Supplier in any jurisdiction;
- 10.1.8 the termination rights in Condition 22.2 relating to Change of Control are exercised by CPI; or
- 10.1.9 the Supplier is in breach of these Conditions and such breach is not capable of remedy; or
- 10.1.10 the Supplier is in breach of these Conditions and such breach is capable of remedy, but the breach has not been remedied within 7 (seven) days of issue of a written notice by CPI to the Supplier specifying the breach and requiring remedy.
- 10.2 The provisions of Conditions 3.1, 3.2, 3.3, 3.6, 4. 5.6, 6.6, 6.7, 6.8, 7.5, 8, 9, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, and 24 shall survive termination of the provision of any Goods and/or Services under an Order, and the termination of any relevant Contract, howsoever arising.

11. CONFIDENTIAL INFORMATION

- 11.1 Subject to Condition 11.7, the Supplier undertakes to, and to procure that its Employees shall:
 - 11.1.1 keep secret and maintain confidential the Confidential Information; and

- 11.1.2 use Confidential Information only in connection with the provision of the Goods and/or Services and in particular not use any Confidential Information to obtain a commercial, trading or any other advantage; and
- 11.1.3 upon demand:-
- (a) procure the return to CPI of all items and copies of all or any Confidential Information; and
 - (b) expunge all Confidential Information from any computer, word processor or other similar device into which it was programmed; and
 - (c) destroy all notes, analyses or memoranda containing or referring to Confidential Information; and
 - (d) if so required, furnish to CPI a certificate of a director of the Supplier confirming that to the best of his or her knowledge, information and belief, having made all proper enquiries, the provisions of this Condition 11.1 have been complied with.
- 11.2 To secure the confidentiality attaching to the Confidential Information, the Supplier shall:-
- 11.2.1 keep separate all Confidential Information and all information generated by the Supplier based on Confidential Information from all other documents and records of the Supplier;
 - 11.2.2 not use, copy, photocopy, reproduce, transform or store any of the Confidential Information in an externally accessible computer or transmit it in any form or by any means whatsoever outside of its usual place of business;
 - 11.2.3 at the request of CPI made at any time, immediately deliver up to CPI all documents and other material in the possession, custody or control of the Supplier (or of any Employee pursuant to Condition 11.2.4) that bear or incorporate any part or parts of the Confidential Information;
 - 11.2.4 undertake to permit access to the Confidential Information only to those Employees who reasonably need access to such Confidential Information for the purpose of the provision of the Services, and on the conditions that such Employees shall have:
 - (a) entered into legally binding confidentiality obligations to the Supplier on terms at least equivalent to the restrictions on the use of Confidential Information as set out in these Conditions; and
 - (b) been informed of CPI's interest in the Confidential Information and the terms of these Conditions, and instructed to treat the Confidential Information as secret and confidential in accordance with the provisions of these Conditions.
- 11.3 The Supplier warrants to CPI that it shall be responsible for the enforcement of the confidentiality obligations and that it shall procure that all Employees given access to Confidential Information under Condition 11.2.4 shall comply with the provisions of these Conditions.

- 11.4 Nothing contained in these Conditions shall prevent the Supplier from imparting Confidential Information which it or any company in its Group may be obliged to disclose or make available:

11.4.1 under any applicable rule of law or other governmental regulation of the United Kingdom or any other competent jurisdiction; or

11.4.2 in connection with proceedings before a court of competent jurisdiction in relation to these Conditions or under any court order;

provided that the Supplier shall promptly notify CPI if any Confidential Information is required or requested to be disclosed and, so far as it is permitted by law, seek CPI's approval regarding the manner of such disclosure and the content of any announcement or, at CPI's expense, co-operate with any reasonable action which it may elect to take to challenge the validity of such requirement.

- 11.5 If any proceedings are commenced or action taken which could result in Confidential Information having to be disclosed, the Supplier shall immediately notify CPI of such proceedings or action in writing and shall take all available steps to resist or avoid such proceedings or action (including all steps that CPI may reasonably request) and keep CPI fully and promptly informed of all matters and developments relating to such proceedings. If the Supplier is obliged to disclose Confidential Information to any third party, such disclosure will only be made to such third party and the Supplier will disclose only the minimum amount of information consistent with satisfying its obligation to such person. Prior to making any such disclosure, the Supplier will give written notice to CPI of the information it proposes to disclose containing a copy of the proposed disclosure and confirmation that its legal advisers' opinion is that such disclosure is required and the Supplier will take into account any reasonable comments CPI may have in relation to the contents of the proposed disclosure.

- 11.6 The duties of confidentiality set out in this Condition 11 shall survive termination of each respective Contract for the longer of a period either of ten years from the date of its termination, or any period over ten years from the date of its termination that is specified in the Order.

- 11.7 The parties agree that in respect of Confidential Information protected by any executed NDA, the provisions of this Condition 11 shall not apply, and shall not supersede, supplement nor replace the provisions of any executed NDA in respect of that Confidential Information, and that this Condition 11 shall only apply to any such Confidential Information to the extent that such Confidential Information is not already protected by any executed NDA in place between the parties.

12. INTELLECTUAL PROPERTY RIGHTS

- 12.1 Unless otherwise agreed in writing in the Order, CPI shall gain no Intellectual Property Rights in the Goods, which shall remain with their respective owner.

- 12.2 Unless otherwise agreed in writing in the Order, the Intellectual Property Rights in any Outputs arising from the performance of the Services shall vest in CPI absolutely, but for the avoidance of doubt, any designs or works created by the Supplier and/or the Employees which are created outside of the performance of the Services, or which are owned by the Supplier or its licensors prior to the date of the applicable Contract, will remain the property of the Supplier or of its licensors (as applicable).

- 12.3 Ownership of all Intellectual Property Rights in the Specification (where the Specification is given to the Supplier by CPI) shall remain at all times with CPI (or with CPI's licensors as applicable), and where the Specification in any Goods has been created by the Supplier for CPI as an Output of any Services, ownership of that Specification shall vest in and remain at all times with CPI. The Supplier shall hold such Specification as CPI's Confidential Information and shall not be permitted to make any further use of it outside of the Contract (either on its own behalf or on behalf of any other person) nor to disclose it to any third party.
- 12.4 The Supplier shall promptly disclose and shall procure that the Employees promptly disclose to CPI's Representative full details of all Outputs created in the course of the provision of the Services in the format made available to the Supplier from time to time by CPI.
- 12.5 The Supplier hereby assigns and shall procure that each of the Employees assigns to CPI (including, to the extent necessary and permissible, by way of future assignment) the copyright and other Intellectual Property Rights in the Outputs which are created by the Supplier and/or the Employees in the performance of the Services or which relate to the Project.
- 12.6 The Supplier shall, and shall procure that the Employees shall:
- 12.6.1 keep all Outputs confidential;
 - 12.6.2 whenever requested to do so by CPI and in any event on the termination of the applicable Contract, promptly to deliver to CPI all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any part of the Outputs and the process of their creation which are in its possession, custody or power;
 - 12.6.3 not register nor attempt to register any of the Intellectual Property Rights in the Outputs, unless instructed in writing to do so by CPI; and
 - 12.6.4 promptly upon demand by CPI to execute all such documents and do all acts as CPI believes are reasonably necessary to confirm that absolute title in all Intellectual Property Rights in the Outputs vests in CPI.
- 12.7 The Supplier warrants to CPI that:
- 12.7.1 it has not given and will not give permission to any third party to use any of the Outputs, nor any of the Intellectual Property Rights in the Outputs;
 - 12.7.2 it is unaware of any use by any third party of any of the Outputs or Intellectual Property Rights in the Outputs; and
 - 12.7.3 the use of the Outputs or the Intellectual Property Rights in the Outputs by CPI will not infringe the rights of any third party.
- 12.8 The Supplier shall procure that each of the Employees waives any moral rights in the Outputs to which it is now or may at any future time be entitled under Chapter IV of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction, including (but without limitation) the right to be identified, the right of integrity and the right against false attribution, and agrees not to institute, support, maintain or permit any action or claim to the effect that any treatment, exploitation or use of such Outputs or other materials, infringes the Supplier's moral rights.

- 12.9 The Supplier acknowledges that no further remuneration or compensation other than that provided for in these Conditions is or may become due to the Supplier in respect of the performance of its obligations under this Condition 12.
- 12.10 In the event that the Supplier is subject to a claim from any Employees under Section 40 of the Patents Act 1977 (or under any similar statutory provision which may replace or supplement Section 40 of the Patents Act 1977 in the future), the Supplier acknowledges and agrees that it is the applicable employer of the Employees, and agrees that it shall not join CPI as a party to any such claim, nor purport to pass responsibility to CPI for any sums that may be payable to such Employees, nor seek to recover any such sums from CPI.
- 12.11 In the event that any claim or attack is brought or threatened by any third party against the Supplier and/or any Employees in relation to any Intellectual Property Rights in or connected with the Outputs, the Supplier shall immediately notify CPI with full details, and the Supplier shall liaise with CPI in the conduct of its defence (at the Supplier's own cost) and shall not take any steps which in CPI's opinion would prejudice CPI's position in relation to its ownership of the Intellectual Property Rights in the Outputs.

13. NON-SOLICITATION

- 13.1 The Supplier covenants with CPI that the Supplier shall not, and shall procure that the Personnel shall not at any time for a period of 6 months after the end of the Contract directly or indirectly:
- 13.1.1 solicit or entice away or seek to entice away or employ or procure to be employed any person who is or has been an employee of CPI throughout the duration of the Contract;
 - 13.1.2 employ or procure to be employed any former employees of CPI who have been employed by CPI in the 12 months prior to the termination date of the Contract and who have had direct dealings with clients of CPI;
 - 13.1.3 solicit or entice away or seek to entice away from doing business with CPI any person, firm, company or organisation who throughout the duration of the Contract was a client of CPI.
- 13.2 The parties in all respects consider the restrictions contained in this Condition 13 reasonable.
- 13.3 Without prejudice to Condition 19, the provisions of Conditions 13.1.1, 13.1.2 or 13.1.3 are separate and severable and shall be construed and be capable of enforcement accordingly.

14. NOTICES

- 14.1 Any notice or other communication given or made under these Conditions shall be in writing and may be sent by email, save in respect of a notice of termination which shall be served under the provisions of Condition 14.2 below. Without affecting the validity of the original notice or communication sent by email, the party who sends such email may, in addition and at its sole discretion, send a paper copy of such communication to the recipient under Condition 14.2.

- 14.2 Any such notice or other communication shall be sent to the address for service set out in the Order, or where the Order is silent on such matters, to the relevant parties' registered office and, if so addressed, shall be deemed to have been duly given or made as follows:-

14.2.1 if sent by personal delivery, upon delivery at the address of the relevant party;

14.2.2 if sent by first class post, two working days after the date of posting.

- 14.3 If any notice or other communication would otherwise be deemed to be given or made after 5:00 pm on any working day, such notice or other communication shall be deemed to be given or made at 9:00 am on the next following working day.

15. CONTRACT FORMATION AND ENTIRE AGREEMENT

- 15.1 Without prejudice to Condition 2, and subject to Condition 11.7 and any to prior undertaking, representation, warranty, promise, or assurance made to CPI about the Goods and/or the Services and/or the Outputs by the Supplier, the Contract constitutes the entire and only agreement and understanding between the parties in connection with the provision of the relevant Goods and/or Services under that Contract.

- 15.2 The Supplier acknowledges that it has not entered into the Contract in reliance on any undertaking, representation, warranty, promise, assurance or arrangement of any nature from CPI which is not expressly set out herein.

- 15.3 Nothing in this Condition 15 shall limit or exclude either party's liability for fraud or for fraudulent misrepresentation.

16. FORCE MAJEURE

- 16.1 Neither party shall be liable for any delay in performing or failure to perform any of its obligations under these Conditions if such delay or failure results from events or circumstances outside its reasonable control and which it could not have taken reasonable steps to avoid or to mitigate. Such delay or failure shall not constitute a breach of these Conditions where notified to the other party as soon as reasonably practicable and the time for performance shall be extended by a period equivalent to that during which performance is so prevented, for a period of up to one month. For the avoidance of doubt, failures by the Supplier's own suppliers or sub-contractors, and strikes by the Supplier's employees shall not be events or circumstances outside of the Supplier's reasonable control for the purposes of this Condition 16.

17. SUCCESSORS AND ASSIGNS / SUB-CONTRACTING

- 17.1 The Contract shall be binding upon, and enure for the benefit of, the parties' successors in title.

- 17.2 The Supplier shall not assign or novate all or any part of the benefit of, or its rights or benefits under, the Contract incorporating these Conditions without the prior written consent of CPI. Any rights which are the subject of a purported assignment in breach of this clause shall be unenforceable unless and until the breach is rectified.

- 17.3 The Supplier shall not sub-contract any of its obligations under the Contract incorporating these Conditions without the prior written consent of CPI (at CPI's sole discretion), and in such circumstances where CPI's consent under this Condition 17.3 is granted, the

Supplier agrees that it shall be fully liable to CPI for all acts and / or omissions of the permitted sub-contractor as if such acts and / or omissions were the Supplier's own.

18. VAT

- 18.1 All payments to be made pursuant to these Conditions shall (save where otherwise specifically stated) be exclusive of Value Added Tax (if applicable). Any Value Added Tax chargeable in respect of the matters giving rise to such payments shall be added to the amount of, and paid in addition to, them.

19. SEVERABILITY

- 19.1 If any wording in any provision of the Contract and/or of these Conditions shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such wording shall be deemed removed from the relevant provision, and the invalidity or unenforceability of such wording shall not affect the remainder of that provision, nor the remainder of the relevant Contract and/or of these Conditions, and the remaining wording of such provision and all other provisions not affected by such invalidity or unenforceability shall remain in full force and effect.

20. WAIVERS AND RELEASES

- 20.1 The rights, powers and remedies conferred on the parties in these Conditions are cumulative and are additional to, and not exclusive of, any rights, powers and remedies provided by law or otherwise available it.
- 20.2 No delay or omission on the part of any party to these Conditions in exercising any right, power or remedy provided by law or under these Conditions shall impair such right, power or remedy or operate as waiver thereof.
- 20.3 The single or partial exercise of any right, power or remedy provided by law or under these Conditions shall not preclude any other or further exercise thereof or the exercise of any other right, power or remedy.
- 20.4 Except as specifically provided in these Conditions, no waiver of any provision of these Conditions shall in any event be effective unless the same shall be in writing, and then such waiver shall be effective only in the specific instance, for the purpose for which the same is given, and such waiver shall not operate as a waiver of any future application of such provision.

21. SET-OFF

- 21.1 Any sums credited by or due from CPI to the Supplier may, at any time and from time to time without notice, be applied to and/or set off against any liabilities or obligations of the Supplier to CPI, whether absolute or contingent, due or to become due, direct or indirect, whether under the Contract or otherwise.

22. CHANGE OF CONTROL

- 22.1 If at any time whilst the Contract is in force there is a Change of Control of the Supplier, the Supplier shall notify CPI within 14 days of the Change of Control having occurred.
- 22.2 Where CPI believes in its sole discretion that the continuation of the Contract would, as a result of the Change of Control, adversely affect CPI's commercial interest, CPI shall

have the right to terminate the Contract forthwith by giving notice to the Supplier, such notice to be served during a period of ninety (90) calendar days from the date on which the notification from the Supplier of the Change of Control is served (for the avoidance of doubt, whether served within the correct period, or served late). After such time CPI's rights to terminate due to a Change of Control under this Condition 22 shall lapse.

- 22.3 For the avoidance of doubt, failure to notify a Change of Control under Condition 22.1 shall be deemed to be a breach which is not capable of remedy of any applicable Contract for the purposes of Condition 10.1.9.

23. THIRD PARTY RIGHTS

- 23.1 A person who is not a party to the Contract incorporating these Conditions has no right under the Contracts (Right of Third Parties) Act 1999 to enforce any term of that Contract but this shall not affect any right or remedy of a third party which exists or is available apart from that Act.

24. GOVERNING LAW AND JURISDICTION

- 24.1 These Conditions and the Contract incorporating them shall be governed by and construed in accordance with the law of England.
- 24.2 In the event of a dispute between the parties, CPI shall (at its sole discretion) decide whether to have the matter finally resolved under Conditions 24.3 and 24.4. In all other circumstances the parties submit to the exclusive jurisdiction of the English courts.
- 24.3 All disputes arising out of or in connection with these Conditions (or the Contract made pursuant to these Conditions), which are referred to arbitration under Condition 24.2, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.
- 24.4 It is agreed that in relation to any dispute referred to arbitration under Condition 24.2:
- 24.4.1 the tribunal shall include at least one arbitrator who is an expert in the purchasing and use of the Goods and/or Services that are in dispute; and
- 24.4.2 the place of arbitration shall be Newcastle-upon-Tyne, England; and
- 24.4.3 the language of arbitration shall be English; and
- 24.4.4 each party shall bear the costs of arbitration as directed by the arbitrators.