

## STANDARD TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

### 1. DEFINITIONS AND INTERPRETATION

In these Conditions:

1.1 the following words and expressions have the following meanings unless the context otherwise requires:

**Applicable Law:** means (a) any statute, statutory instrument, bye-law, order, directive, treaty, decree or law (including any common law, judgment, demand, order or decision of any court, regulator or tribunal); (b) legally binding rule, policy, guidance or recommendation issued by any governmental, statutory or regulatory body; and/or (c) legally binding industry code of conduct or guideline, which (in the case of any of (a)(b)and/or(c)) relates to the Contract and/or the Goods and/or their manufacture, packaging, packing and/or delivery and/or the Services and/or the activities which are comprised in all or some of the Services or the use or application of the output from the Services.

**Business Day:** means a day that is not a Saturday, Sunday or public or bank holiday in England and/or Wales.

**Charges:** means the charges for the Services agreed between the Customer and the Supplier in writing.

**Conditions:** means these standard terms and conditions of purchase, as varied from time to time in accordance with **Condition 18.4**.

**Confidential Information:** shall have the meaning given to it in **Condition 12.1**.

**Contract:** means the contract between the Supplier and the Customer for the supply of the Goods and Services formed in accordance with **Condition 2.1**.

**Control:** means in relation to a person, the power (whether direct or indirect) to direct or cause the direction of its affairs, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise and "**Controls**" and "**Controlled**" will be construed accordingly.

**Customer:** means the member of the National Grid Plc Group specified in the Order.

**Customer Policies:** those policies of the Customer that are notified in writing to the Supplier from time to time.

**"Data Protection Laws"** means applicable legislation protecting the Personal Data of natural persons, including in particular the Data Protection Act 1998 and any replacement to it (and, from 25 May 2018, the GDPR), together with binding guidance and codes of practice issued from time to time by relevant supervisory authorities;

The terms "**Data Controller**", "**Data Processor**", "**Data Subject**", "**Personal Data**", "**Personal Data Breach**" and "**Process/Processing**" have the same meaning as described in the Data Protection Laws

**Delivery:** means the time at which delivery of the Goods occurs in accordance with **Condition 4.2**

**Disposer:** shall have the meaning given to it in **Condition 12.1**.

**Disputed Sum:** means that part of an amount invoiced by the Supplier which is the subject of a bona fide dispute, as notified by the Customer to the Supplier under **Condition 7.9**.

**Force Majeure Event:** means (a) an act of God; (b) war; (c) insurrection, riot, civil commotion, act or threat of terrorism; (d) lightning, earthquake, fire, flood, storm or extreme weather condition; or (e) any other event or circumstance to the extent it is beyond the reasonable control of the relevant Party.

**"GDPR"** means 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 including where applicable any local implementing laws as updated from time to time;

**Good Industry Practice:** means in relation to the supply of the Goods and/or the Services and any ancillary performance obligations, the supply of such Goods and/or Services or the performance of such obligations using the degree of skill, care, prudence, supervision, diligence, foresight, quality control and quality management using what the industry would (at the relevant time) regard as the best generally accepted processes, techniques and materials.

**Goods:** means the goods (if any) set out in the Order.

**Group:** in respect of a person, means any of that person's parent or subsidiary undertakings together with any subsidiary undertakings of any such parent undertakings from time to time. The terms "**subsidiary undertaking**" and "**parent undertaking**" shall have the meanings given to them by section 1162 Companies Act 2006 except that references in that section to "**majority**" shall be replaced by reference to "25% or more". A company shall be treated, for the purposes only of the membership requirement contained in section 1162 of the Companies Act 2006, as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee) by way of security or in connection with the taking of security, or (b) its nominee

**Insolvent:** the Supplier is insolvent where: (a) it takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; (b) it takes any step or action in connection with the Supplier being made bankrupt or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; (c) it suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or (d) the Supplier's financial position deteriorates to such an extent that in the Customer's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

**Intellectual Property Rights:** means all intellectual and industrial property rights of any kind whatsoever including patents, supplementary protection certificates, rights in know-how, registered trade marks, domain names, registered designs, models, unregistered design rights, unregistered trade marks, rights to prevent passing off or unfair competition and copyright (whether in drawings, plans, specifications, designs and computer software or otherwise), database rights, topography rights, any rights in any invention, discovery or process, and applications for and rights to apply for any of the foregoing, in each case in the United Kingdom and all other countries in the world and together with all renewals, extensions, continuations, divisions, reissues, re-examinations and substitutions.

**Liability:** means liability arising out of or in connection with the Contract, whether in contract, tort, misrepresentation, restitution, under statute or otherwise, including any liability arising from a breach of, or a failure to perform or defect or delay in performance of, any of a party's obligations under the Contract and/or from any defect in any of the Goods, in each case howsoever caused including if caused by negligence.

**Order:** means the Customer's written order for the purchase of goods and services from the Supplier.

**Prices:** means the prices set out in the Order.

**Recipient:** shall have the meaning given to it in **Condition 12.1**.

**Records:** shall have the meaning given to it in **Condition 11.5.2**.

**Representatives:** means in respect of a party, that party's Group Companies and its and their officers, directors, employees, consultants and professional advisers; and, where the Customer is the Recipient, the Customer's agents and sub-contractors; and "**Representative**" means any of them.

**Services:** means the services (if any) set out in the Order or otherwise agreed in writing between the Customer and the Supplier.

**Specification:** means the written technical specifications for the relevant Goods provided to the Customer by the Supplier (which may be included in or appended to the Order).

**Supplier:** means the person named as the supplier in the Order.

12 references to Conditions are to conditions of these Conditions;

13 all headings are for ease of reference only and will not affect the construction or interpretation of these Conditions;

14 unless the context otherwise requires: references to the singular include the plural and vice versa and references to any gender include every gender; and references to a "person" include any individual, body corporate, association, partnership, firm, trust, organisation, joint venture, government, local or municipal authority, governmental or supra-governmental agency or

department, state or agency of state or any other entity (in each case whether or not having separate legal personality);

15 references to any statute or statutory provision will include any subordinate legislation made under it and will be construed as references to such statute, statutory provision and/or subordinate legislation as modified, amended, extended, consolidated, re-enacted and/or replaced and in force from time to time;

16 any words following the words "include", "includes", "including", "in particular" or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them;

17 an obligation on a party to procure or ensure the performance or standing of another person will be construed as a primary obligation of that party;

18 reference to "in writing" will include e-mails; and

19 any obligation on a party not to do or omit to do anything includes an obligation not to allow (whether expressly or by a failure to take reasonable steps to prevent) that thing to be done or omitted to be done by any other person.

### 2. CONTRACT FORMATION

20 The Supplier's quotation constitutes an offer by the Supplier to supply the Goods and Services to the Customer on these Conditions and will, unless the parties agree otherwise, remain open for acceptance by the Customer for a period of 30 days from and including its date. A contract for the supply of Goods and Services by the Supplier to the Customer on these Conditions will be formed when the Customer accepts the quotation by issuing the Order to the Supplier. For the avoidance of doubt the Customer is under no obligation to accept the quotation.

22 These Conditions will apply to the exclusion of all other terms and conditions which the Supplier purports to apply under any quotation, acknowledgement, acceptance or confirmation of order, delivery note, invoice or similar document (whether or not such document is referred to in the Contract) and any terms and conditions which may otherwise be implied by trade, custom, practice or course of dealing.

23 Delivery of the Goods or commencement of performance of the Services will be deemed conclusive evidence of the Supplier's acceptance of these Conditions.

24 The Supplier may not cancel the Contract. The Customer may cancel the Contract in whole or in part immediately by giving written notice to that effect to the Supplier at any time before delivery of the Goods in accordance with **Condition 4.2**. If the Customer exercises its right of cancellation under this **Condition 2.4** the Customer's sole liability will be to pay to the Supplier fair and reasonable compensation for work-in-progress at the time of cancellation but such compensation will not include loss of profits (whether direct or indirect and whether actual or anticipated) or any indirect or consequential loss.

25 The Customer may, by giving written notice to that effect to the Supplier at any time before delivery of the Goods vary the quantity or type of the Goods ordered, the delivery date or address or the Specification. If any such variation results in an increase in the Supplier's costs of performing, or the time required for performance of, the Contract the parties will agree an equitable adjustment to the price, delivery schedule or both.

26 The Supplier may not deliver the Goods by separate instalments unless the Customer gives its prior written consent to this. If the Customer gives such consent, the Supplier will invoice the Price for each instalment separately in accordance with **Condition 7.4** and the Customer will be entitled, at its sole discretion, to exercise its rights and remedies (whether under these Conditions or otherwise) in respect of the relevant instalment or the whole Contract.

27 The Supplier will comply with all Applicable Laws in performing its obligations under the Contract including, but not limited to the Modern Slavery Act 2015.

### 3. THE GOODS

30 The quantity and description of the Goods will be as set out in the Order and the Specification.

32 The Customer will have the right to inspect and test the Goods at any time prior to Delivery. The Supplier will permit the Customer, its officers, employees, agents and sub-contractors to enter upon the Supplier's premises, and will procure permission for such persons to enter upon any relevant third party premises, to carry out such inspection and testing and will provide the Customer with all facilities reasonably required.

33 If, following inspection or testing under **Condition 3.2**, the Customer gives written notice to the Supplier that it is not satisfied that the Goods will comply with **Condition 5.1**, the Supplier will take all steps necessary to ensure compliance. Any breach of this obligation by the Supplier will be deemed to be a material breach which cannot be remedied entitling the Customer to terminate the Contract under **Condition 11.1.1**.

34 No inspection or testing under **Condition 3.2** will reduce or otherwise affect the Supplier's obligations under the Contract.

35 The Supplier will maintain and observe quality control and supplier quality assurance standards in respect of the Goods and Services in accordance with the requirements of the Customer, Good Industry Practice and the requirements of any relevant statutory and regulatory bodies.

36 The Supplier will maintain detailed quality control and manufacturing records for a period of at least 12 years from the date of Delivery and will permit the Customer, its officers, employees, agents and sub-contractors to inspect and take copies of these records on demand.

### 4. DELIVERY

40 The Supplier will deliver the Goods to the address specified by the Customer on the date specified by the Customer or, if no date is specified by the Customer:

4.1.1 the Supplier will give written notice to the Customer no later than 10 Business Days prior to the date on which the Goods will be ready for Delivery; and

4.1.2 the Customer will notify the Supplier of the date on which the Goods are to be delivered.

4.2 The Supplier will be responsible for off-loading the Goods from the delivery vehicle. Delivery of the Goods will occur when they have been off-loaded at the delivery address.

4.3 The Supplier will ensure that:

4.3.1 the Goods are marked in accordance with the Customer's instructions and any Applicable Laws and are properly packed and secured so as to reach their destination in an undamaged condition;

4.3.2 the delivery is accompanied by a prominently displayed delivery note which shows the Order number, date of Order, type and quantity of Goods, code numbers of Goods (if applicable), any special storage instructions and, where delivery by instalments is permitted under **Condition 2.6**, the outstanding balance of Goods remaining to be delivered;

4.3.3 if the Supplier requires the Customer to return any packaging material for the Goods to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material will only be returned to the Supplier at the cost of the Supplier;

4.3.4 on or before Delivery the Customer is provided in writing with a list by name and description of any harmful or potentially harmful properties or ingredients in the Goods supplied whether in use or otherwise and thereafter information concerning any changes in such properties or ingredients. The Customer will rely on the supply of such information from the Supplier in order to satisfy its own obligations under the Health and Safety at Work Act 1974 and any relevant Applicable Laws; and

4.3.5 on or before Delivery the Customer is supplied with all operating and safety instructions, clearly displayed warning notices and such other information as may be necessary for the proper use, maintenance and repair of the Goods.

4.4 If the Supplier fails to deliver the Goods on the date specified in accordance with **Condition 4.1**, without prejudice to any other rights or remedies of the Customer (whether express or implied), the Customer may terminate the Contract immediately by giving written notice to that effect to the Supplier, in which case the Supplier will refund any monies already paid by the Customer under the Contract in relation to the Goods that have not been delivered.

4.5 If the Supplier delivers a quantity of Goods which is more than 105% or less than 95% of the quantity specified by the Customer, the Customer will be entitled to reject the Goods delivered or (where applicable) the excess Goods and the rejected Goods will be returnable at the Supplier's risk and expense. If the Customer accepts delivery of a quantity of Goods which is more or less than the quantity set out in the Contract (including a quantity which does not trigger the Customer's right of rejection under this **Condition 4.5**) the sum invoiced by the Supplier

under **Condition 7.4** will be adjusted on a pro rata basis to take account of the over or under delivery.

4.6 Risk in and ownership of the Goods will pass to the Customer on Delivery.

5. **DEFECTIVE GOODS**

5.1 The Supplier will ensure that the Goods will:

5.1.1 be of satisfactory quality within the meaning of the Sale of Goods Act 1979;

5.1.2 be fit for any purpose held out by the Supplier or made known to the Supplier expressly or by implication and in this respect the Customer relies on the Supplier's skill and judgement;

5.1.3 correspond with their description;

5.1.4 conform to the Specification;

5.1.5 be free from defects in design, materials and workmanship;

5.1.6 comply with all relevant Applicable Laws; and

5.1.7 be so formulated, designed, constructed, finished and packaged as to be safe and without risk to health.

5.2 Without prejudice to any other rights or remedies of the Customer (whether express or implied), if any Goods do not conform with any of the terms of **Condition 5.1** the Customer may (whether or not the Goods have been accepted):

5.2.1 terminate the Contract immediately by giving written notice to that effect to the Supplier; or

5.2.2 require the Supplier, at the Customer's option, to promptly repair or replace the relevant Goods free of charge or to refund the Price for the relevant Goods.

5.3 **Condition 5.2** will apply to any repaired or replacement Goods supplied under **Condition 5.2.2**.

6. **SERVICES**

6.1 The Supplier will, in performing the Services:

6.1.1 use the degree of skill, care, prudence, supervision, diligence, foresight, quality control and quality management which would be adopted by a leading professional provider of the Services;

6.1.2 use appropriately qualified, trained and experienced personnel;

6.1.3 fulfil all requirements set out in the Order, including without limitation those relating to compliance with specifications, permits, authorisations, specific technical competence, risk management and method statements (RAMS) and in relation to hazards and site arrangements;

6.1.4 conduct itself in a safe manner which is free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner;

6.1.5 fully co-operate with the Customer's agents, representatives and contractors;

6.1.6 ensure that it has and maintains all licences, permissions and consents required from time to time;

6.1.7 comply with all health and safety and security policies that apply at the Customer's premises and all lawful and reasonable directions of the Customer; and

6.1.8 not do or omit to do anything which may cause the Customer to lose any licence, permission or consent or to be in breach of any Applicable Law.

6.2 The Supplier will perform the Services on the performance date or during such contract period set out in the Order. Time for provision of the Services will be of the essence of the Contract.

7. **PRICE AND PAYMENT**

7.1 Subject to the Supplier performing its obligations in accordance with the terms of the Contract, the Customer will pay the Prices and Charges to the Supplier in accordance with this **Condition 7**.

7.2 The only monies to be paid by the Customer in connection with the supply of the Goods and the performance of the Services are the Prices and the Charges which will be inclusive of all costs and expenses incurred by the Supplier including all packaging, insurance, carriage and delivery costs and all travel, accommodation and subsistence expenses, unless otherwise expressly agreed in the Order.

7.3 Any sum payable under the Contract is exclusive of value added tax (and any other similar or equivalent taxes, duties, fees and levies imposed from time to time by any government or other authority) which will be payable in addition to that sum in the manner and at the rate prescribed by law from time to time, subject to receipt by the paying party of a valid value added tax invoice.

7.4 The Supplier will be entitled to invoice the Customer for the Prices for the Goods following Delivery and the Charges following satisfactory performance of the Services.

7.5 The Supplier will submit invoices in the form agreed between the parties from time to time to the address notified in writing by the Customer to the Supplier from time to time. Each invoice will be a valid value added tax invoice and will contain the following information:

7.5.1 the Supplier's name and address;

7.5.2 the total amount of the Prices and any Charges;

7.5.3 a separate calculation and explanation of VAT and any withholding tax; and

7.5.4 a brief description of the Goods and Services provided.

7.6 Subject to **Conditions 7.7, 7.8, 7.9 and 7.11**, unless otherwise agreed in writing between the parties, each invoice will be payable by the Customer on or prior to the date that is 42 (forty two) days following the date on which the invoice is received by the Customer.

7.7 Notwithstanding any purported contrary appropriation by the Supplier, the Customer will be entitled, by giving written notice to the Supplier, to appropriate any payment by the Customer to any invoice issued by the Supplier.

7.8 No payment made by the Customer will constitute acceptance or approval by the Customer of the Goods or Services or otherwise prejudice any rights or remedies which the Customer may have against the Supplier including the right to recover any amount overpaid or wrongfully paid to the Supplier.

7.9 If the Customer, on bona fide grounds, disputes any part of an amount invoiced by the Supplier, the Customer may, within 10 Business Days of the date of receipt of the relevant invoice, notify the Supplier in writing of that dispute giving details of the nature of the dispute and the amount that it claims should have been invoiced and:

7.9.1 the Customer will pay that part of the invoice which is not the Disputed Sum in accordance with **Condition 7.6**;

7.9.2 the Customer will be entitled to withhold payment of the Disputed Sum;

7.9.3 the parties will negotiate in good faith to resolve the dispute, but if a resolution cannot be reached within 10 Business Days of the Customer giving notice under this **Condition 7.9**, **Condition 19.1** will apply to the dispute;

7.9.4 the Supplier will provide all such information and evidence as may be reasonably necessary to verify the Disputed Sum; and

7.9.5 following resolution of the dispute the Customer will, within 10 days, pay to the Supplier that part of the Disputed Sum (if any) as it is resolved is payable by the Customer.

7.10 If any sum payable under the Contract is not paid on or before the due date for payment the Supplier will be entitled to charge the Customer interest on that sum at 2% per annum above the base lending rate from time to time of Barclays Bank plc from the due date until the date of payment (whether before or after judgment), such interest to accrue on a daily basis. Such interest will not be chargeable on any Disputed Sum. The parties agree that this **Condition 7.10** is a substantial remedy for late payment of any sum payable under the Contract, for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.

7.11 The Customer will be entitled to set-off any liability which the Supplier has to it against any liability which it has to the Supplier, whether such liability is present or future, liquidated or unliquidated under the Contract or any other contract between the parties or other cause of action.

8. **EXCLUSIONS AND LIMITATIONS OF LIABILITY**

8.1 Subject to **Conditions 8.3 and 8.5**, each party's maximum aggregate Liability will be limited to 150% of the Price of the relevant Goods and/or Charges for the relevant Services under the Contract or such other amount as specified in the Order.

8.2 Neither party will have any Liability to the other party for any indirect or consequential loss or damage (including indirect or consequential loss of profit) which arises out of or in connection with the Contract, subject always to **Conditions 8.3 and 8.5**.

8.3 Nothing in the Contract will operate to exclude or restrict one party's Liability (if any) to the other:

8.3.1 for death or personal injury resulting from its negligence or the negligence of a person for whom it is vicariously liable;

8.3.2 for its fraud or fraudulent misrepresentation or fraud or fraudulent misrepresentation by a person for whom it is vicariously liable;

8.3.3 for breach of its obligations arising under section 12 of Sale of Goods Act 1979;

8.3.4 for breach of its obligations arising under Section 2 Supply of Goods and Services Act 1982; or

8.3.5 for any matter for which it is not permitted by law to exclude or limit, or to attempt to exclude or limit, its Liability.

8.4 Any Liability of a party which falls within **Condition 8.3** will not be taken into account in assessing whether the financial limit in **Condition 8.1** has been reached.

8.5 Without prejudice to **Condition 8.3**, nothing in the Contract will operate to exclude or restrict:

8.5.1 either party's Liability;

8.5.1.1 arising under **clause 10**;

8.5.1.2 for any breach of **clause 12**;

8.5.2 the Supplier's Liability;

8.5.2.1 under any indemnity contained in the Contract; or

8.5.2.2 for a deliberate breach of the Contract.

8.6 The Supplier will indemnify the Customer against all losses (including all direct, indirect and consequential losses), liabilities, costs, damages and expenses that the Customer does or will incur or suffer, all claims or proceedings made, brought or threatened against the Customer by any person and all losses (including all direct, indirect and consequential losses), liabilities, costs (on a full indemnity basis), damages and expenses the Customer does or will incur or suffer as a result of defending or settling any such actual or threatened claim or proceeding, in each case arising out of or in connection with a third party claim against the Customer:

8.6.1 for death, personal injury or damage to property arising out of or in connection with defects in Goods and/or deliverables from the Services, to the extent that the defects in the Goods and/or deliverables from the Services are attributable to the acts or omissions of the Supplier; or

8.6.2 relating to the supply of the Goods or performance of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier.

8.7 The Supplier shall indemnify the Customer against all losses (including all direct, indirect and consequential losses), liabilities, costs, damages and expenses that the Customer does or will incur or suffer, all claims or proceedings made, brought or threatened against the Customer by any person and all losses (including all direct, indirect and consequential losses), liabilities, costs (on a full indemnity basis), damages and expenses the Customer does or will incur or suffer as a result of any breach of the Modern Slavery Act 2015.

9. **INTELLECTUAL PROPERTY RIGHTS**

9.1 Unless agreed otherwise in writing between the parties, nothing in the Contract will operate to transfer to a party or to grant to a party any licence or other right to use any of the other party's Intellectual Property Rights, save that the Supplier grants (and will procure that each sub-contractor will grant) to the Customer a perpetual, irrevocable, non-exclusive, world-wide, royalty-free licence (with the ability to grant sub-licences) to use the Supplier's Intellectual Property Rights in the Goods and/or deliverables from the Services to the extent necessary to use the Goods and/or deliverables from the Services for the purpose for which they were supplied.

9.2 If any person claims that the possession and/or use and/or sale of the Goods and/or deliverables supplied as part of the Services by the Customer and/or its customers, officers, employees, agents, successors or sub-contractors infringes the Intellectual Property Rights of that or any other person ("IPR Claim"), the Supplier will indemnify the Customer, its customers, officers, employees, agents, successors and sub-contractors (together the "Indemnified Parties") against all losses (including all direct, indirect and consequential losses), liabilities, costs, damages and expenses that any of the Indemnified Parties do or will incur or suffer, all claims or proceedings made, brought or threatened against the any of the Indemnified Parties by any person and all losses (including all direct, indirect and consequential losses), liabilities, costs (on a full indemnity basis), damages and expenses any of the Indemnified Parties do or will incur or suffer as a result of defending or settling any such actual or threatened claim or proceeding, in each case arising out of or in connection with that IPR Claim. The indemnity in this **Condition 9.2** will not apply to the extent that an infringement is caused by any specification for the Goods which is created by the Customer.

10. **ANTI-CORRUPTION**

10.1 The Supplier will, and will procure that its officers, employees, agents and any other persons who performs services for or on behalf of it in connection with the Contract will:

10.1.1 not commit any act or omission which causes or could cause it or the Customer to breach, or commit an offence under, any laws relating to anti-bribery and/or anti-corruption;

10.1.2 comply with the Customer's anti-corruption policy as updated from time to time;

10.1.3 keep accurate and up to date records showing all payments made and received and all other advantages given and received by it in connection with the Contract and the steps it takes to comply with this **Condition 10.1**, and permit the Customer to inspect those records as reasonably required;

10.1.4 promptly notify the Customer of:

10.1.4.1 any request or demand for any financial or other advantage received by it; and

10.1.4.2 any financial or other advantage it gives or intends to give whether directly or indirectly in connection with the Contract; and

10.1.5 promptly notify the Customer of any breach of this **Condition 10.1**; and

10.1.6 where the Customer has reasonable grounds to believe that there has been a breach of this **Condition 10.1**, the Supplier will comply with any reasonable request of the Customer in investigating such breach including, without limitation, access to the Supplier's premises and records as are reasonably necessary for the purposes of such investigation.

10.2 The Customer may terminate the Contract immediately by giving written notice to that effect to the Supplier if the Supplier is in breach of **Condition 10.1**.

10.3 The Supplier will indemnify the Customer against all losses (including all direct, indirect and consequential losses), liabilities, costs, damages and expenses that the Customer does or will incur or suffer, all claims or proceedings made, brought or threatened against the Customer by any person and all losses (including all direct, indirect and consequential losses), liabilities, costs (on a full indemnity basis), damages and expenses the Customer does or will incur or suffer as a result of defending or settling any such actual or threatened claim or proceeding, in each case arising out of or in connection with any breach by the Supplier of any of its obligations under **Condition 10.1** (including any failure or delay in performing, or negligent performance or non-performance of, any of those obligations), including the costs of procuring the Goods and Services from a person other than the Supplier (including the costs of interim service provision, the costs of any re-tender and the amount by which any new service provider's prices exceed the Prices and Charges payable to the Supplier under the Contract). The Supplier will have no liability to the Customer under this **Condition 10.3** for any loss, liability, cost, damage, expense, claim or proceeding to the extent that it would not have been incurred or suffered but for the Customer's criminal liability.

- 10.4 The Supplier will indemnify the Customer against all losses (including all direct, indirect and consequential losses), liabilities, costs, damages and expenses that the Customer does or will incur or suffer, all claims or proceedings made, brought or threatened against the Customer by any person and all losses, liabilities, costs (on a full indemnity basis), damages and expenses the Customer does or will incur or suffer as a result of defending or settling any such actual or threatened claim or proceeding, in each case arising out of or in connection with any proceedings under section 7 Bribery Act 2010 being brought against the Customer as a result of the conduct of the Supplier or any of its officers, employees, agents or any other persons who perform services for or on behalf of it in connection with the Contract, where such proceedings do not result in a conviction against the Customer, including the costs of procuring the Goods and Services from a person other than the Supplier (including the costs of interim service provision, the costs of any re-tender and the amount by which any new service provider's prices exceed the Prices and Charges payable to the Supplier under the Contract).
11. **TERMINATION**
- 11.1 If the Supplier:
- 11.1.1 commits a material breach of the Contract which cannot be remedied; or
- 11.1.2 commits a material breach of the Contract which can be remedied but fails to remedy that breach within 14 days (or such other period agreed in writing between the parties) of a written notice setting out the breach and requiring it to be remedied being given by the Customer, the Customer may terminate the Contract immediately by giving written notice to that effect to the Supplier. Breach of **Condition 2.7** shall constitute a material breach of the Contract.
- 11.2 The Customer may terminate the Contract immediately by giving written notice to that effect to the Supplier if the Supplier becomes Insolvent.
- 11.3 The Supplier will notify the Customer immediately upon becoming Insolvent.
- 11.4 Following expiry or termination of the Contract:
- 11.4.1 **Conditions 1, 3.6, 5, 9, 10, 11.5, 11.6, 11.7, 12, 17, 18 and 18.10** will continue in force, together with any other Conditions which expressly or impliedly continue to have effect after expiry or termination of the Contract; and
- 11.4.2 all other rights and obligations will immediately cease without prejudice to any rights, obligations, claims (including claims for damages for breach) and liabilities which have accrued prior to the date of expiry or termination.
- 11.5 Within 30 days after the date of expiry or termination of the Contract the Recipient will, subject to the exception set out in **Condition 11.6**,
- 11.5.1 if requested to do so, return to the Discloser all of the Discloser's Confidential Information (including all copies and extracts) and all other property of the Discloser (whether tangible or intangible) in its possession or control;
- 11.5.2 if requested to do so, destroy or permanently erase (if technically feasible without incurring excessive expense and without undue effort) all documents and all records (in any media) created by it or on its behalf that use, concern or are based on any of the Discloser's Confidential Information ("**Records**"); and
- 11.5.3 cease to use the Discloser's Confidential Information.
- 11.6 The Recipient may retain any of the Discloser's Confidential Information and/or Records which it has to keep to comply with any Applicable Law or which it is required to retain for insurance, accounting or taxation purposes. The other provisions of **Condition 12** will continue to apply to retained Confidential Information and Records, which may only be used for such purposes.
- 11.7 If the Supplier fails to comply with **Condition 11.5** the Customer will, subject to **Condition 11.6** be entitled to enter upon the Supplier's property for the purpose of removing its Confidential Information and/or its property and/or any Records.
12. **CONFIDENTIALITY**
- 12.1 In these Conditions "**Confidential Information**" means, subject to **Condition 12.4**:
- 12.1.1 any information (whether written, oral, in electronic form or in any other media) that is disclosed in connection with this Agreement by or on behalf of a Party (the "**Discloser**") (or any member of its Group or any of its Representatives) to the other Party (the "**Recipient**") (or any member of its Group or any of its Representatives); and
- 12.1.2 the terms of or subject matter of this Agreement or any discussions or documents in relation to it, and in respect of such information each party will be deemed to be a Recipient.
- 12.2 The Recipient will at all times, but subject to **Conditions 12.3 and 12.4**:
- 12.2.1 keep the Confidential Information secret and will only disclose it in the manner and to the extent expressly permitted by this **Condition 12**;
- 12.2.2 use the Confidential Information solely for the purpose of performing its obligations and exercising its rights under the Contract; and
- 12.2.3 keep the Confidential Information safe and secure and apply to it documentary and electronic security measures that match or exceed those the Recipient operates in relation to its own confidential information and will never exercise less than reasonable care.
- 12.3 The Recipient may disclose Confidential Information:
- 12.3.1 to those of the Recipient's Representatives who need access to that Confidential Information in order for the Recipient's obligations under the Contract to be performed and the Recipient's rights under the Contract to be exercised. Prior to any such disclosure the Recipient must make that Representative aware of the fact that the Confidential Information is confidential and the obligations of confidentiality contained in this **Condition 12**. The Recipient will take reasonable steps to procure that each of the Recipient's Representatives will not do or omit to do anything which if done or omitted to be done by the Recipient would constitute a breach of this **Condition 12**. The Recipient will be liable for the acts and omissions of its Representatives in respect of the Discloser's Confidential Information as if they were acts or omissions of the Recipient; and
- 12.3.2 to the extent required by law or by any governmental or regulatory authority (including any stock exchange or listing authority or the Panel on Takeovers and Mergers). Where reasonably practicable and lawful the Recipient will notify the Discloser in writing in advance of such disclosure, will consult with the Discloser as to the content, purpose and means of disclosure and will seek to make such disclosure subject to obligations of confidence consistent, so far as reasonably possible, with the terms of this Contract.
- 12.4 Subject to **Condition 12.5**, the Recipient's obligations under this **Condition 12** will not extend to Confidential Information which:
- 12.4.1 the Discloser agrees in writing is not Confidential Information;
- 12.4.2 at the time of disclosure was in the public domain or subsequently enters into the public domain other than as the direct or indirect result of a breach of this **Condition 12** by the Recipient or any of the Recipient's Representatives;
- 12.4.3 the Recipient can prove to the reasonable satisfaction of the Discloser from written records or other substantive evidence:
- 12.4.3.1 has been received by the Recipient (or one of the Recipient's Representatives) at any time from a third party who did not acquire it in confidence and who is free to make it available to the Recipient (or the relevant Representative); or
- 12.4.3.2 was independently developed by the Recipient (or one of the Recipient's Representatives) without any breach of this Contract.
- 12.5 **Condition 12.4.3** will not apply to the Confidential Information referred to in **Condition 12.1.2**.
- 12.6 The Recipient acknowledges and agrees that damages alone would not be an adequate remedy for breach of this **Condition 12** by the Recipient. Accordingly, the Discloser will be entitled, without having to prove special damages, to equitable relief (including injunction and specific performance) for any breach or threatened breach of this **Condition 12** by the Recipient.
13. **EMPLOYMENT MATTERS**
- 13.1 The Supplier warrants and represents to the Customer that the Supplier is, and shall remain throughout the term of the Contract, the employer of all individuals who may work for the Supplier in providing the Goods and/or Services, and the Supplier shall be solely responsible for the remuneration, insurance and other obligations in respect of all these individuals.
- 13.2 The Supplier shall, 2 months prior to the expiry of the Contract or as soon as reasonably practicable upon receipt of a notice to terminate the Contract, provide the Customer with all information reasonably requested by the Customer relating to the identities, costs, and potential liabilities associated with any of the Supplier's employees assigned to the Contract. In the 2 months prior to the expiry of the Contract or following the receipt of a notice to terminate the Contract, the Supplier shall not assign any new employees to the performance of the Contract without the written consent of the Customer.
- 13.3 The Supplier shall indemnify the Customer and any person that provides services in replacement of any of the Services ("**Successor Supplier**") from and against all employment claims incurred, suffered or paid by the Customer or Successor Supplier in relation to any employment rights or contract of employment (or termination thereof) of any employee or former employee of the Supplier or a subcontractor that is claimed or deemed to have effect as between:
- 13.3.1 Customer or any Successor Supplier; and
- 13.3.2 that individual ("**Transferred Employee**") under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (*SI/2006/246*).
14. **ACCESS TO PREMISES AND PRE-EMPLOYMENT CHECKS**
- 14.1 The Supplier will comply with all of the Customer Policies and standards that are relevant to the performance of the Services or provision of the Goods and any other on site regulations (including security rules and safety requirements) specified by the Customer from time to time.
- 14.2 The Supplier will, to the extent permitted by Applicable Law and required by the Customer, vet each member of Supplier personnel involved in the performance of the Contract in accordance with the Customer's pre-employment vetting and background checking requirements notified to the Supplier from time to time.
15. **FORCE MAJEURE**
- 15.1 Neither party will be in breach of the Contract or otherwise liable to the other party for any failure to perform or delay in performing its obligations under the Contract to the extent that such failure or delay is due to a Force Majeure Event.
- 15.2 If a Force Majeure Event occurs which affects the Supplier:
- 15.2.1 the Supplier will promptly upon becoming aware of the Force Majeure Event give written notice to the Customer that the Force Majeure Event has occurred giving details of the nature, extent and anticipated duration of the Force Majeure Event and the expected impact of the Force Majeure Event on its ability to perform its obligations; and
- 15.2.2 the Supplier will use reasonable endeavours to mitigate the effects of the Force Majeure Event
- 15.3 Unless otherwise agreed in writing between the parties, if a Force Majeure Event which gives rise to relief from liability under **Condition 15.1** continues for a period of more than 14 days, either party will be entitled to terminate the Contract immediately by giving written notice to that effect to the other party.
16. **ASSIGNMENT AND SUB-CONTRACTING**
- 16.1 The Supplier will not be entitled to assign, transfer, charge, hold on trust for any person or deal in any other manner with any of its rights under the Contract nor, unless expressly permitted by the terms of an Order (in which case the arrangements set out in **Condition 16.2** shall apply), will the Supplier be entitled to sub-contract any of its obligations under the Contract. In such a case the Supplier shall be liable for the acts and omissions of the sub-contractor as though they were the Supplier's own.
- 16.2 If an Order does permit the Supplier to sub-contract any of its obligations, then the Supplier shall provide the following details in relation to that sub-contractor: (a) the sub-contractor's name and address; (b) the subject-matter of the sub-contract, including the quality of items to be supplied, involvement in the Services and the scope of the services to be provided; (c) confirmation that the Supplier has agreed appropriate provisions in the relevant sub-contract to enable the Supplier to comply with its obligations under the Contract, including without limitation provisions equivalent to **Conditions 8.7** (Modern Slavery Act), **9** (intellectual property), **10** (anti-corruption), **12** (confidentiality) and **14** (access to premises and pre-employment checks) including any Customer access and audit rights; (d) in the case where the sub-contractor is an affiliate of the Supplier, documents demonstrating that the proposed sub-contract is on arm's length terms; and (e) any additional information that the Customer may reasonably require. The Supplier shall ensure that the sub-contract includes payment terms no less favourable than those set out in **Condition 7.6**.
- 16.3 The provisions of this Agreement are without prejudice to the Business Contract Terms (Assignment of Receivables) Regulations 2018 (the "**Assignment of Receivables Regulations**"). Where the Assignment of Receivables Regulations apply, to the extent that any term of this Agreement prohibits or imposes a condition, or other restriction, on the assignment of a receivable arising under this Agreement, it shall have no effect.
- 16.4 The Customer will be entitled to assign, transfer, charge, hold on trust for any person and deal in any other manner with any of its rights under the Contract. The Customer will be entitled to sub-contract any of its obligations under the Contract.
- 16.5 Further the Customer may require this Contract to be replicated and an additional new contract equivalent to this Contract, to be entered into with any of the following:
- 16.5.1 any other member of the Customer Group by notice in writing to the Supplier; and/or
- 16.5.2 a person who is not a member of the Customer Group with the prior written consent of the Supplier which shall not be unreasonably withheld, conditioned or delayed.
- In such an event the Supplier agrees that it shall co-operate fully with the Customer and such other person and will when requested to do so by the Customer execute all necessary documentation to complete the assignment, novation, transfer or new contract including the execution and delivery of any form of deed or other form of contract which may be appended to this Agreement or where no form is appended, such form of deed or other form of contract that the Customer may reasonably require. All parties agree that (unless otherwise agreed in writing) any new contract arising pursuant to this **clause 16** shall be on substantially the same terms and conditions as this Contract. Without prejudice to the terms of this Contract, where a partial novation, assignment, transfer or new contract results in any decrease in the volume of the Services and/or the Goods to be provided by the Supplier under this Contract, the volumes under all of the resulting contracts will be aggregated when calculating any volume discount unless otherwise agreed in writing by the Parties.
17. **NOTICE**
- 17.1 Subject to **Condition 17.3**, any notice or other communication given under or in connection with the Contract will be in writing and:
- 17.1.1 sent to the relevant party's address by pre-paid first class post, airmail post or mail delivery service providing proof of delivery, in which case service shall be deemed to have occurred at 9.00 a.m. on the second Business Day after the date of posting;
- 17.1.2 delivered to or left at the relevant party's address (but not, in either case, by one of the methods set out in **Condition 17.1.1**), in which case service shall be deemed to have occurred at the time the notice or communication is delivered to or left at that party's address; or
- 17.1.3 sent by e-mail to the relevant party's e-mail address, in which case service shall be deemed to have occurred at the time of sending, except that if an automatic electronic notification is received by the sender informing the sender that the e-mail has not been delivered to the recipient or that the recipient is out of the office, that e-mail will be deemed not to have been served.
- The address, e-mail address and representative for the Customer will be specified in the Order or otherwise notified to the Supplier in writing from time to time.
- 17.2 To prove service of a notice or communication it will be sufficient to prove that the provisions of **Condition 17.1** were complied with.
- 17.3 This **Condition 17** will not apply to the service of any document required to be served in relation to legal proceedings. Documents served in relation to legal proceedings shall be addressed to, "UK General Counsel, National Grid House, Warwick Technology Park, Gallows Hill, Warwick CV34 6DA." For the avoidance of doubt, the Customer does not accept service of legal proceedings by email or fax.
18. **GENERAL**
- 18.1 The Contract constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter and:

- 18.1.1 neither party has entered into the Contract in reliance upon, and it will have no remedy in respect of, any misrepresentation, representation or statement (whether made by the other party or any other person and whether made to the first party or any other person) which is not expressly set out in the Contract; and
- 18.1.2 nothing in this **Condition 18.1** will be interpreted or construed as limiting or excluding the liability of any person for fraud or fraudulent misrepresentation.
- 182 A delay in exercising or failure to exercise a right or remedy under or in connection with the Contract will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor will the single or partial exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by the party giving it and only in the circumstances and for the purpose for which it was given and will not constitute a waiver of any other right, remedy, breach or default.
- 183 If any term of the Contract is found by any court or body of authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term will be deemed to be severed from the Contract and this will not affect the remainder of the Contract which will continue in full force and effect.
- 184 Save as otherwise expressly provided in these Conditions, no variation to the Contract will be effective unless it is in writing and signed by a duly authorised representative on behalf of each of the parties.
- 185 Nothing in the Contract and no action taken by the parties in connection with it or them will create a partnership or joint venture or relationship of employer and employee between the parties or give either party authority to act as the agent of or in the name of or on behalf of the other party or to bind the other party or to hold itself out as being entitled to do so.
- 186 Each party agrees that it is an independent contractor and is entering into the Contract as principal and not as agent for or for the benefit of any other person.
- 187 The Customer's customers, officers, employees, agents and sub-contractors will be entitled to enforce **Condition 9.2** subject to and in accordance with the Contracts (Rights of Third Parties) Act 1999 and the terms of the Contract.
- 188 The parties may vary or rescind the Contract without the consent of the Customer's customers, officers, employees, agents and sub-contractors.
- 189 Save as provided in **Condition 18.7**, the parties do not intend that any term of the Contract will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person.
- 1810 The Customer's rights and remedies set out in these Conditions are in addition to and not exclusive of any rights and remedies provided by law.

## 19. GOVERNING LAW AND JURISDICTION

- 191 The Contract and any non-contractual obligations arising out of or in connection with it will be governed by the law of England and Wales
- 192 The courts of England and Wales have exclusive jurisdiction to determine any dispute arising out of or in connection with the Contract (including in relation to any non-contractual obligations).

## 20. DATA PROTECTION LEGISLATION

- 201 Customer hereby appoints the Supplier as Data Processor in relation to the Processing of Personal Data and the parties agree to act in accordance with their respective obligations under this **Condition 20**.

- 201 **Condition 21** of this Contract sets out the subject matter of the Processing, the nature and purpose of the Processing, the type of Personal Data and categories of data subject as required by Article 28(3) of the GDPR or equivalent provisions of any Data Protection Laws.

- 202 The Supplier shall observe all its obligations under the Data Protection Laws which arise in connection with the provision of the Goods and Services.

- 203 From the 25th May 2018, where the Supplier Processes Personal Data for Customer as a Data Processor, it shall:

- 203.1 process the Personal Data solely on the instructions of Customer, for the purposes of providing the Goods and Services (unless required by law to act without such instructions, in which case Supplier shall, except where prohibited by law from doing so, inform Customer of that legal requirement before Processing)
- 203.2 process only the types of Personal Data, relating to the categories of Data Subjects, and in the manner required to deliver the Goods and Services.
- 203.3 take all measures required by Article 32 of the GDPR to ensure the security of the Personal Data;
- 203.4 take reasonable steps to ensure the reliability of any staff who may have access to the Personal Data, and their treatment of the Personal Data as confidential
- 203.5 not transfer the Personal Data to any country outside the European Economic Area (EEA) without the prior written consent of Customer
- 203.6 not permit any third party to Process the Personal Data without the prior written consent of Customer, such consent to be subject to the Supplier meeting the conditions set out in Article 28 (2) and (4) of the GDPR
- 203.7 notify Customer without undue delay and in any event, within 3 Business Days, of any communication from a Data Subject regarding the Processing of their Personal Data or any other communication (including from the Information Commissioner) relating to either party's obligations under the Data Protection Laws in respect of the Personal Data
- 203.8 notify Customer immediately upon becoming aware of or reasonably suspecting any unauthorised disclosure or breach of the security of Personal Data, such notice to include all information reasonably required by Customer to comply with its obligations under the Data Protection Laws and (if appropriate) to inform the Information Commissioner and/ or affected individuals
- 203.9 upon request, provide Customer with reasonable assistance in carrying out data protection impact assessments
- 203.10 permit Customer, on reasonable prior notice, to inspect and audit the facilities and systems used by the Supplier to Process the Personal Data, the technical and organisational measures used by the Supplier to ensure the security of the Personal Data and any and all records maintained by the Supplier relating to that Processing;
- 203.11 provide any assistance reasonably requested by Customer in relation (i) any communication received under Section 20.4.7, as well as any similar communication received by Customer directly; and (ii) any Personal Data Breach, including by taking any appropriate technical and organisational measures reasonably requested by Customer; and
- 203.12 cease Processing the Personal Data immediately upon the termination or expiry of the Principal Agreement and at Customer's option either promptly return, or promptly securely and thoroughly delete all of the Personal Data

## 21. Personal information

- 21.1 This **Condition 21** sets out certain requirements of the Processor in Processing the Personal Data as required by Article 28(3) GDPR or equivalent provisions of any Data Protection Law. The Supplier shall Process the Personal Data for the purposes of providing the Goods and Services.

- 21.2 The parties agree that in the course of providing the Goods and Services, the following types of personal data may be Processed:-

*Name, gender, job title, age, personal contact details (address, telephone number, email address, IP address), work contact details (telephone number, email address), employee number, voice recordings (including of telephone calls), personal lifestyle data or interests, photographs, browser generated information, CCTV surveillance while on the Supplier's premises, personal data contained in meeting, telephone or attendance notes and any other information which the Supplier has a legitimate reason or interest in Processing in connection with provision of the Services.*

- 21.3 The parties agree that the categories of Data Subject includes the Customer's current and former employees, contractors, sub-contractors, professional advisers, workers, and all other individuals employed or engaged by any of the Customer's contractors, sub-contractors or professional advisors. The parties acknowledge that from time to time, Data Subjects could include members of the public provided this is required for the provision of the Goods and Services.

- 21.4 Any breach of Conditions 20, and 21 shall constitute a material breach of the Contract.

- 21.5 Compliance by the Supplier with the provisions of Condition 20 and 21 will be at no additional cost to the Customer.

## 22. ANTI-FACILITATION OF TAX EVASION

The Supplier shall and shall procure that persons associated with it in connection with this Agreement shall;

- 22.1.1 not, when acting in the capacity of a person associated with the Customer, engage in any act or omission which would constitute a UK tax evasion facilitation offence or a foreign tax evasion facilitation offence as those terms are defined in Part 3 of the Criminal Finances Act 2017;
- 22.1.2 not cause, facilitate or contribute to the commission by the Customer of an offence of failing to prevent the facilitation of tax evasion under section 45 or 46 of the Criminal Finances Act 2017 or any other legal and regulatory anti-facilitation of tax evasion obligations ("Relevant Requirements");
- 22.1.3 comply with the Customer's policy dealing with anti-facilitation of tax evasion as updated from time to time ("Relevant Policies");
- 22.2 Breach of this **Condition 22** shall be deemed a material breach of this Contract
- 22.3 For the purposes of this **Condition 22**, the question of whether a person is associated with another person shall be determined in accordance with section 44 of the Criminal Finances Act 2017 (and any guidance issued under section 47 of that Act) and a person associated with the Supplier includes but is not limited to any subcontractor.