

Purchase Terms

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In these terms and conditions the following expressions have the following meanings:

Agreement means these Terms & Conditions and the Purchase Order;

Auditor means (a) Retain; (b) a Regulatory Authority; and (c) the agents and representatives of Retain or such Regulatory Authority;

Business Day means any day other than a Saturday, Sunday or a day that is a public or bank holiday in England;

Retain Data means all data relating to Retain, other Retain Group members or the clients of any of them which is processed, stored, generated, or capable of access by, or which otherwise comes into the possession of, the Supplier, any Subcontractor or any Supplier Personnel;

Retain Group includes Retain and each undertaking that is, at the time in question and from time to time, a parent undertaking, or subsidiary undertaking of a parent undertaking of Retain (the terms parent undertaking and subsidiary undertaking being interpreted in accordance with section 1162 of the Companies Act 2006);

Retain Materials means Retain Data and the Confidential Information and any of them;

Retain Policies means the Information and Cyber Security Policy and any other Retain policies which may apply to this Agreement, as amended from time to time;

Commencement Date means the date set out on the Purchase Order;

Confidential Information means all information of a confidential or proprietary nature relating to the business, prospects or activities of the party in question which is given to, generated by, or otherwise comes into the possession of the other party in the course of the negotiation or performance of this Agreement;

Control has the meaning set out in section 1124 Corporation Tax Act 2010;

Default means a breach of any term of this Agreement or any tortious act or statement, breach of statutory duty, or misrepresentation that gives rise to liability at law;

Deliverable(s) means the Goods and/or Services which are supplied to Retain by the Supplier as set out on the Purchase Order;

Delivery Date means the date or dates as may be specified for delivery of the Deliverables as set out on the Purchase Order or if there is no date specified, delivery of the Deliverables shall be within a reasonable time;

Delivery Location means the location at which the Deliverables are to be delivered as set out on the Purchase Order;

Delivery Timeslot means the delivery times for the Deliverables as set out on the Purchase Order;

Event of Force Majeure means any event preventing an affected party from performing any or all of its obligations which arise from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the affected party which may include acts of God, civil disturbance, acts of war or terrorism, but excludes strikes, lockouts or industrial disputes or the failure of its Subcontractors to perform (other than where the relevant Subcontractor is also affected by analogous events beyond its control);

Expiry Date means the date set out on the Purchase Order;

Good Industry Practice means the exercise of the degree of skill, diligence, prudence and foresight that one would reasonably and ordinarily expect from a person skilled and experienced in the practice or activity in question;

Goods means the goods as set out in the Purchase Order;

Information and Cyber Security Policy means Retain's Information and Cyber Security Policy as amended from time to time and published at <https://www.retaininternational.com/Retain-policies/>;

A party is subject to an **Insolvency Event** if it is unable to pay its debts (within the meaning of sections 123, 267 or 268, as applicable, of Insolvency Act 1986); proposes or becomes subject to a voluntary arrangement or convenes a meeting of its creditors to consider such a proposal or, being a company has a proposal for a compromise or arrangement sanctioned by the court pursuant to section 899 Companies Act 2006 (save for the sole purpose of a solvent reconstruction or amalgamation); has a receiver or manager appointed over any of its assets, undertaking or income; takes any step towards its winding-up or bankruptcy as applicable (save, in the case of a company, a solvent liquidation for the sole purpose of effecting a reconstruction or amalgamation) or is subject to a petition issued by any court for its winding-up or bankruptcy (as applicable) that is not withdrawn upon the party's application; being a company, has an administrator appointed in respect of it or is the subject of an application for administration filed at any court or a notice of appointment of an administrator filed at any court or a notice of intention to appoint an administrator filed at any court by any person; being a company, is the subject of a notice to strike off the register at Companies House; or has any distraint, execution or other process levied or enforced on any of its property;

IPR means all intellectual and industrial property rights including patents, copyright, trademarks, registered designs, utility models, design rights, database rights, rights to apply for any of the foregoing, and all renewals and extensions in each case in all countries in the world;

Law(s) means (a) all laws (including the common law); (b) all regulations, policies and codes of conduct which are legally-binding; or (c) directions of a Regulatory Authority with which Retain and the other Retain Group members are reasonably required to comply and which, in each case, are applicable to the business of Retain and the other Retain Group members or to any activities of the parties undertaken pursuant or in relation to this Agreement;

Losses means losses, liabilities, damages, wasted expenditure, costs and expenses (including legal fees on a solicitor/own client basis and all other costs related to the investigation, prosecution or defence of legal claims);

Named Representative in relation to a party means the person appointed to such position pursuant to clause 6.1 (Governance and Dispute Resolution);

Price means the price for the Deliverables as set out on the Purchase Order;

Purchase Order means an order for the purchase of Deliverables which has been submitted by Retain to the Supplier;

Purchase Order Confirmation means the written confirmation provided by the Supplier to Retain once a Purchase Order has been accepted;

Regulatory Authority means all governmental, statutory or regulatory bodies and any other competent authorities in any jurisdiction having responsibility for the regulation or governance of any of the activities of Retain or the Supplier;

Services means the services as set out in the Purchase Order;

Specification means Retain's requirements for each of the Deliverables as set out or referred to on or attached to the Purchase Order;

Subcontractor means a third party engaged by the Supplier in connection with this Agreement or the provision of any of the Deliverables;

Supplier means the party defined as such on the Purchase Order;

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Supplier Personnel means any individual employed or engaged by the Supplier or by any Subcontractor in connection with this Agreement or the supply of any of the Deliverables;

Supplier Premises means premises from which the Supplier, any Subcontractor or any Supplier Personnel provide all or any part of the Deliverables or in which books and records relating to the Deliverables or this Agreement are stored;

Supplier Charter means Retain's Supplier Charter, which sets out Retain's commitments and expectations of its Suppliers for improving the environmental, social and ethical performance of Retain's supply chain, as amended from time to time and published at <https://www.retaininternational.com/Retain-policies/>; and

Year means a period of twelve months which starts on the Commencement Date, or on any anniversary of the Commencement Date provided that if this definition would result in the last Year extending beyond the Expiry Date, the last Year shall be the period that starts on the last anniversary and ends on the Expiry Date.

- 1.2 We, the company issuing this order ("**Retain**"), only purchase Deliverables on the terms and conditions set out below (the "**Terms**") unless a separate written agreement already exists between us and you expressly setting out terms and conditions for our purchase of goods, rights or services specified in this order (a "**Separate Agreement**"). If no such Separate Agreement exists and if you accept this order it will be on these Terms.
- 1.3 In this Agreement, except where the context otherwise requires:
- 1.3.1 any gender includes all genders; the singular includes the plural and vice versa; and a reference to a person includes firms, partnerships, LLPs, associations, corporations, and bodies corporate;
- 1.3.2 a party means either Retain or the Supplier and parties shall be construed accordingly and a reference to a party includes its permitted successors and assigns;
- 1.3.3 a reference to any enactment, order, regulation, code, standard, policy or other instrument shall be construed as a reference to the same as amended, replaced, consolidated or re-enacted from time to time;
- 1.3.4 a reference to this Agreement or to any other document shall include any permitted variation, amendment, or supplement to such document and a reference to any Clause, Schedule or paragraph is a reference to such Clause, Schedule paragraph of this Agreement; and
- 1.3.5 headings are for convenience of reference only and shall not be taken into consideration in the interpretation or construction of this Agreement; examples which follow the word "including" (or similar) shall be construed as illustrative and shall not limit the interpretation of the term or concept of which they purport to be examples; and any obligation not to do anything shall include an obligation not to suffer, permit or cause that thing to be done.

2. DOCUMENTATION, ORDER PROCESS AND AMENDMENTS

- 2.1 In the event of any discrepancy, inconsistency or divergence arising between the Purchase Order and the clauses in the main body of this Agreement, the following shall be the order of precedence: (i) the Purchase Order then (ii) the clauses of the main body of this Agreement.
- 2.2 Retain may notify the Supplier of its requirement for Deliverables by issuing a Purchase Order. The Purchase Order shall specify the Deliverables to be supplied by the Supplier, Commencement Date, Delivery Date, Delivery Location, Delivery Timeslot, Price and any other relevant information.
- 2.3 Once a Purchase Order is issued, the Supplier shall be free to accept or decline the Purchase Order within 5 Business Days ("**the Acceptance Period**"). No Purchase Order shall be deemed to be accepted by the Supplier until (a) the end of the Acceptance Period where the Supplier has not notified Retain that it declines to fulfil the Purchase Order; (b) it issues a Purchase Order Confirmation; or (c) (if earlier) the Supplier delivers the Deliverables specified in the Purchase Order to Retain. The Supplier shall assign a number to each Purchase Order accepted and inform Retain of the Purchase Order number in the Purchase Order Confirmation.
- 2.4 Retain may terminate all or part of the Deliverables at any time by giving written notice to that effect to the Supplier. If the Supplier has not commenced work on the Purchase Order or purchased goods and/or materials which are capable of re-use prior to the date of termination, then such termination shall be without liability on the part of Retain. If the Supplier has commenced work or purchased such goods and/or materials prior to the date of termination which are not capable of re-use, Retain shall pay a reasonable sum for such work or materials (such sum, in the case of work, to be agreed between the parties in writing and, in the case of materials, to be calculated at cost to the Supplier without uplift).
- 2.5 Completed Purchase Orders incorporating the terms of this Agreement are the only basis for the supply of Deliverables and no terms or conditions which the Supplier purports to apply under any acknowledgement or confirmation of order, quotation, Specification, delivery note, invoice or similar document will be of any effect in relation to the supply of Deliverables, whether or not such document is referred to in the Purchase Order.

3. TERM

- 3.1 This Agreement (which in this clause 3.1 means the clauses of this Agreement but not any Purchase Orders placed under it) shall start on the Commencement Date and shall, unless terminated earlier in accordance with its provisions, end on the Expiry Date. Termination of the Agreement under this clause does not terminate any Purchase Order placed pursuant to the Agreement.

4. DELIVERABLES

- 4.1 The Supplier acknowledges and accepts that the Deliverables are or may be provided to or for the benefit of other Retain Group members. Where this Agreement refers to rights or benefits granted to Retain, the reference to Retain shall be deemed to include other Retain Group members who use the Deliverables. However, Retain and the Supplier shall be entitled to amend this Agreement in accordance with its terms without reference to, or the consent of, Retain Group members other than Retain.
- 4.2 The Deliverables shall: correspond in every aspect with this Agreement; comply with all laws; be so formulated, designed, constructed, finished, packaged and/or performed as to be safe and without risk to health; be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended) and fit for any purpose held out by Retain or made known to the Supplier either in writing or orally at or prior to this Agreement being formed; and be free from defects in design, material and workmanship.
- 4.3 The Supplier shall manufacture, package and supply the Deliverables and perform its obligations: in accordance with this Agreement; with all due skill, care and diligence and so as to meet any requirements of Retain; in compliance with any codes of practice, standards and/or Specifications that may be applicable; and in an economic, efficient, effective and safe manner and in accordance with Good Industry Practice using personnel with the requisite level of skill, expertise and experience.
- 4.4 Without prejudice to any other rights and remedies of Retain, if during the twelve months from the Delivery Date, or if the Deliverables are for resale during the period specified in the end user warranty (which shall be no lesser than twelve months from the date of delivery to the end user customer), it is discovered that the Deliverables supplied do not comply with this Agreement then Retain shall have the right, at its discretion, to require the Supplier to promptly remedy any non-compliance at the Supplier's own cost or to promptly replace the Deliverables with Deliverables that comply with this Agreement.
- 4.5 The Supplier shall pass to Retain the benefit of all manufacturer and other warranties and/or guarantees relating to the Deliverables.
- 4.6 The Supplier shall and shall procure that the Supplier Personnel and any Subcontractors:
- 4.6.1 comply with all laws and not cause any Retain Group to be in breach of any Laws;
- 4.6.2 comply with any relevant Retain Policies and standards and all reasonable and lawful directions given to the Supplier by Retain provided that those directions are not inconsistent with this Agreement; and
- 4.6.3 co-operate with any Regulatory Authority as required from time to time.

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5. DELIVERY AND INSPECTION

- 5.1 The Deliverables shall be delivered or supplied to the Delivery Location during the Delivery Timeslot on the Delivery Date.
- 5.2 If the Deliverables are not delivered on the specified Delivery Date, then, without limiting any other right or remedy Retain may have, Retain may: (a) refuse to take any subsequent attempted delivery of the Deliverables; (b) terminate this Agreement with immediate effect; (c) obtain substitute products from another supplier and recover from the Supplier any costs and expenses reasonably incurred by Retain in obtaining such substitute products; and (d) subject to clause 14 (Liability), claim damages for any other costs, expenses or losses resulting from the Supplier's failure to deliver the Deliverables on the Delivery Date, provided that the Supplier shall have no liability for any failure or delay in delivering the Deliverables to the extent that such failure or delay is directly caused by Retain's failure to comply with its obligations under this Agreement.
- 5.3 The Supplier shall ensure that: (a) the Deliverables are marked in accordance with Retain's instructions and any applicable regulations and are properly packaged and stored so as to reach their destination in an undamaged condition; (b) each delivery is accompanied by a prominently displayed delivery note and all handling, storage, operating and safety instructions and any other information as may be necessary for their proper use, maintenance and repair
- 5.4 Retain shall not be deemed to have accepted the Deliverables until it has had 90 days to inspect them following delivery, or, in the case of a latent defect in the Deliverables, for 90 days after any latent defect in the Deliverables has become apparent.
- 5.5 Retain and/or a Regulatory Authority may enter the Supplier Premises to inspect the manufacturing facilities and equipment used to manufacture the Deliverables and inspect stock levels and take samples of raw materials, packaging and the Deliverables.

6. GOVERNANCE AND DISPUTE RESOLUTION

- 6.1 Each party shall keep in place at least one Named Representative who has full authority to act on its behalf for all purposes of this Agreement and shall keep the other party informed of the name and contact details of its Named Representative.
- 6.2 The Named Representatives shall meet at such other intervals as shall be reasonably requested by Retain to review the supply of the Deliverables and deal with any issues related to this Agreement.
- 6.3 In the event that any disputes or disagreements arise between the parties, either Named Representative may, on reasonable notice to the other, call a meeting of the Named Representatives in order to seek a resolution of the issue in question. If the parties have not agreed the dispute within 10 Business Days each party is free to refer the dispute to the courts, but prior to that point neither party can refer the dispute to the courts unless the reason for the referral is an application to protect the Confidential Information or IPR of the applicant.

7. AUDIT AND INSPECTION

- 7.1 The Supplier shall permit the Auditors to conduct audits of the Supplier and its Subcontractors during the term of this Agreement (and for 7 years after the expiry or termination of this Agreement). The right of audit includes a right for the Auditor to enter any of the Supplier Premises to inspect and take copies of such books and records and to interview members of the Supplier Personnel.
- 7.2 The purpose of any audit carried out under this clause 7 shall be to: provide the Auditor with assurance as to the Supplier's compliance with this Agreement; to enable Retain to investigate any complaints or queries of or provide information required by a Regulatory Authority or any clients of the Retain Group relating to the Deliverables or the conduct of the Supplier, the Supplier Personnel or the Subcontractors; and to investigate any suspicion of fraud or wrongful practice on the part of the Supplier, the Supplier Personnel or the Subcontractors.
- 7.3 The Supplier shall cooperate with the Auditor and will provide or procure such access and assistance as the Auditor requires in order to enable the Auditor to fully exercise the rights set out in clause 7.1. Except where the audit is undertaken in respect of suspected fraud or breach or by a Regulatory Authority which stipulates that no notice should be given, Retain shall provide at least five Business Days' written notice of the audit; shall conduct the audit (or procure it is conducted) within normal business hours; and shall use reasonable endeavours to avoid any disruption to the business of the Supplier or the Subcontractors.

8. PRICE AND PAYMENT

- 8.1 In consideration of the Supplier performing its obligations in accordance with the provisions of this Agreement Retain shall pay the Price for the Deliverables. The Price shall:
- 8.1.1 be inclusive of all travel, subsistence and other costs and expenses of the Supplier and Supplier Personnel, all packaging material, packing, shipping, loading, carriage, insurance and delivery of the Deliverables to the Delivery Location and any duties, imposts, levies or taxes other than VAT;
- 8.1.2 be exclusive of VAT which will be added to the sum in question at the rate and in the manner prescribed by law; and
- 8.1.3 not be adjusted to take account of any inflation, change in exchange rate, change in laws, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier or the Subcontractors of the performance of the Supplier's obligations.
- 8.2 The Supplier may invoice Retain for the Deliverables (if the Deliverables have been delivered to Retain in accordance with this Agreement and have not been rejected by Retain) in accordance with the payment dates referred to in the Purchase Order or, if no specific dates have been referred to or agreed in the Purchase Order, on, or after the first Business Day of the calendar month following the calendar month in which they were incurred. Subject to the Supplier complying with the provisions of this clause 8, Retain shall pay such invoices within the time periods and subject to the criteria set out below:
- 8.2.1 7 calendar days if the Supplier is a contractor or sole trader;
- 8.2.2 14 calendar days if the Supplier has less than 50 employees or a turnover of less than £10,000,000 (ten million pounds);
- 8.2.3 30 calendar days if the Supplier has less than 250 employees of a turnover of less than £36,000,000 (36 million pounds);
- and
- 8.2.4 60 calendar days in all other cases.
- 8.3 In order to be valid, invoices issued by the Supplier must:
- 8.3.1 be valid tax invoices for the purposes of VAT legislation and be invoiced in pounds sterling;
- 8.3.2 not be issued before a Purchase Order is submitted by Retain;
- 8.3.3 identify the Supplier; reference the Purchase Order number and specify the Deliverables to which the invoice relates;
- 8.3.4 be sent to supplier.invoices@capita.co.uk or such other address as may be notified to the Supplier from time to time;
- 8.3.5 include any necessary information to support the invoiced amount; and
- 8.3.6 be in any form requested by Retain which may include the use (at the Supplier's cost) of Retain's preferred electronic invoicing system through Retain's then current service provider, as notified to the Supplier from time to time.
- 8.4 If Retain disputes any sum included in a valid invoice it shall notify the Supplier of the dispute and the amount to which it relates. The Supplier shall promptly issue a credit note for the disputed amount and VAT thereon and issue an invoice in the amount of the undisputed sum. Retain shall pay any undisputed balance of the invoice in accordance with this clause 8. If resolution of any

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dispute results in Retain agreeing to make payment to the Supplier, the Supplier may invoice the agreed amount to Retain and Retain shall be obliged to pay the invoice in accordance with this clause 8.

- 8.5 If any undisputed sum payable under this Agreement is not paid when due then the party entitled to payment may claim interest from the due date until payment is made in full both before and after any judgment, at two per cent per annum over the Bank of England bank rate from time to time.
- 8.6 Retain may set off against any liability arising under this Agreement any liability which it reasonably believes to be due from the Supplier to Retain (whether or not the exact amount of such liability has been finally determined).
- 8.7 The Supplier shall not be entitled to invoice Retain, and Retain shall not be obliged to pay the Supplier, for Deliverables that are not invoiced within three months of the date on which the Deliverables could have first been included in an invoice.

9. INSURANCE

The Supplier shall, at its own cost, have in place insurance cover from reputable insurers of a sufficient value and of the correct types to cover all of the Supplier's activities carried out under this Agreement, as well as any other insurance required by law.

10. TERMINATION

- 10.1 Either party may by written notice (of such period as shall be set out in that written notice) served on the other party terminate the Agreement in whole or in part if the other party is the subject of an Insolvency Event.
- 10.2 Either party may by written notice (of such period as shall be set out in that written notice) served on the other party terminate this Agreement in whole or in part (at the date set out in that notice) if:

- 10.2.1 the other party has committed a material breach of this Agreement which is irremediable;
- 10.2.2 the other party has committed a material breach of this Agreement which is capable of remedy and has failed to remedy the breach within 30 days of receiving written notice requiring it to do so, and

for this purpose a number of breaches (whether of the same or different obligations and regardless of whether those breaches are remedied) may collectively constitute a material breach to which clause 10.2.1 or 10.2.2 applies whether or not each breach on its own would be considered a material breach.

- 10.3 Retain may by written notice to the Supplier terminate this Agreement in whole or in part (at the date set out in that notice), at any time, if (a) Retain has concerns regarding the financial standing of the Supplier; or (b) there is a change in Control of the Supplier; or (c) upon 1 months prior written notice which Retain may serve at any time.
- 10.4 Neither party will be liable for any Losses or failure to perform its obligations under this Agreement due to an Event of Force Majeure if the affected party promptly notifies the other party of the Event of Force Majeure and its expected duration; and uses reasonable endeavours to minimise the effects of that event. If the affected party is delayed in or prevented from performing its obligations for a continuous period exceeding 30 (thirty) days the other party may, within 30 days, terminate this Agreement on immediate notice.

11. EFFECT OF TERMINATION OF THIS AGREEMENT

- 11.1 In the event of termination or expiry of this Agreement:
- 11.1.1 the Supplier shall cease to use Retain Materials and deliver up to Retain any Retain equipment and Retain Materials that Retain provided to the Supplier;
- 11.1.2 this Agreement shall continue in force to the extent necessary to give effect to those of its provisions which expressly or by implication have effect after termination; and
- 11.1.3 the rights of either party accrued on or prior to termination or expiry shall remain unaffected.
- 11.2 Upon early termination of this Agreement for any reason whatsoever by Retain, Retain shall pay the Price for the Deliverables supplied in accordance with this Agreement up to the date of termination that remain unpaid for but shall be under no obligation to pay any compensation and/or termination payment to the Supplier. Upon early termination of this Agreement by either party, where Retain has paid the Supplier the Price for Deliverables that have not been supplied at the date of termination, the Supplier shall, upon demand, either repay such Price to Retain or deliver the Deliverables to Retain.

12. REPRESENTATIONS, UNDERTAKINGS AND WARRANTIES

- 12.1 Each party represents and warrants to the other that it has full power and capacity to execute, deliver, and perform its obligations under this Agreement.
- 12.2 The Supplier warrants, represents and undertakes to Retain that:
- 12.2.1 it has, and will maintain, all licences, consents and materials that it requires in order to perform its obligations under this Agreement;
- 12.2.2 it shall not infringe the IPR of any third party when performing its obligations under this Agreement;
- 12.2.3 it will comply with all relevant anti-bribery legislation; and
- 12.2.4 the Deliverables will correspond in every respect with this Agreement; will comply with all Law applicable to their production and use; and will be so formulated, designed, constructed, finished and/or performed as to be fit for the purpose for which they are intended, of satisfactory quality, safe and without risk to health.
- 12.3 Without prejudice to Retain's other rights or remedies, where any breach of the warranties, representations and undertakings given by the Supplier is capable of remedy, the Supplier shall remedy the same in a timely manner and meet all the costs of, and incidental to, the performance by the Supplier of such remedial work.

13. INDEMNITIES

- 13.1 The Supplier shall at all times indemnify each Retain Group member, its officers, employees and agents, and keep such Retain Group member and its officers, employees and agents indemnified, from and against any Losses:
- 13.1.1 arising out of or in connection with any claim by a third party that its IPR are infringed (or are alleged to be infringed) by (a) the receipt, use, reproduction, possession or exploitation of the Deliverables by or on behalf of the Retain Group member in the manner contemplated by this Agreement or (b) any modification made by or on behalf of the Supplier to any materials (including software) owned by or licensed to Retain or any other Retain Group member;
- 13.1.2 in connection with actions or remedies required, proceedings commenced or threatened by a Regulatory Authority (including any fines imposed by such Regulatory Authority) as a result of a Default by the Supplier, its Subcontractors and Supplier Personnel; and
- 13.1.3 in connection with a claim for breach of clauses 4.6 (Deliverables), 16 (Data Protection) and 17 (Confidentiality).

14. LIABILITY

- 14.1 Neither party excludes or limits its liability to the other:

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- 14.1.1 for personal injury or death caused by its negligence;
 - 14.1.2 for any matter for which, at law, a party cannot exclude or limit or attempt to exclude or limit its liability;
 - 14.1.3 for breach of a third party's IPR;
 - 14.1.4 for breach of clause 17 (Confidentiality); or
 - 14.1.5 for fraud or fraudulent misrepresentation,
 - 14.1.6 and the Supplier does not exclude or limit its liability for:
 - 14.1.7 wilful default or gross negligence; or
 - 14.1.8 under the indemnities contained in clause 13 (Indemnities), 23.1 (IR35) or 24.2 (Tax Avoidance).
- 14.2 Subject to clauses 14.1 and 14.4, the Supplier's maximum aggregate liability under this Agreement for loss of or damage to tangible property (whether real or personal) arising from the acts or omissions of the Supplier, a Subcontractor or Supplier Personnel which arises in any Year shall be limited to ten million pounds sterling (£10,000,000). Additionally:
- 14.2.1 Without prejudice to its obligations under clause 9 (Insurance), the Supplier shall, at its own cost, take out and maintain insurance cover of a sufficient value to cover any loss contemplated in clause 14.2 providing cover for the Supplier, its directors, and employees.
- 14.3 Subject to clauses 14.1 and 14.3.1 (and excluding Losses which fall within clause 14.2), the maximum aggregate liability for either party for all Losses that arise as a consequence of, or in connection with, any Defaults under or in connection with this Agreement in any Year shall be limited as follows:
- 14.3.1 a sum equal to 100% of the aggregate Price paid and payable by Retain under this Agreement in the Year in question; or
 - 14.3.2 one million pounds sterling (£1,000,000), whichever is the greater.
- 14.4 Subject to clause 14.1 (Liability), neither party shall have any liability to the other party for any special, indirect or consequential loss.
- 15. INTELLECTUAL PROPERTY**
- 15.1 Retain hereby authorises the Supplier to use any IPR in materials provided to it by Retain for the purposes only of performing its obligations under the Agreement for the term of this Agreement.
 - 15.2 Any IPR owned by or licensed to the Supplier or any member of the Supplier Group prior to the Commencement Date or developed or acquired (whether by way of ownership or licence) by the Supplier or any such member shall remain the property of the Supplier, and the Supplier hereby grants (or shall procure the grant of) a perpetual, non-terminable, sub-licensable, fully assignable, royalty-free licence to Retain and the other Retain Group members to use, copy, modify and amend such IPR to the extent necessary for the Retain Group members (or any third party nominated by the Retain Group members) to use, amend and enjoy the benefit of the Deliverables whether during the term of this Agreement or at any time thereafter.
 - 15.3 For any Deliverables which include any third party IPR which are embedded in or which are an integral part of the Deliverables, the Supplier hereby grants (or shall procure the grant of) a perpetual, non-terminable, sub-licensable, fully assignable, royalty-free licence to Retain and the other Retain Group members to use, copy, modify and amend such IPR to the extent necessary for the Retain Group members (or any third party nominated by the Retain Group members) to use, amend and enjoy the benefit of the Deliverables, whether during the term of this Agreement or at any time thereafter.
- 16. DATA PROTECTION AND Retain MATERIALS**
- 16.1 Each party agrees that, in the performance of its respective obligations under the Agreement, it shall comply with the provisions of the Data Protection Act (2018) to the extent it applies to them.
 - 16.2 The Supplier shall:
 - 16.2.1 not (and shall procure that the Subcontractor and Supplier Personnel do not) store, copy, disclose, or use Retain Materials except as necessary for the performance by the Supplier of its obligations under this Agreement or as otherwise expressly authorised in writing by Retain; and
 - 16.2.2 take all precautions necessary to preserve the integrity of Retain Materials and to prevent any corruption, destruction or loss of Retain Data.
- 17. CONFIDENTIALITY**
- Each party agrees to maintain as confidential and not to use or disclose to any third party any Confidential Information derived from the other Party in connection with the Agreement the written consent of the disclosing party except to the extent a) strictly necessary for the proper performance of the Agreement or b) required by law or any securities exchange or Regulatory Authority. The Supplier shall be responsible for any breach by its personnel of this provision and Retain may from time to time require the Supplier's personnel to enter into confidentiality contracts directly with Retain. The Supplier agrees to assist Retain in obtaining such contracts. The obligations in this clause 17 shall survive for a period of two years after the expiry or termination of this Agreement.
- 18. CORPORATE SOCIAL RESPONSIBILITY**
- 18.1 Throughout the term of this Agreement the Supplier shall (i) comply with the Supplier Charter; (ii) respond to any due diligence requests made by Retain in respect of the Supplier Charter; and (iii) contract with its Subcontractors on terms providing an equivalent level of protection to the Supplier Charter.
 - 18.2 The Supplier warrants that it has no convictions or investigations (actual or pending) relating to breaches of human rights (including modern slavery) and shall put in place adequate procedures to prevent the Supplier or its Subcontractors from committing offences involving human rights. The Supplier shall promptly notify Retain of any breach to the Supplier Charter and in any event within 5 Business Days of becoming aware. If there is a failure by the Supplier or a Subcontractor to comply with the Supplier Charter, and such failure creates a material risk for Retain, Retain may terminate this Agreement pursuant to clause 10.2.1.
- 19. SUBCONTRACTING AND ASSIGNMENT**
- The Supplier shall not assign novate or otherwise dispose of or create any trust in relation to any or all of its rights and obligations under this Agreement nor shall it subcontract performance of any of its obligations or responsibilities without Retain's prior written consent. If Retain gives such consent, any such subcontracting shall not relieve the Supplier from and the Supplier shall remain liable for, all of its liabilities, obligations and responsibilities hereunder.
- 20. PUBLICITY**
- 20.1 The Supplier shall not:
 - 20.1.1 make any public announcement or issue any public circular (including a media or press release) relating to this Agreement or its subject matter without the prior written approval of Retain; or
 - 20.1.2 use the name or logos of Retain, or of any other Retain Group, as a reference or in any advertising or promotional materials without Retain's prior written consent (on every occasion), which may be withdrawn at any time if it is given.

Purchase Terms

21. RECORDS

The Supplier shall, and shall procure that its Subcontractors shall, maintain a complete and correct set of records pertaining to all activities relating to the performance of this Agreement and the Supplier's obligations under this Agreement and Retain such records during the term of the Agreement and for a period of not less than 2 years (or such longer period as may be required by law) following termination or expiry of the Agreement.

22. NOTICES

22.1 Where this Agreement requires notice to be given by one party to the other such notice shall be in writing and shall be delivered by hand, first class post or special delivery post to the following:

22.1.1 in the case of delivery to Retain, to the Company Secretary at 11 Buckingham Street, London, England, WC2N 6DF and cc'd to the Named Representative; and

22.1.2 in the case of delivery to the Supplier, to the Company Secretary at the Supplier's registered office address and cc'd to the Named Representative.

22.2 A notice will be deemed to have been duly served if delivered by hand at the time of delivery; if delivered by first class post or special delivery post 48 hours after being posted, provided that where in the case of delivery by hand such delivery occurs either after 4.00 pm on a Business Day, or on a day other than a Business Day, service will be deemed to occur at 9.00 am on the next Business Day.

22.3 In the case of communications relating to this Agreement which do not relate to matters where this Agreement requires notice to be given, communications may take place by email between the Named Representatives and each party shall be responsible for ensuring that the current email address of its Named Representative is known by the other party's Named Representative.

23. IR35

23.1 The Supplier warrants to Retain that the personnel providing the Services are employed or engaged directly with the Supplier under a contract of employment. The Supplier further warrants that no personnel providing the Services are providing their services to the Supplier through an intermediary to which the provisions of Chapters 8 and/or 10 of part 2 of the Income Tax (Earning and Pensions) Act 2003 apply. The Supplier shall indemnify Retain and keep Retain indemnified against all Losses arising from a breach of this warranty or from any claim, allegation or finding from HMRC that the appropriate amount of taxes relating to personnel providing Services to Retain have not been paid.

24. TAX AVOIDANCE

24.1 The Supplier shall ensure, throughout the term, that neither it nor any of its affiliates or any subcontractors, employees, contractors, intermediaries or persons to whom the Supplier makes payment in relation to the Services has in place any arrangement involving the use of any scheme to avoid UK tax by diverting income of a UK resident individual to a non-UK resident company, partnership or trust of the payments made under this Agreement, or on any transaction connected with, or resulting from, this Agreement or the Services.

24.2 The Supplier shall indemnify and hold Retain harmless from and against any Losses which Retain may suffer or incur as a result of the failure of the Supplier to comply with Clause 24.1.

25. GENERAL

25.1 Any failure to exercise or any delay in exercising a right or remedy provided by this Agreement or at law or in equity shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies. A waiver of a potential action or remedy for breach any of the terms of this Agreement or of a Default shall not constitute a waiver of any other potential action or remedy for breach or Default and shall not affect the other terms of this Agreement.

25.2 The rights and remedies provided by this Agreement are cumulative and (subject as otherwise provided in this Agreement) are not exclusive of any rights or remedies provided at law or in equity.

25.3 This Agreement contains all the terms which Retain and the Supplier have agreed in relation to the supply of the Deliverables and supersedes any prior written or oral agreements, representations or understandings between the parties relating to such Deliverables. The Supplier acknowledges that it has not relied upon any warranty, representation, statement or understanding made or given by or on behalf of Retain which is not set out in the Agreement and agrees that it shall have no claim in respect of the same. Nothing in this Agreement will exclude any liability which one party would otherwise have to the other party in respect of any statements made fraudulently.

25.4 This Agreement can only be varied by a formal agreement which recites its intention to amend this Agreement and which is signed by persons who have the authority and capacity to bind the respective parties to a legal contract.

25.5 Nothing contained in this Agreement, and no action taken by the parties pursuant to this Agreement, will be deemed to constitute a relationship between the parties of partnership, joint venture, principal and agent or employer and employee. Neither party has, nor may it represent that it has, any authority to act or make any commitments on the other party's behalf.

25.6 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable such invalidity, illegality or unenforceability shall not prejudice the other provisions of this Agreement which shall remain in full force and effect and if the provision in question would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification as may be necessary to make it valid.

25.7 Except as expressly provided in clause 4.1 (Deliverables), the parties confirm that it is not their intention to confer any rights on any person who is not a party to this Agreement by virtue of its terms, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

25.8 This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed at all times:

25.8.1 where the Deliverables are supplied to a Retain business in the United Kingdom, in accordance with the laws of England and, without prejudice to the dispute resolution procedure set out in clause 6 (Governance and Dispute Resolution), subject to the exclusive jurisdiction of the courts of England; and

25.8.2 where the Deliverables are supplied to a Retain business in the Republic of Ireland, in accordance with the laws of the Republic of Ireland and, without prejudice to the dispute resolution procedure set out in clause 6 (Governance and Dispute Resolution), subject to the exclusive jurisdiction of the courts of the Republic of Ireland.