

## TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

### 1 DEFINITIONS AND INTERPRETATION

- 1.1 In these Terms, the following expressions have the following meanings:
- 1.2 **Applicable Laws** means any and all laws, legislation, statutes, regulations, by-laws, decisions, notices, orders, rules (including any rules or decisions of court), local government rules, statutory instruments or other delegated or subordinate legislation and any directions, codes of practice issued pursuant to any legislation, and voluntary codes that are applicable to the supply and acquisition of the Services on these Terms from time to time.
- 1.3 **Confidential Information** means all information which is identified in these Terms, or at the time of disclosure, by the disclosing party (or in the case of the Purchaser, any company in the Purchaser Group) as being confidential information, or which may be reasonably regarded as the confidential information of the disclosing party (or in the case of the Purchaser, of any company in the Purchaser Group), including information relating to the business, finances, affairs, products, developments, trade secrets, campaign plans, launch dates, know-how, personnel, customers and suppliers of each party (and in the case of the Purchaser, the Purchaser Group).
- 1.4 **Contract** means each contract formed in accordance with Clause 2 for the supply and purchase of the Services on these Terms.
- 1.5 **Deliverables** means all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, inventions, designs, pictures, computer programs, data, specifications and reports (including drafts).
- 1.6 **Holding Company** shall have the meaning given in section 1159 Companies Act 2006 and shall include parent undertakings as defined in section 1162 Companies Act 2006 and the term shall include companies wherever they are registered.
- 1.7 **Insolvency Event** means an event where any one of the following occurs in relation to a party (a) any step or action is taken, any notice, document, petition or application is filed at court, or any resolution is passed, in connection with that party entering administration, a moratorium, provisional liquidation, a company voluntary arrangement, an arrangement under Part 26A of the Companies Act 2006 or any other composition or arrangement with its creditors (other than in relation to a solvent restructuring), bankruptcy, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring) or having a receiver appointed over any of its assets, (b) an event similar or analogous to those listed in a) above occurs under the law of any jurisdiction of a party, or (c) a party suspends, or threatens to suspend, or ceases, or threatens to cease, to carry on all or a substantial part of its business.
- 1.8 **Intellectual Property Rights** means patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, any rights and all similar or equivalent rights or forms of protection that subsist or will subsist now or in the future in any part of the world.
- 1.9 **Liability** means in relation to any matter, all damages, losses, costs (including legal costs), charges, expenses, actions, adverse judgments, proceedings, claims, penalties, fines and demands (and **Liabilities** shall be construed accordingly).
- 1.10 **Mandatory Policies** means the Purchaser's policies, including but not limited to; the Anti-Bribery and Anti-Corruption Policy, Modern Slavery Policy, Business Ethics Policy, Privacy Policy, Supplier Code of Conduct and the Sourcing Procedure, as amended and made available at [www.alpekpolyester.co.uk](http://www.alpekpolyester.co.uk) by the Purchaser from time to time.
- 1.11 **Order** means the Purchaser's order for the Services (including any applicable Specification and the Deliverables), as set out in the Purchaser's purchase order form, or in the Purchaser's written acceptance of the Supplier's quotation, as the case may be.
- 1.12 **Permitted Subcontractor** means any person to whom the Purchaser consents that the Supplier may subcontract any of its rights and obligations under the Contract in accordance with Clause 21.1.
- 1.13 **Price** means the price of the Services as set out in the Order.
- 1.14 **Purchaser** means Alpek Polyester UK Limited or such other purchaser as may be identified in the Order.
- 1.15 **Purchaser Group** means the Purchaser and each and every Subsidiary Company or Holding Company of the Purchaser and each and every Subsidiary Company of a Holding Company of the Purchaser, in each case, from time to time.
- 1.16 **Purchaser Materials** means all materials, equipment and tools, Specifications and data supplied by the Purchaser to the Supplier.
- 1.17 **Representatives** means in relation to a party, its employees, officers, representatives and advisers.
- 1.18 **Services** means the services including any Deliverables (if any), described in the Order.
- 1.19 **Service Credits** means the service credits (if any) specified in the Order.
- 1.20 **Service Level Failure** means any failure to meet a Service Level.
- 1.21 **Service Levels** means the service levels (if any) specified in the Order.
- 1.22 **Specification** means the specification including any plans, drawings, data, description or other information relating to the Services.
- 1.23 **Supplier** means the person or firm from whom the Purchaser purchases the Services.
- 1.24 **Supplier Group** means the Supplier and each and every Subsidiary Company or Holding Company of the Supplier and each and every Subsidiary Company of a Holding Company of the Supplier, in each case, from time to time.
- 1.25 **Subsidiary Company** shall have the meaning given in section 1159 Companies Act 2006 and include subsidiary undertakings as defined in section 1162 Companies Act 2006 and the term shall include companies wherever they are registered.
- 1.26 **Terms** means these terms and conditions of purchase, the Contract, the Specification (if any) and any special conditions agreed in writing between the Purchaser and the Supplier for the provision of Services.
- 1.27 **Warranty Period** means the warranty period for the Services as set out in the Order, or if no warranty period is stated, twenty four (24) months from performance of the Services in accordance with Clause 4.
- 1.28 References to any statute or any section of any statute include any statutory amendment, modification or re-enactment and instruments and regulations under it in force from time to time, unless the contrary is stated. References to any rules, regulations, codes of practice or guidance include any amendments or revisions from time to time.

### 2 BASIS OF CONTRACT

- 2.1 From time to time, the Purchaser may enter into an Order with the Supplier in accordance with these Terms.
- 2.2 Unless otherwise agreed in writing between the parties, the Order shall be deemed to be accepted on the earlier of:

- 2.2.1 the Supplier issuing written acceptance of the Order (notwithstanding any conditions attached to such offer or acceptance or any purported incorporation of terms other than these Terms);
- 2.2.2 any offer made by the Supplier and accepted by the Purchaser; or
- 2.2.3 any act or conduct by the Supplier consistent with fulfilling the Order (including for the avoidance of doubt, the performance of any Services), at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 These Terms shall apply to each Contract to the exclusion of any other terms; on which any quotation has been given to the Purchaser, that the Supplier otherwise seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.4 Subject to the provisions of Clause 3.1, no variation to the Order or these Terms shall be effective unless it is in writing and signed by the parties (or their authorised representatives). The Purchaser is under no obligation to agree to a change.
- 2.5 The Supplier waives any right it may otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Terms.
- 2.6 If there is a conflict or inconsistency between the different parts of these Terms, to the extent necessary, the order or precedence for resolving the conflict is:
- 2.6.1 these Terms;
- 2.6.2 any special conditions which may apply to the Terms from time to time as set out in writing in the Contract; and
- 2.6.3 the completed Order form.

### 3 SUPPLY OF SERVICES

- 3.1 The quantity, quality and description of the Services shall be as specified in the Order. The Purchaser may amend or cancel an Order in whole or in part at any time before delivery by giving the Supplier written notice. To the maximum extent possible, the Supplier shall mitigate all costs relating to the Order immediately upon receipt of amendment or cancellation under this Clause 3.1.
- 3.2 The Supplier warrants to the Purchaser that it is fully qualified and equipped to perform its obligations under the Contract and warrants to the Purchaser that the Services will:
- 3.2.1 be performed using the standards, practices, methods and procedures conforming to the Applicable Laws and exercising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in a similar type of undertaking under the same or similar circumstances;
- 3.2.2 correspond with the Order and that the Deliverables shall be fit for any purpose that the Purchaser expressly or impliedly makes known to the Supplier;
- 3.2.3 be performed by appropriately qualified and trained personnel, with due care and diligence and to such standards of quality as it is reasonable for the Purchaser to expect in all the circumstances, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- 3.2.4 comply with all Applicable Laws; and
- 3.2.5 not infringe any Intellectual Property Rights of any person.
- 3.3 The warranties set out in this Clause 3 shall continue in force (notwithstanding acceptance by the Purchaser of all or any part of the Services) for the Warranty Period.
- 3.4 The Supplier shall ensure that at all times it:
- 3.4.1 has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Services;
- 3.4.2 provides all equipment, tools and vehicles and such other items as are required to provide the Services;
- 3.4.3 uses the best quality goods, materials, standards and techniques, and ensures that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Purchaser, will be free from defects in workmanship, installation and design;
- 3.4.4 hold all Purchaser Materials in safe custody at its own risk, maintains the Purchaser Materials in good condition until returned to the Purchaser, and does not dispose of or use the Purchaser Materials other than in accordance with the Purchaser's written instructions or authorisation; and
- 3.4.5 does not do or omit to do anything which may cause the Purchaser to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Purchaser may rely or act on the services.
- 3.5 If any Services are not performed in accordance with the Contract, then the Purchaser shall be entitled at any time within the Warranty Period to require the Supplier (at the Purchaser's sole option) to reperform the Services in accordance with the Contract within fourteen (14) days, or whether or not the Purchaser has previously required the Supplier to reperform the Services, to treat the Contract as discharged by the Supplier's breach and require the repayment of any part of the Price which has been paid.
- 3.6 Subject to the provisions of Clause 18, the Supplier shall at all times whilst on the Purchaser's premises or site comply with and procure that the Supplier Personnel shall:
- 3.6.1 comply with all Applicable Laws;
- 3.6.2 comply with all security and safety regulations and rules from time to time in force on those premises or site, including the Mandatory Policies and will be deemed to have full knowledge of such regulations and rules (copies of which shall be supplied to the Supplier on request); and
- 3.6.3 clear away and remove from the Purchaser's premises or site all installation plant, service material, rubbish and temporary works and leave the premises or site in a clean and workmanlike condition.
- 3.7 The Supplier may by prior arrangement with the Purchaser leave equipment and spare parts on the Purchaser's premises or site as may be necessary to carry out its obligations under the Contract but does so at its own risk.

### 4 PERFORMANCE

- 4.1 The Services shall be performed at the address specified by the Purchaser on the date or within the period stated in the Order.
- 4.2 The Purchaser reserves the right to amend any performance instructions.
- 4.3 Performance shall be deemed to be made on receipt of the Services by the Purchaser in accordance with all terms of the Contract.
- 4.4 Performance by instalments shall not be accepted by the Purchaser unless previously agreed in writing. If Services are to be performed by instalments, the Contract will be treated as a single contract and not severable.

- 4.5 Time of performance is of the essence. Notwithstanding the provisions of Clause 3.5, if any Services are not performed on the due date then the Purchaser shall (without prejudice to its other rights and remedies) be entitled, at its sole discretion to:
- 4.5.1 cancel the Order (or any part) without liability (subject to Clause 15) to the Supplier;
  - 4.5.2 purchase the same or substitute services elsewhere;
  - 4.5.3 refuse to accept the performance of any further Services under the Contract;
  - 4.5.4 recover from the Supplier any loss or additional costs incurred, including the amount by which the price payable by the Purchaser to acquire those Services elsewhere exceeds the price payable under the Contract and any loss of profit; and/or
  - 4.5.5 delay payment of the Price until the performance of the Services is complete.
- 5 ACCEPTANCE**
- 5.1 The Supplier shall supply the Purchaser in good time with any instructions or other information required to enable the Purchaser to accept performance of the Services. The Purchaser shall not be deemed to have accepted any Services until the Purchaser has had a reasonable time to inspect or test them following performance or, if later, within a reasonable time after any latent defect has become apparent.
- 5.2 The Purchaser shall be entitled to reject any Services which are not in full compliance with the Order and these Terms including this Clause 5. Any acceptance of defective, late or incomplete Services or any payment made in respect thereof, shall not constitute a waiver of any of the Purchaser's rights and remedies, including its right to reject.
- 5.3 The Purchaser may inspect and test the Services at any time, and the Supplier shall provide the Purchaser with all facilities reasonably required for inspection and testing free of charge. Any inspection or testing by the Purchaser shall not relieve the Supplier of its obligations under the Contract.
- 5.4 The Purchaser shall be entitled to terminate the Contract in accordance with Clause 14 if it is not satisfied that the Services will comply in all respects with the Contract.
- 6 KEY PERSONNEL**
- 6.1 The Supplier will procure that where applicable, where such key personnel are specified in the Order such personnel are actively involved in the performance of the Services (**Key Personnel**).
- 6.2 The Supplier will obtain the prior written consent of the Purchaser before removing or replacing any Key Personnel from their corresponding role during the term of the Contract and, where possible, at least sixty (60) days' notice in writing must be provided by the Supplier of its intention to replace any member of Key Personnel from their corresponding role. The Purchaser will not unreasonably delay or withhold its consent to the appointment of replacement Key Personnel by the Supplier.
- 6.3 The Supplier acknowledges that the Key Personnel are essential to the proper performance of the Services. To the extent that it can do so without disregarding its statutory obligations, the Supplier will take all reasonable steps to ensure that it retains the services of all Key Personnel.
- 7 PRICE AND PAYMENT**
- 7.1 The Price, unless otherwise agreed in writing between the parties, shall be:
- 7.1.1 fixed at the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date;
  - 7.1.2 exclusive of any applicable VAT (which shall be payable by the Purchaser subject to receipt of a VAT invoice); and
  - 7.1.3 inclusive of all charges, customs, duties and tariffs, insurance, imposts or levies other than VAT.
- 7.2 Unless otherwise stated in the Order, the Supplier may only invoice the Purchaser on or after performance of the Services with a separate invoice for each individual performance. Invoices will not be accepted unless they quote the number of the relevant Order. Invoices shall be issued in the name of the Purchaser or such other entity as the Purchaser may require and sent to the Purchaser's address specified in the Order or such other address as the Purchaser may require.
- 7.3 Unless otherwise stated in the Order, the Purchaser shall pay the undisputed amount of the Price within sixty (60) days from end of the relevant month following: (i) receipt of invoice by the Purchaser of a proper invoice; or (ii) acceptance of the Goods in question by the Purchaser, whichever is later.
- 7.4 If the Purchaser receives an invoice which it reasonably believes includes a sum which is not valid and properly due, the Purchaser shall notify the Supplier in writing as soon as reasonably practicable. The Purchaser shall pay the balance of the invoice which is not in dispute in accordance with Clause 7.3. The Purchaser's failure to pay the disputed amount of the Price shall not be deemed to be a breach of these Terms. In the event that all or part of any disputed amounts are agreed by the Purchaser or otherwise determined in accordance with the Contract as payable, the Purchaser shall pay the Supplier interest on such amounts date from the date when such payment was due until the date of actual payment at the rate of one (1) per cent per annum above HSBC Bank plc base rate from time to time.
- 7.5 Time of payment shall not be of the essence of the Contract.
- 7.6 The Purchaser will not be obliged to pay for any Deliverables which do not meet the description of the Deliverables set out in the Contract or which have not otherwise been agreed by the Purchaser in writing.
- 7.7 The Purchaser may set off against the Price any sums owed to the Purchaser and/or any company in the Purchaser Group by the Supplier. If the Liabilities to be set off are expressed in different currencies, the Purchaser may, for the purpose of set off, convert either liability at the rate of exchange which shall be HSBC Bank plc's spot rate for that currency at the close of business (being 17:00 hours) on the relevant Business Day. Any exercise by the Purchaser of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.
- 7.8 If either party defaults in the payment of the Price or sums payable under the Contract, the liability of such party shall be increased to include interest on the outstanding balance of such sums from the date when such payment is due until the date of actual payment at a rate per annum (both before and after judgment) of three (3) per cent per annum above HSBC Bank plc base rate from time to time. Such interest will accrue on a daily basis. The parties agree that interest payable at that rate is a substantial remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.
- 8 SERVICE LEVELS**
- 8.1 Where Service Levels are specified in the Order, the Supplier shall, at all times, provide the Services in such a manner that such Service Levels are achieved.
- 8.2 The Supplier shall monitor the performance of the Services against any applicable Service Levels and, promptly following the end of each month during the term of the Contract (or such other period as is specified in the relevant Order), shall provide a written report to the Purchaser in respect thereof (and the details of any Service Credits due to the Purchaser) in a reasonable level of detail or in such format as has been agreed between the parties.
- 8.3 If at any time the Supplier fails to achieve any or all of the Service Levels (or has reasonable grounds to believe that it will not be able to achieve a Service Level) then the Supplier shall, without cost to the Purchaser and promptly upon becoming aware of such failure (or inability to meet a Service Level):
- 8.3.1 notify the Purchaser in writing of the same together with the reason for the failure to achieve the Service Levels;
  - 8.3.2 without prejudice to any other rights that the Purchaser has under the Contract, promptly take all remedial action that is reasonably necessary to remedy the Service Level Failure to the reasonable satisfaction of the Purchaser or to prevent the Service Level Failure from taking place; and
  - 8.3.3 take all necessary steps to ensure there is no reoccurrence of that failure during the term of the Contract.
- 9 SERVICE CREDITS**
- 9.1 If the Supplier fails to meet the Service Levels then the Supplier shall also promptly inform the Purchaser of any Service Credits due. Whenever Service Credits are due, the Supplier shall, as directed by the Purchaser:
- 9.1.1 deduct the amount of those Service Credits from the next invoice due to be issued to the Purchaser; or
  - 9.1.2 pay to the Purchaser, within sixty (60) days of demand, a sum equal to the applicable Service Credits.
- 9.2 The payment of Service Credits will be treated as an adjustment to the Price payable in respect of the Services. Payment of Service Credits is not an exclusive remedy and shall be without prejudice to any other rights and remedies which the Purchaser may have under the Contract or otherwise.
- 9.3 The fact that the Service Credit provisions anticipate or provide for a particular eventuality shall not be interpreted as implying that the relevant eventuality should not be considered a breach (or material breach) of contract. Any Service Credit allowed in respect of a breach shall be treated as part payment of any damages awarded as a result of such breach.
- 10 INTELLECTUAL PROPERTY**
- 10.1 Except as expressly provided, nothing in these Terms shall give a party any rights in respect of any Intellectual Property Rights of the other party. All Purchaser Materials are the exclusive property of the Purchaser.
- 10.2 Nothing in these Terms shall have the effect of transferring any rights or title in or to the Purchaser Materials.
- 11 LIABILITY**
- 11.1 Nothing in these Terms shall exclude or limit the liability of any party for:
- 11.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - 11.1.2 fraud or fraudulent misrepresentation or wilful default; and
  - 11.1.3 any matter in respect of which it would be unlawful to exclude or restrict liability.
- 11.2 Subject to Clause 11.3, neither party shall under any circumstances whatsoever be liable to the other, whether in contract, tort (including negligence), misrepresentation, restitution, breach of statutory duty, or otherwise, for loss of profit or other indirect or consequential loss or damages.
- 11.3 Nothing in these Terms shall limit any liability under Clauses 10, 11, 12 and 18.
- 12 INDEMNITY**
- 12.1 The Supplier shall indemnify the Purchaser against any and all Liabilities (calculated on a full indemnity basis) and all other reasonable costs and expenses awarded against or incurred or paid by the Purchaser as a result of or in connection with:
- 12.1.1 breach of any warranty given by the Supplier in relation to the Services;
  - 12.1.2 any claim that the performance or enjoyment of the Services infringes the Intellectual Property Rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by the Purchaser;
  - 12.1.3 any claim made against the Purchaser in respect of any breach or alleged breach by the Purchaser of any Applicable Laws; and
  - 12.1.4 any act or omission of the Supplier or the Supplier Personnel in performing the Services, including any injury, loss or damage to persons caused or contributed to by any of their negligence or by faulty design, workmanship or materials (except to the extent that the injury, loss or damage is caused by the negligent act or omission of the Purchaser).
- 12.2 This Clause 12 shall survive the termination of the Contract.
- 13 INSURANCE**
- During the term of the Contract and for a period of three (3) years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance, motor insurance (where applicable) and public liability insurance to cover the Liabilities that may arise under or in connection with the Contract, and shall, on the Purchaser's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- 14 TERMINATION**
- 14.1 The Purchaser shall be entitled to cancel the Order in respect of all or part only of the Services by giving notice to the Supplier at any time prior to performance without incurring any liability to the Supplier other than to pay for Services already delivered or performed at the time of such notice.
- 14.2 The Purchaser shall be entitled to terminate the Contract immediately without liability to the Supplier by giving notice in writing to the Supplier at any time if:
- 14.2.1 the Supplier or its Permitted Subcontractors repeatedly breaches any of these Terms, including persistent failures to meet Clause 8.1, as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to these Terms;
  - 14.2.2 the Supplier suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
  - 14.2.3 there is a change of control of the Supplier (being a company) within the meaning of section 1124 Corporation Tax Act 2010.
- 14.3 Either party may terminate the Contract immediately without liability to the other party by giving notice in writing to the other party at any time if:
- 14.3.1 the other party (and in the case of the Supplier, its Permitted Subcontractors) commits a material breach of these Terms;

- 14.3.2 the other party (and in the case of the Supplier, its Permitted Subcontractors) commits a breach of these Terms which can be remedied, but the other party (and in the case of the Supplier, its Permitted Subcontractors) fails to do so within thirty (30) days;
- 14.3.3 an Insolvency Event occurs in relation to the other party; or
- 14.3.4 the other party becomes subject to any events that are analogous to those set out in Clause 14.3.3 in any other jurisdiction.
- 14.4 The Purchaser shall be entitled to terminate the Order or the Contract for convenience by giving the Supplier written notice.
- 15 CONSEQUENCES OF TERMINATION**
- 15.1 Termination of the Order or the Contract shall not affect any of the rights, remedies, obligations or Liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 15.2 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.
- 16 FORCE MAJEURE**
- 16.1 Neither party shall be in breach of this agreement or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (**Force Majeure Event**). The time for performance of such obligations shall be extended accordingly.
- 16.2 If the Force Majeure Event prevents, hinders or delays the affected party's performance of its obligations for a continuous period of more than thirty (30) days the party not affected by the Force Majeure Event may terminate the Contract by giving notice in writing to the affected party.
- 17 CONFIDENTIALITY**
- 17.1 Each party undertakes to the other to keep all Confidential Information confidential and not disclose to any person any Confidential Information except as permitted by Clause 17.2.
- 17.2 Each party may disclose the other party's Confidential Information:
- 17.2.1 to its Representatives or members of the Purchaser Group or Supplier Group who have a need to know the Confidential Information;
- 17.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority; and
- 17.2.3 for the purposes of performing its obligations under the Contract.
- 17.3 The Supplier shall procure that any Permitted Subcontractors and the Representatives of such Permitted Subcontractors comply with the terms of this Clause 17.3 as if they were the Supplier.
- 17.4 The provisions of this Clause 17 shall survive any termination or expiry of the Contract.
- 18 COMPLIANCE**
- 18.1 In performing its obligations under the Contract, the Supplier shall comply with Applicable Laws, statutes, regulations and codes from time to time in force and comply with the Mandatory Policies.
- 18.2 The Purchaser may treat the Supplier's failure to comply with this Clause 18 as a material breach of the Contract.
- 19 INSPECTION AND AUDITS**
- 19.1 The Purchaser, its agents and/or independent auditors on the Purchaser's behalf shall have the right at any time to inspect the Supplier's records and books relating to the supply of the Services to the Purchaser (including the Supplier's financial records and books for the supply of the Services), and the Supplier's processes of performing the Services and/or any other matter relating to the supply of the Services.
- 19.2 Any such inspection processes shall be subject to reasonable prior written notice.
- 20 RIGHTS AND REMEDIES**
- 20.1 Each right or remedy of the Purchaser is without prejudice to any other right or remedy of the Purchaser, whether or not under the Contract.
- 20.2 These Terms shall apply to services reperformed by the Supplier.
- 20.3 Notwithstanding the provisions of Clause 4 if any Goods are not delivered on the due date then the Purchaser shall be entitled to:
- 20.3.1 cancel the Order (or any part) without liability to the Supplier;
- 20.3.2 purchase substitute goods elsewhere;
- 20.3.3 recover from the Supplier any loss or additional costs incurred; and/or
- 20.3.4 delay payment of the Price until delivery of the Goods is complete.
- 21 SUBCONTRACTING, ASSIGNMENT AND OTHER DEALINGS**
- 21.1 The Supplier shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under these Terms (or the Contract, as applicable) without the written consent of the Purchaser.
- 21.2 The Purchaser shall be entitled to exercise its rights or perform any of its obligations (in whole or in part) through any company in the Purchaser's Group and/or transfer its rights and obligations under these Terms, (or the Contract, as applicable) (in whole or in part) to any third party on giving notice in writing to the Supplier.
- 22 RIGHTS OF THIRD PARTIES**
- 22.1 To the extent to which any Services provided under the Contract are for the benefit of any company in the Purchaser Group, that company may enforce the terms of the Contract subject to and in accordance with the Contract and the provisions of the Contracts (Rights of Third Parties) Act 1999 (**1999 Act**).
- 22.2 Any company in the Purchaser Group may enforce the terms of Clause 7.6 subject to and in accordance with the Contract and the provisions of the 1999 Act.
- 22.3 Except as provided in Clauses 22.1 and 22.2, no third party (as defined in the 1999 Act) except for any permitted successor or assignee of any party to the Contract has any rights under the 1999 Act to enforce any term of these Terms.
- 23 WAIVER**
- No failure or delay by a party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 24 NOTICES**
- 24.1 Any notice to be given by either party to the other under this Agreement must be in writing addressed to that other party at its registered office or principal place of business or such other address or by email address as may have been notified for these purposes. Notices shall be delivered personally, sent by prepaid recorded, special delivery or first-class post (or in the case of overseas post, by airmail) or sent by email.
- 24.2 A notice is deemed to have been received if delivered by hand, at the time of delivery, if sent by prepaid recorded, special delivery or first-class post, on the second working day after posting and if sent by prepaid air mail post, on the fifth business day from the date of posting. Any notice sent by email will be effective only when actually received in readable form and service shall be deemed to be effected on the same day on which it is sent.
- 25 NO PARTNERSHIP**
- Nothing in this Agreement or any arrangement contemplated by it shall constitute either party a partner, agent, fiduciary or employee of the other party.
- 26 ENTIRE AGREEMENT**
- The Contract constitutes the entire agreement between the parties and extinguishes all previous agreements, arrangements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter, except that this Clause 26 does not affect the liability of either party for fraud or fraudulent misrepresentation.
- 27 SEVERABILITY**
- If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause shall not affect the validity and enforceability of the rest of the Contract.
- 28 SURVIVAL**
- Any termination or the expiry of the Contract will not affect the coming into force or the continuance in force of any provision which is intended to come into or continue in force on or after such termination or expiry.
- 29 GOVERNING LAW AND JURISDICTION**
- 29.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by and construed in accordance with the law of England and Wales.
- 29.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).