



## GENERAL TERMS AND CONDITIONS OF PURCHASE

### 1. INTERPRETATION

1.1. In these Terms and Conditions, the following definitions apply:

**Business Day:** means a day (other than a Saturday or Sunday or a public or bank holiday in England) when banks in London are open for business.

**Commencement Date:** means the earlier of (a) the Supplier issuing written acceptance of the Purchase Order or (b) any act by the Supplier consistent with fulfilling the Purchase Order.

**Contract:** the contract between Northumbria and the Supplier for the supply of Goods and/or Services in accordance with these Terms and Conditions and Purchase Order as set out in clause 2.1.

**Deliverables:** all documents, products and materials developed by the Supplier or its directors, employees, contractors or agents as part of or in relation to the Services in any form, including drafts, drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports.

**Goods:** the goods (or any part of them) to be supplied by the Supplier, as set out in the Purchase Order.

**Goods Specification:** any specification for the Goods, including any related plans and drawings that is agreed by Northumbria and the Supplier.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in designs, database rights, rights to use, 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, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Materials:** All tools, materials, drawings, specifications and other equipment and data owned by Northumbria and which are the exclusive property of Northumbria.

**Order Amendment:** Northumbria's authorised order amendment or series of order amendments amending the Purchase Order, each other amendment having precedence over any earlier Order Amendment.

**Purchase Order:** Northumbria's purchase order, with these Terms and Conditions attached or referred to, for the supply of Goods and/or Services, as set out in Northumbria's purchase order form, as may be amended by any Order Amendment.

**Services:** the services, including any Deliverables, to be provided by the Supplier under the Contract.

**Service Specification:** the description or specification for the Services agreed by Northumbria and the Supplier.

**Supplier:** the person or company from whom Northumbria purchases the Goods and/or Services, as defined and detailed on the Purchase Order. This includes all directors, employees, contractors and agents employed or engaged by the person or company.

**VAT:** value added tax under the Value Added Tax Act 1994 or any similar or replacement tax.

- 1.2. Reference to a **person** shall include a natural person, company or other legal person. Reference to a **company** shall include a trust, firm, association or other body, whether incorporated or unincorporated.
- 1.3. Reference to **written** and **in writing** shall include email but not fax.

## **2. BASIS OF CONTRACT**

- 2.1. The Contract shall comprise (in order of precedence): any Order Amendments, the Purchase Order; these Terms and Conditions and any specification or other document or part thereof referred to in the Purchase Order.
- 2.2. The Purchase Order constitutes an offer by Northumbria to purchase Goods and/or Services from the Supplier in accordance with these Terms and Conditions which apply to the supply of both Goods and Services except where the application to one or the other is specified.
- 2.3. These Terms and Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

## **3. SUPPLY OF GOODS**

- 3.1. The Supplier will ensure that the Goods will:
  - 3.1.1. correspond with their description and any applicable Goods Specification;
  - 3.1.2. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by Northumbria (whether expressly or by implication), and in these respects Northumbria relies on the Supplier's skills and judgement;
  - 3.1.3. be free from defects in design, materials and workmanship and remain so for 24 months after delivery; and
  - 3.1.4. comply with all applicable statutory and regulatory requirements including in relation to the manufacture, labelling, packaging, storing, handling and delivery of the Goods.
- 3.2. The Supplier will ensure that at all times it has all registrations, accreditations, permissions, licences and other consents required by law that it needs to carry out its obligations under the Contract in respect of the Goods.
- 3.3. Northumbria has the right to inspect and test the Goods at any time before delivery. If following such inspection or testing Northumbria considers that the Goods do not conform or are unlikely to comply with the Purchase Order, Northumbria will inform the Supplier and the Supplier will immediately take steps to remedy the problem. Northumbria will have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions

## **4. DELIVERY OF GOODS**

- 4.1. The Supplier will ensure that:

- 4.1.1. the Goods are properly packed and secured at the Supplier's expense to arrive in good condition and at the time and place specified by Northumbria and not be delivered in instalments without Northumbria's prior written consent;
  - 4.1.2. each delivery of the Goods is accompanied by a delivery note which shows the date of the Purchase Order, the Purchase Order number (if any), the type and quantity of the Goods, special storage instructions (if any) and (without prejudice to clause 4.1.1), if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
  - 4.1.3. if the Supplier requires Northumbria 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.
- 4.2. The Supplier will deliver the Goods to Northumbria's premises or elsewhere as instructed by Northumbria prior to delivery (**Delivery Location**) and delivery of the Goods will be completed on the completion of unloading the Goods at the Delivery Location. Title and risk in the Goods will pass to Northumbria on completion of delivery.
- 4.3. Any rejected Goods will be returnable at the Supplier's risk and expense.

## **5. SUPPLY OF SERVICES**

- 5.1. The Supplier will from the Commencement Date and for the duration of the Contract provide the Services to Northumbria in accordance with the terms of the Contract and meet any performance dates for Services specified or referred to in the Purchase Order.
- 5.2. In providing the Services, the Supplier will:
- 5.2.1. co-operate with Northumbria and comply with all reasonable instructions of Northumbria;
  - 5.2.2. perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
  - 5.2.3. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in accordance with the Contract;
  - 5.2.4. ensure that the Services and Deliverables will conform with the Purchase Order or as notified by Northumbria, and that the Deliverables will be fit for any purpose expressly or impliedly made known to the Supplier by Northumbria;
  - 5.2.5. provide all equipment, tools and vehicles and other required items to provide the Services;
  - 5.2.6. use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to Northumbria, will be free from defects in workmanship, installation and design;
  - 5.2.7. obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
  - 5.2.8. observe all health and safety rules and regulations, security requirements or relevant regulations that apply at any of Northumbria's premises;

- 5.2.9. keep the Materials, supplied by Northumbria to the Supplier in safe custody at its own risk, maintain the Materials in good condition until returned to Northumbria, and not dispose or use the Materials other than in accordance with Northumbria's written instructions or authorisation;
- 5.2.10. not do or omit to do anything which may cause Northumbria to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that Northumbria may rely or act on the Services; and
- 5.2.11. comply with any additional obligations set out in the Service Specification.

## **6. CUSTOMER REMEDIES**

- 6.1. If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date and/or have delivered Goods that do not comply with these Terms and Conditions or Northumbria has the right:
  - 6.1.1. to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - 6.1.2. to reject any supplied Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
  - 6.1.3. to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempt to make;
  - 6.1.4. to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods
  - 6.1.5. to recover from the Supplier any costs incurred by Northumbria in obtaining substitute goods and/or services from a third party;
  - 6.1.6. to cancel any Services that have not yet been provided by the Supplier and/or Goods which have not been delivered by the Supplier and to have such sums refunded by the Supplier; and
  - 6.1.7. to claim damages for any additional costs, loss or expenses incurred by Northumbria arising from the Supplier's failure to supply the Goods and/or Services in accordance with these Terms and Conditions
- 6.2. These Terms and Conditions will extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 6.3. Northumbria's rights under the Contract are in addition to its rights and remedies implied by statute and common law.

## **7. NORTHUMBRIA'S OBLIGATIONS**

Northumbria will provide the Supplier with reasonable access at reasonable times to Northumbria's premises for the purpose of delivering the Goods and/or providing the Services and provide such information as the Supplier may reasonably request for the delivery of the Goods and/or provision of the Services and Northumbria considers reasonably necessary for the purpose of delivering the Goods and/or providing the Services.

## **8. PRICES AND PAYMENT**

### **8.1. The price for the Goods:**

8.1.1. will be the price set out in the Purchase Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date. The price will be the Supplier's full and exclusive remuneration in respect of the performance of the Services. Unless otherwise agreed in writing by Northumbria, the charges will include every cost and expense directly or indirectly incurred by the Supplier in connection with the performance of the Services; and

8.1.2. will be inclusive of the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by Northumbria. No payment will be made for additional costs which are incurred without prior written authorisation from Northumbria.

8.2. In respect of Goods, the Supplier will invoice Northumbria upon delivery. In respect of Services, the Supplier will invoice Northumbria on completion.

8.3. In consideration of the supply of Goods and/or Services by the Supplier, Northumbria will pay the invoiced amounts within 30 days net monthly account of the receipt of a correctly rendered invoice. The Supplier's invoice must comply with the instructions stated on the Purchase Order and must quote the full Purchase Order number. Northumbria will not be held responsible for delays in payment caused by the Supplier's failure to comply with Northumbria's invoicing instructions.

8.4. If Northumbria is late in paying any sum properly due under the Contract (excluding any sum subject to a genuine dispute), the Supplier may charge Northumbria interest at a rate of 4% above the Bank of England base rate from the due date until the date of payment in full.

8.5. Except where expressly provided in writing, all prices and charges are stated inclusive of VAT (if applicable). VAT shall be payable (if applicable) only if the Supplier has provided Northumbria with a valid VAT invoice..

## **9. INTELLECTUAL PROPERTY RIGHTS**

9.1. In respect of the Goods and any part of the Services, the Supplier warrants that it has full and unencumbered title to all items and that it has unrestricted rights to sell such items to Northumbria.

9.2. The Supplier hereby assigns to Northumbria, with full title guarantee and free from all third party rights, all Intellectual Property Rights in and resulting from performance of the Services. Anything arising out of or deriving from the Contract, including inventions, designs, copyright and knowledge will be the property of Northumbria absolutely.

9.3. The Supplier will on request assist Northumbria in securing for Northumbria the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to Northumbria in accordance with clause 9.2.

9.4. The Supplier will ensure that all technical information (including but not limited to computer programmes, programming information, specifications, know-how or processes) arising out of or deriving from the Contract is held in strict confidence.

## **10. LIABILITY AND INDEMNITY**

- 10.1. Nothing in the Contract shall exclude or limit either party's liability for death or personal injury, for fraud or for any other liability which cannot lawfully be excluded or limited.
- 10.2. Northumbria shall not be liable for loss of business or opportunity, loss of reputation, loss or corruption of data or information, or indirect or consequential loss. Northumbria's total aggregate liability under or in connection with the Contract, whether in contract, tort (including negligence) or otherwise, shall be limited to either (a) the aggregate price and charges paid or payable by Northumbria under the Contract plus any VAT and interest properly due under the Contract, or (b) the sum of £20,000, whichever is the greater.
- 10.3. The Supplier will keep Northumbria indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of revenue or profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Northumbria as a result of or in connection with:
  - 10.3.1. any claim made against Northumbria for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with the Goods or Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its directors, employees, contractors or agents;
  - 10.3.2. any claim made against Northumbria by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that such defects are attributable to the acts or omissions of the Supplier, its directors, employees, contractors or agents; and
  - 10.3.3. any claim made against Northumbria by a third party arising out of or in connection with the supply of the Goods or 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, its directors, employees, contractors or agents.

## **11. WARRANTY**

- 11.1. Without prejudice to any other warranties under the Contract, the Supplier warrants that it will promptly make good (at the Supplier's expense) any defect in the Goods that Northumbria discovers under proper usage and reports to the Supplier during the first 12 months of actual use or the first 18 months from the date of acceptance by Northumbria, whichever period will expire first. Such defects may arise from, for example, the Supplier's faulty design, the Supplier's erroneous instructions as to use or inadequate or faulty materials or poor workmanship or from any other breach of the Supplier's obligations whether in the Contract or at law. Repairs or replacements will themselves be covered by this warranty for a further period of 12 months from acceptance by Northumbria.
- 11.2. The Supplier represents and warrants that it has the lawful power to enter into the Contract and has duly authorised the execution or entering into of the Contract.

## **12. INSURANCE**

- 12.1. During the term of the Contract and for a period of 3 years thereafter Supplier will maintain in force the professional indemnity, product liability and public liability insurance policies, with a reputable provider to cover the liabilities that may arise under or in connection with the Contract,

and will, on request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

- 12.2. If the Supplier fails to comply with clause 12.1 within 21 days of being given written notice by Northumbria, Northumbria may (at the Supplier's expense) purchase adequate insurance policies to cover any uninsured (or apparently uninsured) liabilities referred to in that clause and the Supplier shall fully reimburse Northumbria on demand.

### **13. CONFIDENTIALITY**

- 13.1. A party (receiving party) will keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its directors, employees, contractors or agents, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain.
- 13.2. The receiving party will only disclose such confidential information to those of its directors, employees, contractors or agents who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and will ensure that such parties comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law.

### **14. TERMINATION**

- 14.1. Without prejudice to any other rights or remedies Northumbria may have, Northumbria may terminate the Contract:
- 14.1.1. in respect of the supply of Services, by giving the Supplier not less than 30 days' written notice whereupon the Supplier will discontinue all work on the Services. Northumbria will pay the charges payable for the Services up to the effective date of termination; and
- 14.1.2. in respect of the supply of Goods, in whole or in part, at any time before delivery with immediate effect by giving written notice to the Supplier, whereupon the Supplier will discontinue all work on the Contract. Northumbria will pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation will not include loss of anticipated profits or any indirect or consequential loss.
- 14.2. Without prejudice to any other rights or remedies Northumbria may have, Northumbria may terminate the Contract with immediate effect and without any compensation or damages due to the Supplier by giving written notice to the Supplier if the Supplier should:
- 14.2.1. commit a material breach of the terms of this Agreement which, in the case of a remediable breach, it fails to remedy within fourteen days after receipt of written notice from Northumbria specifying the breach and requesting remedy;
- 14.2.2. persistently neglect, fail or refuse for whatever reason to perform the Services or deliver the Goods to Northumbria's reasonable satisfaction;
- 14.2.3. act in any way materially contrary to the interests of Northumbria whilst providing or purporting to supply the Services or deliver the Goods;

- 14.2.4. have a petition presented for its winding-up, or pass a resolution for voluntary winding-up otherwise than for the purposes of a bona fide amalgamation or reconstruction, or compound with its creditors, or have a receiver or administrative receiver appointed of all or any part of its assets, or enter into any arrangements with creditors, or take or suffer any similar action in consequence of debts; or
- 14.2.5. dispose of or cease to carry on all or a substantial part of its business.
- 14.3. In the event of the termination of the Contract under clause 14.2 Northumbria will only be liable to the Supplier in respect of prices and charges in accordance with the terms of the Contract for the Goods and Services provided up to the effective date of termination.
- 14.4. In the event of the termination of the Contract for any reason, where both Goods and Services are supplied, Northumbria may terminate the part of the Contract in respect of the Goods only, or in respect of the Services only, and the Contract will continue in respect of the remaining supply.
- 14.5. On the termination of the Contract (however arising), the Supplier will deliver up to Northumbria Materials which were provided by Northumbria to the Supplier, or which were prepared by or on behalf of the Supplier for Northumbria in the course of providing the Services. If the Supplier fails to do so, then Northumbria may enter the Supplier's premises and take possession of them. Until Northumbria's Materials have been returned or delivered, the Supplier will be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 14.6. Any provision of the Contract which expressly or by implication is intended to remain in effect or come into effect upon termination or expiry of the Contract shall survive termination or expiry including (without limitation) clauses 10 (*Liability and Indemnity*) and 13 (*Confidentiality*).

## **15. FORCE MAJEURE**

- 15.1. Neither party will be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from events, circumstances or causes beyond its reasonable control. The Supplier will use all reasonable endeavours to mitigate the effect of a force majeure event on the performance of its obligations. If a force majeure event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than 30 Business Days, Northumbria may terminate the Contract immediately by giving written notice to the Supplier.

## **16. ANTI-BRIBERY, ANTI-SLAVERY AND FREEDOM OF INFORMATION**

- 16.1. The Supplier will comply with all applicable laws, statutes, and regulations including (but not limited to) the Bribery Act 2010 and Modern Slavery Act 2015;
- 16.2. The Supplier acknowledges that Northumbria is subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and will assist and co-operate (at the Supplier's expense) to enable Northumbria to comply with these requirements.

## **17. DATA PROTECTION**

- 17.1. In this clause 17 the following additional definitions shall apply:

**Controller, Data Protection Officer, Data Subject, Personal Data, Personal Data Breach, Processor** each take the meaning given in the Data Protection Legislation.

**Data Loss Event:** any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

**Data Protection Impact Assessment:** an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

**Data Protection Legislation:** the UK Data Protection Legislation and (to the extent applicable) the General Data Protection Regulation (EU) 2016/697 (**GDPR**), the Law Enforcement Directive 2016/6801, the Privacy and Electronic Communications Directive 2002/58/EC and all other applicable laws relating to the processing of personal data and privacy.

**Data Subject Access Request:** a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

**Protective Measures:** appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

**Sub-processor:** any third party processor appointed to process Personal Data on behalf of the Supplier related under or in connection with the Contract.

**UK Data Protection Legislation:** the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all other applicable UK laws relating to the processing of personal data and privacy.

- 17.2. The Supplier shall comply with the Data Protection Legislation in the exercise of its rights and the performance of its obligations under or in connection with the Contract.
- 17.3. Without prejudice to clause 17.2, the Parties acknowledge that for the purposes of the Data Protection Legislation, Northumbria is the Controller and the Supplier is the Processor. The only processing that the Supplier is authorised to do is set out or referred to in the Purchase Order or the Service Specification by Northumbria and may not be determined by the Supplier.
- 17.4. The Supplier shall notify Northumbria immediately if it considers that any of Northumbria's instructions infringe the Data Protection Legislation.
- 17.5. The Supplier shall provide all reasonable assistance to Northumbria in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of Northumbria, include:
  - 17.5.1. a systematic description of the envisaged processing operations and the purpose of the processing;
  - 17.5.2. an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - 17.5.3. an assessment of the risks to the rights and freedoms of Data Subjects; and

- 17.5.4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data
- 17.6. Where applicable, the Supplier shall, in relation to any Personal Data processed in connection with its obligations under these terms and conditions:
  - 17.6.1. process that Personal Data only in accordance with a process separately agreed between the Parties in writing, unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify Northumbria before processing the Personal Data unless prohibited by Law;
  - 17.6.2. ensure that it has in place Protective Measures, which have been reviewed and approved by Northumbria as appropriate to protect against a Data Loss Event having taken account of the:
    - a) nature of the data to be protected;
    - b) harm that might result from a Data Loss Event;
    - c) state of technological development; and
    - d) cost of implementing any measures;
  - 17.6.3. ensure that:
    - a) the Supplier Personnel do not process Personal Data except in accordance with this Agreement;
    - b) it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:
      - (i) are aware of and comply with the Supplier's duties under this clause;
      - (ii) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
      - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by Northumbria or as otherwise permitted by this Agreement;
      - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data: and
      - (v) not transfer Personal Data outside of the EU unless the prior written consent of Northumbria has been obtained and the following conditions are fulfilled:
        - (a) Northumbria or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46) as determined by Northumbria
        - (b) the Data Subject has enforceable rights and effective legal remedies

- (c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist Northumbria in meeting its obligations); and
    - (d) the Supplier complies with any reasonable instructions notified to it in advance by Northumbria with respect to the processing of the Personal Data.
  - (vi) at the written direction of Northumbria, delete or return Personal Data (and any copies of it) to Northumbria on termination of the Agreement unless the Supplier is required by Law to retain the Personal Data.
- 17.7. Subject to clause 17.6, the Supplier shall notify Northumbria immediately if it:
- 17.7.1. receives a Data Subject Access Request (or purported Data Subject Access Request);
  - 17.7.2. receives a request to rectify, block or erase any Personal Data;
  - 17.7.3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - 17.7.4. receives any communication from the Information Commissioner's Office or any other regulatory authority in connection with Personal Data processed under this Agreement;
  - 17.7.5. receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - 17.7.6. becomes aware of a Data Loss Event.
- 17.8. The Supplier's obligation to notify under clause 17.5 shall include the provision of further information to Northumbria in phases, as details become available.
- 17.9. Taking into account the nature of the processing, the Supplier shall provide Northumbria with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 17.5 (and insofar as possible within the timescales reasonably required by Northumbria) including by promptly providing:
- 17.9.1. Northumbria with full details and copies of the complaint, communication or request;
  - 17.9.2. such assistance as is reasonably requested by Northumbria to enable Northumbria to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 17.9.3. Northumbria, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 17.9.4. assistance as requested by Northumbria following any Data Loss Event;
  - 17.9.5. assistance as requested by Northumbria with respect to any request from the Information Commissioner's Office, or any consultation by Northumbria with the Information Commissioner's Office.

- 17.10. The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:
- 17.11. Northumbria determines that the processing is not occasional;
  - 17.12. Northumbria determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
  - 17.13. Northumbria determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 17.14. The Supplier shall allow for audits of its Data Processing activity by Northumbria or Northumbria's designated auditor.
- 17.15. The Supplier shall designate a data protection officer if required by the Data Protection Legislation.
- 17.16. Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Supplier must:
- 17.16.1. notify Northumbria in writing of the intended Sub-processor and processing;
  - 17.16.2. obtain the written consent of Northumbria;
  - 17.16.3. enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 17.11 such that they apply to the Sub-processor; and
  - 17.16.4. provide Northumbria with such information regarding the Sub-processor as Northumbria may reasonably require.
- 17.17. The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.
- 17.18. Northumbria may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 17.19. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. Northumbria may on not less than 30 Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 17.20. The Supplier will keep Northumbria indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered **or** incurred by Northumbria as a result of or in connection with (a) any claim made against Northumbria by a third party, or (b) any investigation, proceedings or enforcement action taken against Northumbria by the Information Commissioner or any other regulatory body, arising out of or in connection with any breach by the Supplier or its directors, employees, contractors or agents of the Supplier's obligations under the Data Protection Legislation or this clause 17.

## **18. General**

### **18.1. Assignment and other dealings.**

- 18.1.1. Northumbria may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 18.1.2. The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of Northumbria.
- 18.1.3. In the event that Northumbria consent to the Supplier subcontracting some or all of the Supplier's obligations the Supplier will remain responsible for any and all work done and goods and services supplied by all subcontractors.

### **18.2. Notices.**

- 18.2.1. All notices and communications required to be sent to either party under the Contract will be made in writing.
- 18.2.2. A notice may be delivered by hand, or sent by pre-paid first class post or courier, to the other party's registered office (if a company) or principal office (in all other cases); or may be sent email to an email address supplied by the other party for the purpose.
- 18.2.3. A notice shall be deemed to have been received immediately if delivered to the correct address by hand or courier; or 48 hours later if sent by pre-paid first class post if sent to the correct address; or 24 hours later if sent by email to the correct email address, provided that if the deemed time for delivery would be outside normal business hours (being 9.00am to 5.00pm on a Business Day) then the deemed time for delivery shall instead be 9.00am on the next following Business Day.

18.3. **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and will not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

18.4. **No partnership or agency.** Nothing in the Contract shall or shall be deemed to create a partnership between the parties.

18.5. **Joint and several liability.** Where the Supplier is a partnership, trust, unincorporated association or other unincorporated body, each partner, trustee, committee member or equivalent shall be jointly and severally liable for the Supplier's liabilities under or in connection with the Contract.

18.6. **Third parties.** A person who is not a party to the Contract will not have any rights to enforce its terms.

18.7. **Variation.** Except as set out in these Terms and Conditions, no variation of the Contract will be effective unless it is agreed in writing and signed by Northumbria.

18.8. **Governing law and jurisdiction.** The Contract shall be governed by and construed in accordance with English Law and any dispute as to its subject matter shall be subject to the jurisdiction of the English courts.