

BPA Standard Conditions for Purchase of Goods and/or Services

1. Definitions and interpretation

1.1 In these BPA Standard Conditions for Purchase of Goods and/or Services ("**Conditions**"), the following terms have the following meanings:

BPA	British Pipeline Agency Limited.
Contract	the contract between BPA and the Supplier for the supply of the Goods and/or the Services incorporating these Conditions, the Purchase Order, the Contract Data (where applicable), any applicable Specification and any other documents attached to or referred to in the Purchase Order or the Contract Data.
Contract Data	the Contract Data document which may be attached to these Conditions, if applicable (BPA Form 715)
Deliverables	all documents, products and materials developed by or on behalf of the Supplier as part of or in relation to the Services in any form or media, including drawings, plans, designs, computer programs, data and reports.
Goods	the goods (or any part of them) which are the subject of the Purchase Order.
Nominee	the person appointed by BPA or the Supplier under clause 2.5.
Purchase Order	the purchase order issued by BPA to the Supplier.
Services	the services (or any part of them) which are the subject of the Purchase Order.
Specification	the specification for the Goods and/or the Services that is agreed between the parties, including any plans and drawings.
Supplier	the person, firm or company supplying the Goods and/or the Services to BPA, as identified in the Purchase Order, and its employees, agents and authorised sub-contractors.
Working Day	a day other than a Saturday, Sunday or public holiday in England.

1.2 In these Conditions:

- 1.2.1 any term indicating gender includes any gender;
- 1.2.2 any term indicating the singular includes the plural and vice versa;
- 1.2.3 a reference to a party shall include that party's successors and permitted assigns;
- 1.2.4 a reference to a "**person**" includes a natural person, corporate body and unincorporated body;
- 1.2.5 any words following the terms "**including**", "**include**", "**for example**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition or phrase preceding those terms;
- 1.2.6 any reference to a clause is a reference to such clause of these Conditions; and
- 1.2.7 any reference to a statute or statutory provision includes any statutory consolidation, re-enactment, amendment or replacement of it and any subordinate legislation made under it.

1.3 Clause headings are for ease of reference only and shall not affect the interpretation of these Conditions.

1.4 All of these Conditions shall apply to both Goods and Services except where the application to one or the other is specified.

2. Contract formation and administration

2.1 The Purchase Order constitutes an offer by BPA to purchase the Goods and/or the Services from the Supplier in accordance with these Conditions.

2.2 The Purchase Order shall be deemed to be accepted by the Supplier upon the earlier of:

- 2.2.1 the Supplier issuing written acceptance of the Purchase Order; or
- 2.2.2 any act by the Supplier consistent with fulfilling the Purchase Order,
at which point and on which date the Contract shall come into existence.

2.3 These 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. If the Supplier's quotation is referred to in the Purchase Order or the Contract Data, it is only for the purposes of incorporating the technical information contained therein which is relevant to the supply of the Goods and/or the Services. Any reference in the Supplier's quotation to the Supplier's terms and conditions is of no effect and the Supplier agrees that its terms and conditions do not apply and are not incorporated into the Contract.

2.4 BPA's rights and remedies under these Conditions are in addition to its rights and remedies implied by law.

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2.5 BPA and the Supplier shall each appoint a Nominee who shall be responsible for the day to day administration of the Contract and who shall be authorised to act for and on behalf of the party who has appointed him.

3. Supply of Goods

3.1 The Supplier shall ensure that the Goods:

3.1.1 correspond with their description and any applicable Specification;

3.1.2 comply with all relevant British Standards or EU equivalents;

3.1.3 are 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 BPA, expressly or by implication, and in this respect BPA relies on the Supplier's skill and judgement;

3.1.4 are free from defects in design, materials and workmanship and remain so for twelve months after the date of delivery or, in the case of Goods to be commissioned by the Supplier, twelve months after the date of commissioning or eighteen months from the date of delivery (whichever is the shorter); and

3.1.5 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

3.2 The Supplier shall ensure that at all times it 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 Goods.

3.3 BPA shall have the right to inspect and test the Goods at any time before delivery. If following such inspection or testing BPA considers that the Goods do not comply or are unlikely to comply with clause 3.1, BPA shall inform the Supplier and the Supplier shall take such remedial action as is necessary to ensure compliance. BPA shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

3.4 Notwithstanding any inspection or testing, the Supplier shall remain fully responsible for the Goods and any inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

4. Delivery of Goods

4.1 The Supplier shall ensure that:

4.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition; and

4.1.2 each delivery of the Goods is accompanied by an advice note which shows the date of the Purchase Order, the Purchase Order number, the type and quantity of the Goods, any special storage instructions and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

4.2 Time for delivery of the Goods is of the essence. The Supplier shall deliver the Goods:

4.2.1 on the date agreed by the parties and confirmed in the Purchase Order (or as specified in the Contract Data, if used);

4.2.2 to the location agreed by the parties and confirmed in the Purchase Order (or as specified in the Contract Data, if used); and

4.2.3 during BPA's normal business hours, or as otherwise instructed by BPA.

4.3 Delivery of the Goods shall be completed upon completion of the unloading of the Goods by or on behalf of the Supplier at the delivery location referred to in clause 4.2.2.

4.4 The Supplier shall not deliver the Goods in instalments without BPA's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment, shall entitle BPA to the remedies set out in clause 8.

4.5 If the Supplier delivers more or less than the quantity of Goods ordered, BPA may reject the Goods and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and BPA accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

5. Title and risk in Goods

5.1 Title to the Goods shall pass to BPA on completion of delivery as set out in clause 4.3 or upon payment for the Goods being made by BPA, whichever is the earlier. The Supplier shall have no right to claim or retake ownership of the Goods once title passes to BPA.

5.2 The Supplier warrants that it has full clear and unencumbered title to the Goods, and that at the date of delivery the Goods are free and clear of any lien, encumbrance or rights of any third party.

5.3 In cases where title to Goods has passed to BPA prior to delivery, the Supplier shall store those Goods separately from other items and clearly mark them with the words "property of BPA" and the Purchase Order number.

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5.4 Risk of loss or damage to the Goods shall pass to BPA on completion of delivery as set out in clause 4.3 or, in the case of Goods to be commissioned by the Supplier, upon completion of commissioning by the Supplier. The Supplier shall be responsible for any loss of or damage to the Goods occurring whilst risk remains with the Supplier.

6. Supply of Services

6.1 The Supplier shall provide the Services to BPA in accordance with the terms of the Contract.

6.2 Time for performance of the Services is of the essence. The Supplier shall meet any performance dates for the Services specified by BPA in the Purchase Order or any applicable Specification or in the Contract Data, if used.

6.3 In providing the Services, the Supplier shall:

6.3.1 co-operate with BPA in all matters relating to the Services and comply with all instructions of BPA;

6.3.2 perform the Services with reasonable skill, care and diligence in accordance with good practice in the Supplier's industry, profession or trade;

6.3.3 use personnel who are suitably trained and experienced, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;

6.3.4 ensure that the Services and Deliverables conform with their description and any applicable Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by BPA;

6.3.5 provide all equipment, tools and vehicles and such other items as are required to provide the Services;

6.3.6 ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to BPA, will be free from defects in workmanship, installation and design;

6.3.7 obtain and at all times maintain all necessary licences and consents; and

6.3.8 not do or omit to do anything which may cause BPA to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business or to breach any contract between BPA and a third party to which the Services relate.

6.4 The Supplier acknowledges that BPA may rely or act on the Services.

6.5 No review, approval or acknowledgement by BPA shall relieve the Supplier from any liability or obligation under the Contract.

6.6 BPA shall:

6.6.1 provide the Supplier with reasonable access at reasonable times to BPA's premises or any site which the Supplier is required to attend for the purpose of providing the Services; and

6.6.2 provide such information as the Supplier may reasonably request for the provision of the Services and BPA considers reasonably necessary for the purpose of providing the Services.

6.7 BPA reserves the right to refuse entry to its premises to any of the Supplier's personnel at its discretion.

7. Compliance

7.1 The Supplier shall at all times comply with all applicable laws and regulations (including without limitation the Factories Act 1961 and the Health and Safety at Work etc Act 1974) and with BPA's Health and Safety and Environmental Policies. Copies of BPA's Health and Safety and Environmental Policies are available upon request.

7.2 The Supplier shall observe and comply with all applicable laws, regulations and codes of practice relating to bribery, corruption, slavery and human trafficking, including the Bribery Act 2010 and the Modern Slavery Act 2015.

7.3 The Supplier shall observe and comply with all applicable laws, regulations and codes of practice relating to data protection (including the Data Protection Act 1998 or 2018 or any successor legislation together with (for so long as and to the extent that the law of the European Union has legal effect in the UK) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to privacy) and shall only process data (as defined in the legislation) in accordance with BPA's instructions for the purposes of performing the Supplier's obligations under the Contract.

7.4 When working at BPA's premises the Supplier shall comply with BPA's health, safety, environmental and security rules and regulations and such directions as may be issued by BPA's staff.

7.5 BPA's Business Conduct Policy Statement can be viewed at www.bpa.co.uk in the 'Policy on Business Conduct' section. The Supplier shall comply with BPA's principles, values and expectations as set out therein and conduct its business in an ethical manner. BPA reserves the right to require the Supplier to provide supporting documentation to demonstrate compliance with BPA's Business Conduct Policy Statement and any failure to comply with this clause 7.5 shall be deemed a material breach of the Contract.

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8. Remedies for BPA

- 8.1 If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, then without limiting any of its other rights or remedies, BPA shall have the right to any one or more of the following remedies at its discretion:
- 8.1.1 to refuse to accept any subsequent delivery of the Goods and/or performance of the Services;
 - 8.1.2 to obtain alternative goods and/or services from other sources, in which case the Supplier shall pay to BPA any additional costs BPA incurs;
 - 8.1.3 where BPA has paid in advance for Goods which have not been delivered and/or Services that have not been provided, to have such sums refunded by the Supplier;
 - 8.1.4 to terminate the Contract with immediate effect by giving written notice to the Supplier, in which case clause 17.3 shall apply;
 - 8.1.5 where the Contract Data is used and specifies a rate of liquidated damages, to withhold or deduct liquidated damages for delay at the rate so specified; and
 - 8.1.6 where no rate of liquidated damages is specified, to claim damages for any other costs, losses or expenses incurred by BPA which are in any way attributable to the Supplier's failure to meet the applicable date.
- 8.2 If the Supplier has delivered Goods which are found to be defective and/or do not comply with clause 3.1 within twelve months of the date of completion of delivery as set out in clause 4.3 (or, in the case of Goods to be commissioned by the Supplier, twelve months after the date of commissioning or eighteen months from the date of delivery (whichever is the shorter)), or if the Supplier has provided Services which are found to be defective and/or do not comply with clause 6.3 within twelve months of the date the Services are provided then, without limiting its other rights or remedies, BPA shall have the right to any one or more of the following remedies at its discretion, whether or not it has accepted the Goods and/or Services:
- 8.2.1 to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense, or require the Supplier to collect the Goods, in which case the Supplier shall provide a full refund of the price of those Goods (if paid);
 - 8.2.2 to terminate the Contract with immediate effect by giving written notice to the Supplier, in which case clause 17.3 shall apply;
 - 8.2.3 to require the Supplier to repair or replace the Goods and/or the re-perform the Services, or to provide a full refund of the price of the Goods and/or Services (if paid);
 - 8.2.4 to recover from the Supplier any costs incurred by BPA in obtaining substitute goods and/or services from a third party; and
 - 8.2.5 to claim damages for any other costs, loss or expenses incurred by BPA arising from the Supplier's failure to perform its obligations under the Contract.
- 8.3 Goods repaired or replaced and/or Services re-performed shall be subject to the provisions of this clause 8 for a period of twelve months from the date they were repaired, replaced or re-performed.

9. Price and payment

- 9.1 The price for the Goods and/or the Services shall be in pounds sterling (unless otherwise stated in the Purchase Order or as specified in the Contract Data, if used) and shall be:
- 9.1.1 set out in the Purchase Order or as specified in the Contract Data, if used; or
 - 9.1.2 on a "price to be agreed basis", in which case a quotation must be submitted by the Supplier and BPA must have issued an official amendment to the Purchase Order confirming the agreed price to the Supplier before any invoices are submitted.
- In either case the agreed price shall be inclusive of all the Supplier's costs and expenses in connection with the supply of the Goods and/or performance of the Services (including packaging, storage, insurance, carriage, import taxes and duties, travelling expenses and printing costs), unless otherwise agreed in writing by BPA.
- 9.2 All prices are fixed and shall not be adjusted except as expressly agreed in writing by BPA.
- 9.3 Unless otherwise agreed in writing, the Supplier shall invoice BPA in respect of Goods no earlier than three days after despatch and in respect of Services on or at any time after completion of performance of the Services.
- 9.4 Invoices shall state the Purchase Order number, the Supplier's VAT registration number, the address to which the Goods were delivered and/or at which the Services were performed and, in the case of Goods, the advice note number. Invoices shall be sent to BPA, Accounts Department, 5-7 Alexandra Road, Hemel Hempstead, Herts HP2 5BS.
- 9.5 Unless otherwise agreed by the parties in writing, payment shall be made by BPA thirty days after the date of receipt of the invoice.
- 9.6 Prices are exclusive of VAT unless expressly agreed otherwise. Subject to receipt of a valid VAT invoice from the Supplier, BPA shall pay any VAT properly chargeable on the supply of the Goods and/or the Services.

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- 9.7 If BPA disputes part of any invoice, BPA shall promptly notify the Supplier of the disputed portion(s) of the invoice and the Supplier shall issue a credit note to BPA for the disputed portion(s).
- 9.8 Payment of invoices by BPA shall be without prejudice to BPA's right to subsequently challenge the correctness of any invoice.
- 9.9 If BPA fails to make any payment due to the Supplier under the Contract by the due date for payment, BPA shall pay interest on the overdue amount at the rate of 3% per annum above the Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The parties agree that this clause 9.9 provides a substantial remedy for late payment in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- 9.10 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow BPA to inspect such records at all reasonable times on request.
- 9.11 BPA may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to BPA against any liability of BPA to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.
- 9.12 Where the Contract Data is used and specifies an amount or percentage of retention, BPA shall be entitled to deduct a retention of the amount or percentage stated in the Contract Data from all payments due to the Supplier. The retention shall be released to the Supplier on the dates stated in the Contract Data or, if later, the dates on which the Supplier submits an invoice for the amount of retention which is due. BPA shall be under no fiduciary obligation to the Supplier with regard to the retention and under no obligation to set the retention aside in a separate bank account.

10. Specification and variations

- 10.1 If the Supplier considers that there is any omission, inconsistency or inaccuracy in the Specification, or that any modifications should be made to the Specification, the Supplier shall immediately notify BPA.
- 10.2 No departure from the Specification or modification to the Goods and/or the Services shall be made without BPA's prior written authorisation.
- 10.3 BPA may order any variation to the quality or quantity of the Goods and/or the Services (including in either case the addition, omission or substitution of any work and the alteration of the standard of materials to be used) or to the manner in which the Services are to be carried out. It shall be a condition precedent to payment for any variation that the Supplier produces a written variation instruction from BPA.
- 10.4 The value of variations shall be agreed in writing by BPA and the Supplier or, failing agreement, shall be the amount valued by BPA on a fair and reasonable basis taking into account any similar or analogous rates and prices included in the Contract.

11. Audit

- 11.1 BPA shall have the right at its own expense to inspect and audit the relevant books, accounts and records of the Contractor in connection with the Services and all transactions related thereto as may be necessary in the opinion of BPA to verify that the requirements of the Contract are being met and shall have access to all information relating to the rates and prices as may be reasonably required to verify payments made to or by the Contractor under or pursuant to the Contract. Such inspections and audits may be carried out by BPA or its authorised representatives at any time from the effective date of the Contract until the expiry of twenty-four (24) months following the settlement of the final account.
- 11.2 The Contractor shall co-operate fully in the conduct of such inspections and audits and BPA shall have the right to reproduce and retain copies of any records. Any incorrect payments made by BPA shall be adjusted in accordance with the findings of said audit.
- 11.3 The Contractor shall include for itself identical rights of audit in all sub-contracts and such rights shall be extendible for the benefit of BPA and its authorised representatives.

12. Intellectual property rights

- 12.1 The Supplier assigns to BPA, with full title guarantee and free from all third party rights, all intellectual property rights in the products of the Services, including the Deliverables.
- 12.2 The Supplier shall obtain waivers of all moral rights in the products of the Services, including the Deliverables, to which any individual is or may be at any future time entitled under the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 12.3 The Supplier shall, promptly at BPA's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as BPA may from time to time reasonably require for the purpose of securing for BPA the full benefit of all right, title and interest in and to the intellectual property rights assigned to BPA.

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13. Indemnity

- 13.1 In this clause 13, a reference to BPA shall include BPA's clients, shareholders, principals, employees, agents and every third party referred to in clause 26.1.
- 13.2 The Supplier shall indemnify and keep BPA indemnified against all liabilities, costs, expenses, damages, losses and proceedings (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation, interest and penalties) suffered or incurred by BPA as a result of or in connection with:
- 13.2.1 injury or illness to or death of any person whatsoever arising out of or in connection with the Supplier's performance of the Contract;
 - 13.2.2 loss of or damage to any property whatsoever arising out of or in connection with the Supplier's performance of the Contract;
 - 13.2.3 any claim made against BPA for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or the receipt, use or supply of the Services;
 - 13.2.4 any claim made against BPA for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods;
 - 13.2.5 any claim made against BPA 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; and
 - 13.2.6 any infringement or alleged infringement by the Supplier of any applicable laws or regulations.

14. Insurance

- 14.1 The Supplier shall hold and maintain:
- 14.1.1 public liability insurance of at least £5,000,000 (or such other amount as may be specified in the Contract Data) for any one claim;
 - 14.1.2 employer's liability insurance of at least the minimum amount required by law;
 - 14.1.3 if the Contract is for the supply of Goods, product liability insurance of at least £1,000,000 (or such other amount as may be specified in the Contract Data) for any one claim at all times until six years after the date of completion of delivery of the Goods as set out in clause 4.3;
 - 14.1.4 if the Contract is for the supply of Services which include design services, professional indemnity insurance of at least £1,000,000 (or such other amount as may be specified in the Contract Data) for any one claim at all times until six years after the date the Services are last provided; and
 - 14.1.5 any other insurance stated in the Purchase Order or the Contract Data, if used.
- 14.2 The Supplier shall, both prior to commencing the performance of its obligations under the Contract and thereafter at such times as BPA may reasonably require, produce evidence of insurance for inspection by BPA.

15. Confidentiality

- 15.1 All information relating to the Contract, the Goods and/or the Services which is not already demonstrably in the public domain shall be treated as confidential and shall only be used by the Supplier for the performance of its obligations under the Contract, or as may be required by law.
- 15.2 The Supplier shall not disclose or publish any information concerning the Goods and/or Services for the purposes of publicity without express written permission from BPA.

16. Suspension

- 16.1 BPA may suspend the performance of all or any part of the Contract for any reason upon giving notice to the Supplier. Any dates for delivery or performance shall be adjusted to reflect such suspension.
- 16.2 Upon suspension, the Supplier shall immediately secure, make safe and protect all Goods manufactured and Services performed up to the date of suspension and cease further performance. The Supplier shall be entitled to be paid for any Goods and/or Services already properly delivered or provided in accordance with the Contract. In addition, except where the suspension is attributable to any breach, default or failure of the Supplier, BPA shall compensate the Supplier for:
- 16.2.1 personnel retained on standby during the period of suspension at the written request of BPA; and
 - 16.2.2 other items directly related to the suspension provided that such items have been specifically authorised in advance by BPA.
- 16.3 The Supplier shall resume performance of the Contract as soon as reasonably practicable after receiving notice to do so.

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- 16.4 If a suspension lasts more than ninety days and relates to the entirety of the Contract, the Supplier may submit to BPA a written request for the Contract to be resumed, and if no instructions to resume are given within twenty eight days after the Supplier's request, the Contract shall terminate, in which case clause 17.3 shall apply.
- 17. Termination**
- 17.1 BPA may terminate the Contract in whole or in part at any time with immediate effect by giving the Supplier written notice, in which case BPA shall pay the Supplier for any Goods and/or Services already properly delivered or provided in accordance with the Contract, together with fair and reasonable compensation for work-in-progress at the time of termination.
- 17.2 Without limiting its other rights or remedies, BPA may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- 17.2.1 the Supplier commits a material breach of the Contract and fails to remedy that breach within a period of seven days after being notified in writing to do so;
 - 17.2.2 the Supplier repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with having the intention or ability to perform the Contract;
 - 17.2.3 the Supplier suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
 - 17.2.4 the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Supplier is a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
 - 17.2.5 (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier, other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
 - 17.2.6 (being an individual) the Supplier is the subject of a bankruptcy petition or order;
 - 17.2.7 a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Supplier's assets;
 - 17.2.8 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or a notice of intention to appoint an administrator is given or an administrator is appointed over the Supplier;
 - 17.2.9 (being a company) a floating charge holder over the Supplier's assets has become entitled to appoint or has appointed an administrative receiver;
 - 17.2.10 a person becomes entitled to appoint a receiver, or a receiver is appointed, over the Supplier's assets;
 - 17.2.11 any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events listed in clause 17.2.3 to clause 17.2.10 inclusive; or
 - 17.2.12 the Supplier suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or substantially the whole of its business.
- 17.3 Following termination under clause 17.2 (or under any other clause where this clause 17.3 is stated to apply), BPA shall pay the Supplier for any Goods and/or Services already properly delivered or provided in accordance with the Contract, but shall have no other liability of whatsoever nature to the Supplier under or in connection with the Contract.
- 17.4 On termination of the Contract for any reason, the Supplier shall immediately deliver to BPA all Deliverables, whether or not then complete. If the Supplier fails to do so, BPA may enter the Supplier's premises and take possession of them. Until they have been delivered, the Supplier shall be solely responsible for their safe keeping and shall not use them for any purpose not connected with the Contract.
- 17.5 BPA shall have no liability to the Supplier for any loss of profit or indirect or consequential losses arising out of the termination of the Contract for any reason.
- 17.6 Termination of the Contract shall not determine the operation of any provisions of the Contract which remain capable of operation after termination, or affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination.
- 18. Force majeure**
- 18.1 Neither party shall 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 an event, circumstance or cause beyond its reasonable control ("**Force Majeure Event**").

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18.2 The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations and each party shall bear its own costs arising as a result of the Force Majeure Event.

18.3 If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than thirty Working Days, BPA may terminate the Contract immediately by giving written notice to the Supplier, in which case clause 17.3 shall apply.

19. Assignment and sub-contracting

19.1 BPA shall be entitled to assign the benefit of the Contract without the Supplier's consent.

19.2 The Supplier shall not assign, transfer or otherwise deal in any manner with its rights and benefits under the Contract.

19.3 The Supplier shall not sub-contract any of its obligations under the Contract without BPA's written consent. Such consent shall not relieve the Supplier from any liability or obligation under the Contract and the Supplier shall be responsible for the performance of any sub-contracted obligations as if it had performed them itself.

20. Non-solicitation

20.1 In order to protect BPA's legitimate business interests, the Supplier covenants with BPA that it shall not, and shall not attempt to:

20.1.1 solicit or entice away from the employment or service of BPA; or

20.1.2 employ or engage or otherwise facilitate the employment or engagement of,

any person employed or engaged by BPA in relation to the management or performance of the Contract either as principal, agent, employee, independent contractor or in any other form of employment or engagement (other than by means of an advertising campaign open to all-comers and not specifically targeted at such persons).

20.2 The Supplier shall be bound by the covenant set out in clause 20.1 for a period of six months after the date of completion of delivery of the Goods as set out in clause 4.3 or, if later, six months after the date the Services are last provided (or if applicable six months after the date of termination of the Contract).

20.3 If the Supplier commits any breach of clause 20.1, the Supplier shall pay to BPA on demand a sum equal to one year's basic salary or the annual fee that was payable by BPA to the person in question, plus the recruitment costs incurred by BPA in replacing such person.

21. Notices

21.1 Any notice to be given under the Contract shall be in writing and shall be:

21.1.1 delivered by hand or sent by first class post to the other party's registered office address, or such other address as may be notified by that party in writing; or

21.1.2 sent by email to the email address of the other party's Nominee or such other email address as may be notified by that party in writing.

21.2 Notices shall be deemed to have been received:

21.2.1 if delivered by hand, on the date and at the time of delivery, as evidenced by a signed delivery receipt;

21.2.2 if sent by first class post, at 9:00am on the second Working Day after the date of posting; and

21.2.3 if sent by email, on the date and at the time of sending.

22. No partnership

22.1 Nothing in these Conditions is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other party, or authorise either party to make or enter into any commitments for or on behalf of the other party.

23. Disputes and governing law

23.1 If there is any dispute between the Supplier and BPA under or in relation to the Contract, each party shall give serious consideration to any request by the other to resolve the dispute through negotiation or mediation.

23.2 Subject to clause 23.1, any dispute between the Supplier and BPA under or in relation to the Contract shall be determined by litigation subject to the exclusive jurisdiction of the English courts, provided that nothing shall limit the right of either party to take proceedings in any other court of competent jurisdiction for the purposes of enforcing a judgment of the English courts.

23.3 The Contract shall be governed by and construed in accordance with English law.

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24. Severance

- 24.1 If any court or other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted or modified to the extent necessary to make it valid, legal and enforceable, and the validity and enforceability of the other provisions of the Contract shall not be affected.

25. No waiver

- 25.1 No failure or delay by a party to exercise any right or remedy provided under the Contract 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.

26. Third party rights

- 26.1 The following third parties shall be entitled to the benefit of the provisions of the Contract and shall have the right to enforce the same:

26.1.1 any client, shareholder or principal of BPA; and

26.1.2 any third party specifically identified in the Contract Data.

- 26.2 Subject to clause 26.1, a person who is not a party to the Contract shall not have any rights to enforce its terms.

- 26.3 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under the Contract are not subject to the consent of any third party.

27. Entire agreement

- 27.1 The Contract constitutes the entire agreement and understanding between the parties in relation to its subject matter and supersedes all previous agreements (whether written or oral) between the parties relating thereto. The Supplier acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any written or oral statement, representation, misrepresentation, assurance or warranty (whether express or implied) other than as expressly set out in the Contract.

- 27.2 No amendment to these Conditions shall be valid unless agreed in writing and signed by both parties.

28. Language

- 28.1 All documentation, correspondence and other communication required as part of the Contract will be in English unless otherwise agreed.