



ISS UK STANDARD TERMS AND CONDITIONS FOR PURCHASE OF GOODS OR SERVICES

1. About this Contract

1.1 This **Contract** consists of:

- (a) these standard terms and conditions (the **Conditions**);
- (b) the purchase order generated by ISS' P2P system containing details of the order (the **Purchase Order (PO)**); and
- (c) if one is used, a contract particulars, statement of work, work order or a document of any other title that sets out details relating to the goods, services or hire equipment that are procured (such as any service levels or timetable) (the **Contract Particulars**).

If there is no Contract Particulars, the Contract shall consist of these Conditions and the PO.

1.2 This Contract is made between: (i) the ISS entity as stated in the PO (**ISS**); and (ii) the supplier entity as stated in the PO (the **Supplier**).

1.3 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 law, trade custom, practice or course of dealing.

1.4 This Contract does not give the Supplier any exclusivity or any right to a minimum level or volume of spend.

2. Procurement by ISS for its own use or its clients' use

2.1 The PO or the Contract Particulars shall specify the Goods, Services or Deliverables that ISS is procuring, or the Equipment that ISS is hiring. The items procured or hired pursuant to this Contract shall be referred to as the **Contract Items**.

2.2 ISS may procure the Contract Items for its own use at an ISS site (the **ISS Site**), or for use by an ISS client (the **ISS Client**) at that client's site (the **ISS Client Site**). The site where the Contract Items are performed at or delivered to shall be referred to as the **Delivery Site** (which can be an ISS Site or an ISS Client Site).

3. Formation, term and termination

3.1 The Contract is formed when the Supplier accepts the PO that incorporates these Conditions either expressly by written acceptance, or impliedly by starting to supply the Contract Items.

3.2 The Contract shall commence on the date as specified in the PO or the Contract Particulars, if applicable, and continue for the period as specified in the PO or the Contract Particulars, unless terminated earlier in accordance with these Conditions. This period is the **Term**.

3.3 Without affecting any other right or remedy available to it, ISS may terminate this Contract:

- (a) at any time for convenience by giving the Supplier one (1) month's written notice;
- (b) with immediate effect by giving the Supplier written notice if the Supplier commits a material breach of this Contract which is not remediable, or, if remediable, is not remedied within 48 hours (or such other time as ISS may prescribe) after ISS has notified the Supplier to remedy the breach (or breaches); or
- (c) there is a change of control of the Supplier (within the meaning of section 1124 of the Corporation Tax Act 2010).

3.1 Without affecting any other right or remedy available to it, either party may terminate the Contract immediately by written notice to the other party if:

- (a) the other party takes or has taken against it (other than in relation to a solvent restructuring) any step or action towards its entering bankruptcy, administration, provisional liquidation or any composition or arrangement with its creditors, applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court), being struck off the register of companies, having a receiver appointed to any of its assets, or its entering a procedure in any jurisdiction with a similar effect to a procedure listed in this clause;
- (b) the other party suspends or ceases, or threatens to suspend or cease, carrying on business; or
- (c) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Contract is in jeopardy.

3.2 The Supplier shall ensure that there is no disruption in the supply and delivery of the Contract Items, and no deterioration to any service levels during the notice period for termination.

4. Exit assistance

4.1 On the termination or expiry of the Contract, the Supplier shall provide all reasonable assistance as requested by ISS to facilitate a smooth transition to a replacement supplier, or to wind down the provision of its supply. Such assistance includes:



- (a) providing any information or data relating to the Contract Items to ISS, or if so requested by ISS, directly to the replacement supplier or the ISS Client;
- (b) returning all ISS Materials to ISS and if applicable, returning all ISS Client Materials to ISS or the ISS Client if ISS so directs; and
- (c) where applicable, agreeing to a demobilisation timetable for the Supplier's exit from the affected sites.

4.2 In addition to and without prejudice to clause 4.1, the parties may agree a specific exit plan for a particular ISS Client or Delivery Site(s) for this Contract in the Contract Particulars.

5. Supply of goods

This clause 5 applies where the Supplier provides goods to ISS under the Contract (the **Goods**).

5.1 **Warranties relating to Goods.** The Supplier warrants that the Goods:

- (a) are new, 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 ISS prior to or at the time ISS raises the PO;
- (b) correspond with their description and any specifications, including plans or drawings that are agreed between the parties, including as set out in the Contract Particulars;
- (c) where the Goods are manufactured, they shall be free from defects in design, material and workmanship and remain so for 12 months after delivery;
- (d) comply with all applicable laws, including those relating to the manufacture, labelling, packaging, storage, handling and delivery; and
- (e) shall be sold to ISS with full title guarantee.

5.2 **Delivery of Goods, risk and title, acceptance**

- (a) The Supplier shall:
 - (i) ensure that the Goods are packed appropriately and securely to enable them to reach their destination in good condition;
 - (ii) deliver the Goods to the Delivery Site and if applicable, in accordance with any timetable as specified in PO or the Contract Particulars; and
 - (iii) ensure that each delivery of the Goods is accompanied by a delivery note stating the PO number, summary of the packages and content, and in the case of part delivery the outstanding balance remaining to be delivered.
- (b) Delivery of the Goods shall be completed when they have been unloaded in accordance with the instructions of, and at the location as specified by, ISS staff at the Delivery Site.
- (c) Title and risk in the Goods shall pass to ISS on completion of delivery as per clause 5.2(b).
- (d) ISS is not deemed to have accepted the Goods until it has had a reasonable time to inspect them after delivery, or, if later, within a reasonable time after ISS becomes aware of any latent defects in those Goods.
- (e) If the Goods are delivered in excess of the quantities ordered, ISS is not bound to pay for that excess, and such excess will remain in the Supplier's risk and shall be returnable at the Supplier's expense.

5.3 **Remedies in relation to Goods.** If the Goods do not comply with the requirements in clauses 5.1 (Warranties relating to Goods) or 5.2 (Delivery of Goods, risk, title and acceptance), or the Supplier has not delivered the Goods at all, then without limiting any other right or remedy that ISS may have, ISS may do one or more of the following:

- (a) reject the Goods (in whole or in part) and return them to the Supplier;
- (b) require the Supplier to repair or replace the affected Goods;
- (c) withhold any payment that is due to the Supplier;
- (d) require the Supplier to repay the price of the rejected Goods, where ISS paid in advance;
- (e) recover from the Supplier any reasonable costs incurred by ISS in obtaining substitute goods; and
- (f) to claim damages for any other costs, losses or expenses incurred by ISS or the ISS Client which are directly attributable to the Supplier's failure.

5.4 **IPR in goods**

- (a) The Supplier warrants that the receipt and use of the Goods by ISS or the ISS Client shall not infringe any third party's rights (including IPRs).



- (b) The Supplier shall indemnify ISS against all liabilities, damages, costs and expenses and losses incurred by ISS (or the ISS Client) as a result of any claim made against ISS or the ISS Client for actual or alleged infringement of a third party's IPRs arising out of the use of the Goods.

5.5 **Notification of issues.** The Supplier shall give written notice to ISS and all the Delivery Sites that receive the affected Goods if it discovers:

- (a) that there is or may be a defect in the Goods that have been delivered to a Delivery Site;
- (b) that the Goods that do not comply with any applicable laws;
- (c) an error or omission in the information to, or labelling on the Goods; or
- (d) any other condition that may cause any risk of death or personal injury, or damage to property.

6. Product recalls and traceability

6.1 The Supplier shall have the following in place:

- (a) an appropriate process for managing product recalls. ISS may, acting reasonably, request the Supplier to provide evidence of this and to provide details to ISS of its product recalls process; and
- (b) a system to track the traceability of the Goods from production to distribution.

6.2 If any of the Goods are or may be subject to a product recall, the Supplier shall immediately give written notice of this to ISS and all the Delivery Sites that receive the Goods. The notification should include details of the recall, such as the Goods that are subject to the recall, the reason of the recall and the Supplier's process for managing the recall.

6.3 If ISS becomes aware of or is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Goods from the market, it shall immediately notify the Supplier in writing.

6.4 If any of the Goods are subject to a product recall (either pursuant to clause 6.2 or 6.3), the Supplier shall provide all reasonable assistance to ISS to manage the disruption that the recall has or will cause.

7. Supply of services and deliverables

This clause 7 applies where the Contract includes the supply of services and deliverables (respectively, the **Services** and the **Deliverables**).

7.1 **Obligations relating to services and deliverables.** The Supplier shall:

- (a) deliver the Services and the Deliverables in accordance with the specifications, service levels and timetable as set out in the PO or the Contract Particulars;
- (b) ensure that the Services and Deliverables conform with any requirements as set out in the PO or the Contract Particulars;
- (c) ensure that Deliverables are fit for any purpose made known to the Supplier by ISS;
- (d) perform the Services with the necessary skill, care and diligence as would be expected from an equivalent supplier; and
- (e) co-operate with ISS in relation to the Services, including complying with all reasonable instructions from ISS.

7.2 **Remedies in relation to services.** If the Supplier has supplied Services and Deliverables that do not comply with clause 7.1 (Service obligations) or has failed to deliver the Services or Deliverables at all, then without limiting or affecting other rights or remedies available to it, ISS may do one or more of the following:

- (a) require the Supplier to rectify the affected Services within a reasonable timeframe, such timing as notified in advance by ISS;
- (b) if ISS has paid in advance, require the Supplier to refund the price paid for those Services;
- (c) withhold any payment that is due to the Supplier;
- (d) refuse to accept subsequent performance by the Supplier;
- (e) if the Supplier has not rectified or the rectification still does not meet the requirements of this Contract, ISS may obtain the services from a third party and recover any reasonable costs from the Supplier; and
- (f) to claim damages for any additional costs, loss or expenses incurred by ISS or the ISS Client where these are directly attributable to the Supplier's failure under this Contract.

7.3 **IPR in services and deliverables.** See clause 8 (Ownership of materials, deliverables).

8. Ownership of Materials, Deliverables and IPRs



- 8.1 ISS and its licensors (as applicable) shall retain ownership of all ISS Materials and any IPRs that subsist in them. The ISS Client shall own and retain ownership of the ISS Client Materials and any IPRs that subsist in them.
- 8.2 The Supplier and its licensors (as applicable) shall retain ownership of all Supplier Materials and any IPRs that subsist in them.
- 8.3 With regard the ISS Materials and the ISS Client Materials, the Supplier shall:
- (a) only use them for the purposes of delivering its obligations under this Contract; and
 - (b) keep them in safe custody and maintain them in good condition while in possession of them, and to return them promptly to ISS (or directly to the ISS Client, if so directed by ISS) as and when requested by ISS.
- 8.4 With regard Services and Deliverables:
- (a) Unless agreed otherwise in the Contract Particulars, ISS or the ISS Client will own the Deliverables and all IPRs that subsist within those Deliverables. To the extent necessary, the Supplier shall assign to ISS (or directly to the ISS Client if so directed by ISS) with full title guarantee and free from all third party rights, the ownerships and IPRs of and within those Deliverables.
 - (b) The Supplier warrants that the receipt and use of the Services and Deliverables by ISS or the ISS Client will not infringe the rights of any third party.
 - (c) The Supplier shall indemnify ISS or the ISS Client and keep it indemnified at all times against all or any costs, claims, damages or expenses incurred by ISS or the ISS Client, or for which ISS or the ISS Client may become liable, with respect to any intellectual property infringement claim or other claim relating to the Services or Deliverables.

9. Equipment hire

This clause 9 applies where the Contract includes ISS hiring equipment from the Supplier (the **Equipment**).

- 9.1 The hire period for the Equipment shall be as set out in the PO or the Contract Particulars (the **Hire Period**).
- 9.2 The Supplier shall:
- (a) deliver the Equipment to the Delivery Site, such location as specified in the PO or the Contract Particulars;
 - (b) install the Equipment at the location on the Delivery Site as per ISS' instructions;
 - (c) ensure the Equipment is fit for its intended purpose and complies with all applicable laws relating to the manufacture, handling, delivery and installation of that Equipment; and
 - (d) indemnify ISS against all liabilities, damages, costs, expenses and losses incurred by ISS as a result of any claim made against ISS (or an ISS Client) for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with ISS' (or an ISS Client's) use of the Equipment.
- 9.3 Delivery of the Equipment is deemed completed when the Equipment is installed at the Delivery Site as per clause 9.2(b).
- 9.4 With regard ownership, title and risk:
- (a) at all the times, the Equipment shall remain the property of the Supplier. ISS or the ISS Client has no right, title or interest in or to the Equipment (except as set out in these Conditions); and
 - (b) the risk of loss, theft, damage or destruction of the Equipment shall pass to ISS on completion of Delivery in accordance with clause 9.3 (delivery of Equipment).
- 9.5 During the Hire Period, ISS shall, or shall procure that the ISS Client:
- (a) ensure that the Equipment is kept and operated in a suitable environment and used in accordance with any operating instructions provided by the Supplier;
 - (b) keep the Equipment at the Delivery Site and not move the Equipment without the Supplier's prior written consent;
 - (c) permit the Supplier to inspect the Equipment at all reasonable times during Business Hours and on reasonable notice;
 - (d) not sell or offer for sale, underlet or lend the Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
 - (e) not do or permit to be done any act or thing which will or may jeopardise the Supplier's right, title or interest in the Equipment; and
 - (f) at the end of the Hire Period, allow the Supplier or its representatives to access the Delivery Site to remove the Equipment.



10. Charges, invoicing and payment

10.1 Charges

- (a) The Charges:
 - (i) means the amount that ISS pays for the Contract Items;
 - (ii) shall be in Great British Pounds, £;
 - (iii) are inclusive of delivery costs, insurance and all other costs and expenses; and
 - (iv) are exclusive of VAT.
- (b) The Charges for the Contract Items are as set out in the PO or the Contract Particulars.
- (c) Any other fees in addition to the Charges (such as travel expenses, call-out rates, other expenses or any other charge) must be agreed in advance in writing with ISS before the Supplier incurs them.

10.2 Invoicing and POs

- (a) The Supplier shall invoice ISS at the frequency as stated in the PO or the Contract Particulars.
- (b) ISS has a "no PO no pay" policy. Each invoice must include a valid ISS PO number, the Contract Items that are covered by that invoice and reasonable information on how the Charges were calculated. ISS may reasonably require the Supplier to provide additional information or evidence that supports the content of an invoice.
- (c) ISS may reject invoices that do not display a valid PO number or where the invoice does not match the PO number stated in terms of value or description.
- (d) The Supplier shall not repeatedly use the same PO number except where this has otherwise been agreed in advance with ISS.
- (e) The Supplier shall not submit an invoice before ISS raises a PO. ISS may reject the invoice in such instance.

10.3 **Performance with no PO.** The Supplier acknowledges that there may be instances where ISS may require the Supplier to perform or deliver the Contract Items before raising a PO. In this instance, the Supplier shall only perform the works with ISS' prior written authorisation and ISS shall make the PO available to the Supplier on the next Business Day.

10.4 Payment

- (a) ISS shall, subject to clause 10.5 (Disputing charges), pay an invoice within sixty (60) days from the date of receipt of that invoice by ISS.
- (b) If ISS fails to make a payment due to the other party under this Contract by the due date, then, without limiting the Supplier's remedies under this Contract, ISS shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at two per cent (2%) a year above the Bank of England's base rate from time to time, but at two per cent (2%) a year for any period when that base rate is below 0%.

10.5 Disputing charges

- (a) If ISS disputes any invoice, it shall notify the Supplier in writing and provide details of the disputed amount and the reasons or disputing that amount. The parties shall seek, in good faith, to resolve the dispute and the Supplier shall provide any evidence as ISS may reasonably require.
- (b) Where ISS disputes part of an invoice, ISS shall pay the undisputed amount on the due date as set out in clause 10.4(a).

10.6 **Set-off.** ISS may set off any agreed liability of the Supplier to it against any liability it has to the Supplier, whether either liability is present or future, liquidated or unliquidated, arising under this Contract. Any exercise by ISS of its rights under this clause shall not limit or affect any other rights or remedies available to it under this Contract.

10.7 Reconciliation statement

- (a) ISS may, acting reasonably, request the Supplier to provide a document setting out the following information, this document being the **Reconciliation Statement**:
 - (i) what the Supplier has invoiced to ISS under this Contract; and
 - (ii) which of those invoices have not been paid by ISS.
- (b) The Supplier shall provide the Reconciliation Statement within five (5) Business Days of ISS requesting this. ISS may provide a template of the Reconciliation Statement to the Supplier.
- (c) ISS may, acting reasonably, request the Supplier to provide additional information to verify any of the data contained in the Reconciliation Statement.



11. Parties' obligations

11.1 Without prejudice to the Supplier's other obligations in this Contract, the Supplier shall:

- (a) immediately inform ISS of any health and safety incidents or near misses that occur while the Supplier is performing or delivering the Contract Items;
- (b) immediately inform ISS of any property or environmental damage or issues that have arisen while the Supplier was on the Delivery Site;
- (c) with regard intrusive site visits, agree this beforehand with the ISS site manager and if necessary, the ISS Client;
- (d) if applicable, provide copies of worksheets with the ISS site manager on completion of a maintenance visit;
- (e) if applicable to the Contract Items, provide all works-specific risk and method statements prior to the commencement of any works;
- (f) ensure that it has enough suitably skilled and appropriate experienced personnel to perform the obligations under this Contract;
- (g) ensure that its personnel carry identification with them at all times when on a Delivery Site;
- (h) ensure that the Delivery Site is left in a clean and tidy manner after the work are completed;
- (i) comply with all reasonable instructions of ISS (as notified in advance) relating to a Delivery Site, including where those requirements relate to vetting, health, safety, security or access requirements. The Supplier will inform ISS if there is a cost for complying with such additional instructions and the parties shall agree this in writing;
- (j) provide all reasonable cooperation in all matters relating to this Contract; and
- (k) cooperate with ISS in relation to any supplier vetting processes or requirements.

11.2 Without prejudice to ISS' other obligations under this Contract, ISS shall:

- (a) provide all reasonable cooperation to the Supplier in all matters relating to this Contract;
- (b) provide or arrange for the Supplier to have the appropriate and necessary access to the Delivery Site to enable the Supplier to perform its obligations under this Contract; and
- (c) inform the Supplier of any applicable health, safety, security or access requirements in relation to a Delivery Site.

12. Confidentiality

12.1 During the Term and for three (3) years after this Contract has terminated or expired (whichever is later), each party shall:

- (a) keep the Confidential Information confidential and secret and ensure that such information is only disclosed:
 - (i) to its employees, officers and advisors who need to know such information for the purposes of performing this Contract. The recipient party shall ensure that the individual(s) receiving the Confidential Information are aware of the confidential nature of the information; and
 - (ii) to the extent required by law, a court of competent jurisdiction or any governmental/regulatory authority;
- (b) take all reasonable measures to maintain the confidentiality of the Confidential Information;
- (c) only use such information for the purposes of fulfilling its performance under this this Contract, and not for any other reason; and
- (d) notify the other party if it becomes aware of any actual or prospective unauthorised use or disclosure of the Confidential Information and to take any reasonable steps to stop or limit further disclosure.

12.2 On termination or expiry of this Contract, a party may request the other party to:

- (a) destroy or return that party's Confidential Information to it;
- (b) erase the other party's Confidential Information from its systems, where this is technically possible; and
- (c) certify that it has complied with the requirements of this clause 12.2.

13. Audits

13.1 Subject to clause 13.2 (Conditions for audit), ISS, its professional advisers or the ISS Client may, during Business Hours and on providing reasonable notice to the Supplier, request the Supplier to provide, or enter the Supplier's premises to inspect, audit and take copies of relevant records and any other documents (subject to the Supplier redacting any commercially sensitive information) as reasonably necessary to verify the Supplier's compliance with this Contract.



- 13.2 ISS shall, when exercising its rights under this clause:
- (a) comply with all reasonable instructions relating to access and health safety requirement of the Supplier when on the Supplier's premises; and
 - (b) keep any information obtained pursuant to this clause confidential in accordance with clause 12 (Confidentiality).
- 13.3 The audit shall be limited to once in any 12-month period, unless ISS has reasonable ground to suspect that there is breach of the compliance obligations in clause 14 (Compliance). ISS shall keep any business disruptions that it may cause to the Supplier during an audit to a minimum.
- 14. Compliance and accreditations**
- 14.1 **General compliance.** When performing its obligations under this Contract, the Supplier shall comply with:
- (a) all applicable laws; and
 - (b) ISS' Supplier Code of Conduct, available at <https://brand.issworld.com/share/F9ECB78E-8141-44A6-B83E02E70C1D7906/?viewType=grid>; and
 - (c) any other ISS policies or the ISS Client policies, as set out in the Contract Particulars.
- 14.2 **Anti-slavery and human trafficking.** Without prejudice to the generality of clause 14.1 (general compliance), the Supplier shall:
- (a) comply with all anti-slavery and human trafficking laws (including the Modern Slavery Act 2015 (**MSA 2015**));
 - (b) not engage in any activity, practice or conduct that would constitute an offence under the MSA 2015, if such activity has been carried out in the UK;
 - (c) notify ISS as soon as it becomes aware of any actual or suspected breaches of subclauses (a) and (b) above; and
 - (d) maintain records to trace its supply chain in connection with the Contract Items.
- 14.3 **Accreditations.** The Supplier warrants that as at the commencement of this Contract, it has the accreditations and certifications as specified in the PO or the Contract Particulars. The Supplier shall ensure that it maintains these accreditations and certifications during the Term.
- 14.4 **Audit and reporting.** The Supplier shall:
- (a) monitor its compliance with applicable laws and report any breaches (actual or suspected) as soon as possible to ISS; and
 - (b) permit ISS and its third party representatives, on reasonable notice (but without notice if there is a suspected compliance breach) to enter the Supplier's premises to access and take copies of the Supplier's records and to meet with the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause.
- 14.5 **Breach and termination.** If the Supplier breaches its obligations under this clause, ISS may either:
- (a) immediately, on written notice, terminate this Contract; or
 - (b) require the Supplier to produce a remediation plan and present it to ISS within three (3) days. If the Supplier fails to produce this plan, or fails to rectify the issue within the timeframe as specified in the plan, ISS may terminate this Contract immediately on written notice.
- 15. Subcontracting, assignment, and supply chain**
- 15.1 **Subcontracting and other dealings**
- (a) The Supplier shall not:
 - (i) subcontract any of its obligations under this Contract without ISS' prior written consent (such consent not to be unreasonably withheld). The Supplier remains responsible for the acts and omissions of subcontractors; and
 - (ii) assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Contract.
 - (b) ISS may assign, subcontract, mortgage, charge, delegate declare a trust over or deal in any other manner with any or all of its rights and obligations under this Contract provided that it gives prior written notice of such dealing to the Supplier.
- 15.2 **Supply chain.** With regard the Supplier's supply chain, the Supplier shall:
- (a) include in its contracts with its subcontractors and suppliers provisions that require those entities to comply with all applicable laws;



- (b) implement appropriate due diligence procedures within its supply chain (including for its subcontractors and suppliers) to verify that they are complying with all applicable laws;
- (c) not purchase any resources, raw materials or livestock that has been sourced from producers, farmers or manufacturers that use forced labour in its operations and farming practices;
- (d) maintain appropriate records to trace the supply chain of the Contract Items; and
- (e) permit ISS, the ISS Client or ISS' third party auditor, on reasonable notice to have access to and take copies of the Supplier's records and any other information to audit the Supplier's compliance with its obligations under this clause 15.2.

16. Insurance

- 16.1 During the Term of this Contract and for a period of six (6) years after the termination or expiry of it, the Supplier shall have and maintain, with a reputable insurer, these insurances and other insurances as specified in the Contract Particulars:
- (a) employer's liability insurance with a minimum per claim limit of £10,000,000.00 (ten million Great British Pounds) and a maximum excess limit per claim of £1,000.00 (one thousand Great British Pounds); and
 - (b) public liability insurance with a minimum per claim limit of £5,000,000 (five million Great British Pounds) and a maximum excess limit per claim of £1,000 (one thousand Great British Pounds).
- 16.2 ISS may request the Supplier to provide it with copies of the insurance policy certificates and the receipt for the then current premium.

17. Business continuity and disaster recovery

- 17.1 The Supplier shall have an appropriate business continuity plan and disaster recovery plan (the **BCDR Plan**) in place. Such plan shall, as a minimum include provisions on the measure that the Supplier has (or will implement) to ensure continuity of supply to ISS under this Contract.
- 17.2 ISS may request for a copy of the Supplier's current BCDR Plan and any other information relating to the outcome of any BCDR testing conducted in the previous 12 months as are relevant to the Supplier's ability to meet its obligations under this Contract.
- 17.3 Without prejudice to clauses 17.1 and 17.2, the parties may agree a specific BCDR Plan for the ISS Client or the Delivery Site, such plan to be set out in the Contract Particulars.

18. Force majeure

- 18.1 In this clause:
- (a) **Force Majeure Event** means any circumstance not within a party's reasonable control including:
 - (i) acts of God, flood, drought, earthquake or other natural disaster;
 - (ii) epidemic or pandemic;
 - (iii) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 - (iv) nuclear, chemical or biological contamination or sonic boom;
 - (v) any law or any action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition;
 - (vi) collapse of buildings, fire, explosion or accident; and
 - (vii) interruption or failure of utility service.
 - (b) **Affected Party** means a party alleging that it is prevented, hindered or delayed in or from performing some or all its obligations under this Contract by reason of a Force Majeure Event.
- 18.2 An Affected Party:
- (a) shall, as soon as reasonably practicable after the start of the Force Majeure Event, or if it anticipates that a Force Majeure Event is about to occur, notify the other party in writing:
 - (i) of the Force Majeure Event (actual or anticipated);
 - (ii) the effect of the Force Majeure Event on its ability to perform any of its obligations under this Contract; and
 - (iii) the measures it will implement (or have implemented) to mitigate the effect of the Force Majeure Event on its ability to perform;



- (b) shall, during the period of the Force Majeure Event, use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations;
- (c) shall resume performance of its obligations in accordance with this Contract as soon as reasonably possible after the Force Majeure Event has ended; and
- (d) cannot claim relief if the Force Majeure Event is attributable to that party's wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.

18.3 If the Affected Party is the Supplier, it cannot claim the relief afforded by this clause 18 (Force majeure) if:

- (a) the Force Majeure Event is one where a reasonable supplier operating in similar circumstances should have foreseen and provided for the cause in question; and/or
- (b) the Supplier's inability to perform its obligations under this Contract allegedly due to a Force Majeure Event is due to the Supplier's failure to comply with the BCDR provisions in clause 17 (Business continuity and disaster recovery) (unless such failure is also due to a Force Majeure Event affecting the operation of the BCDR Plan).

18.4 Provided it has complied with clause 18.2 (Affected Party) and, in the case of the Supplier, clause 18.3 (Supplier is Affected Party), the Affected Party shall not be in breach of this Contract or otherwise be liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

18.5 If the Force Majeure Event materially prevents, hinders or delays the Affected Party's performance of its obligations under this Contract for a continuous period of more than six (6) weeks, the party not affected by the Force Majeure Event may terminate this Contract by giving four (4) weeks' written notice to the Affected Party.

19. Transfer of employees

19.1 This clause applies if individuals may transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (*SI 2006/246*) (**TUPE**) when:

- (a) the Supplier starts delivering or performing the Contract Items to the Delivery Site; and
- (b) the Supplier ceases to supply to or service a Delivery Site due to the provision of supply provided by the Supplier being transferred to another entity.

19.2 TUPE on entry (Supplier commencing on a Delivery Site)

- (a) In this clause 19.2:

Relevant Transfer: the transfer of employment to which TUPE applies when the Supplier starts supplying to a Delivery Site.

Relevant Transfer Date: the date on which a Relevant Transfer takes place.

- (b) Before the Supplier starts supplying the Contract Items to a Delivery Site:
 - (i) ISS shall provide the "employee liability information" (**ELI**) (as defined in regulation 11 of TUPE) for the ISS personnel whose contracts of employment will transfer to the Supplier pursuant to TUPE (these individuals being the **ISS Transferring Employees**).
 - (ii) The parties acknowledge that there may be other personnel that are not ISS Transferring Employees and whose contracts of employment will transfer to the Supplier pursuant to TUPE (these individuals being the **Third Party Transferring Employees**). With regard the Third Party Transferring Employees, ISS shall use all reasonable endeavours to procure the employer of those individuals to provide the ELI for those individuals either to ISS or directly to the Supplier.

With regard salaries and other emoluments including holiday pay, taxation and National Insurance contributions and contributions to retirement benefit schemes relating to:
 - (iii) the ISS Transferring Employees,
 - (A) ISS shall be liable for these up to and including the Relevant Transfer Date; and
 - (B) the Supplier shall be liable for these with effect from the Relevant Transfer Date.
 - (iv) the Third Party Transferring Employees,
 - (A) the Supplier acknowledges that the third party who is the current employer of those individuals shall be liable for these up to and including the Relevant Transfer Date; and
 - (B) the Supplier shall be liable for these with effect from the Relevant Transfer Date.
- (c) The Supplier shall indemnify ISS in full for and against all claims, costs expenses or liabilities whatsoever and howsoever arising, incurred or suffered by ISS including without limitation all legal expenses and other professional fees (including VAT) in relation to:



- (i) any failure by the Supplier to comply with its obligations pursuant to TUPE; and
- (ii) anything done or omitted to be done by the Supplier in respect of any of the ISS Transferring Employees and/or the Third Party Transferring Employees.

19.3 TUPE on exit (Supplier exiting a site)

- (a) In this clause 19.3:

Provisional Supplier Employees: is as defined in clause 19.3(c).

Replacement Provider: a replacement supplier or the ISS Client, as applicable, as explained further in the definition of **Supply Transfer** below.

Supplier Staffing Information: the following anonymised information:

- a) details of the individual's work function and the proportion of time spent in providing or performing the Contract Items;
- b) their ages and date of commencement of employment;
- c) their employment status (employees, self-employed contractors, consultants, off-payroll workers);
- d) identity of their employer or relevant contracting authority;
- e) their notice periods and any other term relating to their employment or engagement, including any redundancy procedures and redundancy payment schemes;
- f) wages, salaries and benefits package (such as medical insurance, life assurance, pension, other retirement benefits scheme);
- g) details of any long-term sickness absence, maternity or other statutory leave or other absent work; and
- h) any other information as ISS may reasonably require.

Supply Transfer: the transfer of the Supplier's supply obligations (or any part of it) from the Supplier to a replacement supplier or the ISS Client (as applicable) (the Replacement Provider) in connection to a Delivery Site.

Supply Transfer Date: the date of a Supply Transfer.

Transferring Supplier Employees: those employees of the Supplier (including any agents or subcontractors of the Supplier) to whom TUPE will apply on a Supply Transfer Date.

- (b) ISS may, from time to time, request the Supplier to provide any **Supplier Staffing Information** as it may reasonably require relating to any individuals employed, assigned or engaged in supplying to a Delivery Site where there is a reasonable prospect of TUPE applying when the Supplier ceases to deliver to that Delivery Site. This includes individuals that are subcontractors of the Supplier, individuals who are employed or engaged by the subcontractor or suppliers of the Supplier. Where ISS makes such a request, the Supplier shall provide that information as soon as possible, which must be no later than ten (10) Business Days after that request.
- (c) Within 20 days of the earliest of any of the following **Events**, the Supplier shall provide to ISS an anonymised list of individuals that are wholly or mainly engaged or assigned to that Delivery Site (these individuals being the **Provisional Supplier Employees**) and the Supplier Staffing Information for those Provisional Supplier Employees:
 - (i) receipt by the Supplier of notification from ISS of a Supply Transfer or an intended Supply Transfer for that Delivery Site; or
 - (ii) receipt of a notice from ISS to terminate the Contract for a Delivery Site; or
 - (iii) three (3) months before the Contract is due to expire;
 - (iv) three (3) months before the Agreement is due to expire; or
 - (v) receipt of a notice from ISS to terminate the Contract.
- (d) Upon the occurrence of any of the Events listed in paragraph (c) above (provisional list), the Supplier must not do any of the following, unless ISS has given its prior written consent, or such action is part of the Supplier's ordinary course of business and is required operationally and the Supplier has notified ISS of this and provided reasonable evidence:
 - (i) replace any individual on the Provisional Supplier Employees list;
 - (ii) redeploy any individuals on the Provisional Supplier Employees list or deploy any individuals to the Provisional Supplier Employees list;



- (iii) make (or promise to make) any material changes to those individuals' employment contracts, including terms for lump sum or enhanced payment on termination of employment;
 - (iv) increase the working time that those individuals spend on the supply for that Delivery Site;
 - (v) increase or reduce the number of individuals on the Provisional Supplier Employees list;
 - (vi) terminate the employment contracts of individuals on the Provisional Supplier Employees list; and
 - (vii) make any material changes to the makeup or composition of the pool of Provisional Supplier Employees or their respective employment terms.
- (e) At least 28 days before the Supply Transfer Date, the Supplier shall provide to ISS, or if ISS so directs, to the Replacement Provider, the ELI and Supplier Staffing Information for the Transferring Supplier Employees.
- (f) The Supplier shall perform and discharge all its obligations in respect of all the Transferring Supplier Employees up to and including the Supply Transfer Date.
- (g) The Supplier shall indemnify ISS or the Replacement Provider (as applicable) in full for and against all claims, costs, expenses or liabilities whatsoever and howsoever arising, incurred or suffered by ISS or the Replacement Provider, including without limitation all reasonable legal expenses and other professional fees (including any VAT) in relation to:
 - (i) the Supplier's failure to perform and discharge its obligations pursuant to paragraph (f);
 - (ii) any act or omission by the Supplier concerning the Transferring Supplier Employees on or before the Supply Transfer Date or any other matter, event or circumstance occurring before the Supply Transfer Date;
 - (iii) all and any claims in respect of all emoluments and outgoings in relation to the Transferring Supplier Employees (including without limitation all wages, bonuses, PAYE, National Insurance contributions, pension contributions and otherwise) payable in respect of any period on or before the Supply Transfer Date;
 - (iv) any claim arising out of the provision of, or proposal by the Supplier to offer any change to any benefit, term or condition or working condition of any Transferring Supplier Employee arising on or before the Supply Transfer Date;
 - (v) any act or omission of the Supplier in relation to its obligations under regulation 11 of TUPE, or in respect of an award of compensation under regulation 12 of TUPE except to the extent that the liability arises from ISS or the Replacement Provider's failure to comply with regulation 11 of TUPE; and
 - (vi) any failure by the Supplier to comply with its obligations under regulations 13, 13A, 14 or otherwise of TUPE.
- (h) The Supplier shall indemnify ISS or the Replacement Provider in respect of:
 - (i) any claim made by or in respect of any person employed or engaged or formerly employed or engaged by the Supplier other than a Transferring Supplier Employee for which it is alleged ISS or the Replacement Provider may be liable by virtue of this Contract and/or TUPE (the **Woodwork Individuals**); and
 - (ii) any claims arising from any act or omission of the Supplier in relation to the Woodwork Individuals whether such claims arose before, on or after the Supply Transfer Date.
- (i) Where the Transferring Supplier Employees have transferred to ISS, ISS shall indemnify the Supplier against all claims arising from ISS' failure to perform and discharge any obligation and against any claims in respect of any Transferring Supplier Employees arising from or as a result of:
 - (i) any act or omission by ISS relating to a Transferring Supplier Employee occurring on or after the Supply Transfer Date; and
 - (ii) all and any claims in respect of all emoluments and outgoings in relation to the Transferring Supplier Employees (including without limitation all wages, bonuses, PAYE, National Insurance contributions, pension contribution and otherwise) accrued and payable after the Supply Transfer Date.
- (j) The parties shall co-operate to ensure that any requirement to inform and consult employee representatives in relation to any relevant transfer because of a TUPE transfer will be fulfilled.

19.4 Where TUPE does not apply. If TUPE does not apply on a Supply Transfer, the following shall apply:

- (a) ISS (or the ISS Client or the replacement supplier (as applicable)) may, in its sole discretion, make a written offer to any of the individuals on the Provisional Supplier Employees list to employ that individual under a new employment contract to take effect at the earliest reasonable opportunity. If the individual accepts this offer, the Supplier shall permit that individual to leave their employment as soon as reasonably practicable. If the individual



does not accept the offer, they shall remain employed by the Supplier and all claims relating to that individual shall remain with the Supplier; and

- (b) if neither ISS, the ISS Client or the replacement supplier (as applicable) makes an offer to any individuals on the Provisional Supplier Employees list, then those employees and all claims relating to them will remain with the Supplier. The Supplier shall use all reasonable endeavours to redeploy those employees to other parts of its business.

20. Data protection

20.1 For the purposes of this clause 20 (Data protection):

- (a) **controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures** have the meaning as set out in **Data Protection Legislation**.
- (b) **Data Protection Legislation** means, (i) to the extent the UK GDPR applies, the law of the UK or of a part of the UK which relates to the protection of personal data; and (ii) to the EU GDPR applies, the law of the EU or any member state of the EU which ISS or an ISS Client is subject, which relates to the protection of personal data.

20.2 Data sharing: controller-controller

This clause 20.2 applies where the parties have a controller-controller relationship. Each party:

- (a) acknowledges that for the purposes of Data Protection Legislation, they are each a controller and that they will regularly disclose to the other party personal data which they collect for the purposes of communicating with each other pursuant to this Contract; and
- (b) shall, at its own expense, ensure that it complies and assists the other to comply with all obligations imposed on a controller under the Data Protection Legislation.

20.3 Processing: controller – processor

This clause 20.3 applies where the Supplier is processing personal data on behalf of ISS in its capacity as a processor. The details of the processing shall be set out in the Contract Particulars.

- (a) ISS shall ensure it has all necessary consents and notices in place to enable lawful transfer of the personal data to the Supplier for the Term.
- (b) The Supplier shall:
 - (i) process personal data on the documented written instructions of ISS, unless the Supplier is required by law to otherwise process that personal data. If the Supplier is relying on this legal requirement, it shall promptly notify ISS before performing such processing, unless the relevant law prohibits the Supplier from notifying ISS;
 - (ii) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - (iii) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;
 - (iv) not transfer any personal data outside of the UK without ISS' prior written consent;
 - (v) assist ISS (at ISS' costs) in responding to requests from data subject;
 - (vi) immediately notify ISS when it becomes aware of a personal data breach;
 - (vii) at the written request of ISS, delete or return personal data and copies on termination of this Contract, unless required by applicable law to store the personal data; and
 - (viii) maintain records to demonstrate its compliance with this clause and Data Protection Legislation.
- (c) The Supplier shall not appoint a third party processor, unless ISS has provided its prior written consent. Where a third party processor is used pursuant to this clause, the Supplier will be liable for all acts and omissions of that third party.

20.4 Subprocessing: processor – subprocessor

This clause 20.4 applies where the Supplier is subprocessing the ISS Client's personal data. In this instance, for the purposes of Data Protection Legislation, the ISS client is the controller, ISS is the processor and the Supplier is the subprocessor.



- (a) The details of the subprocessing are set out in the Contract Particulars.
- (b) ISS shall ensure that the ISS Client has all necessary consents and notices to enable the lawful transfer of personal data to the Supplier for the Term.
- (c) The Supplier shall:
 - (i) process personal data on the documented written instructions of ISS / the ISS client, unless the Supplier is required by law to otherwise process that personal data. If the Supplier is relying on this legal requirement, it shall promptly notify ISS before performing such processing, unless the relevant law prohibits the Supplier from notifying ISS / the ISS client;
 - (ii) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - (iii) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;
 - (iv) not transfer any personal data outside of the UK without ISS' prior written consent;
 - (v) assist the ISS client (at the ISS client's costs) in responding to requests from data subject;
 - (vi) immediately notify ISS (or the ISS client if so instructed by ISS) when it becomes aware of a personal data breach;
 - (vii) at the written request of ISS / the ISS client, delete or return personal data and copies on termination of this Contract, unless required by applicable law to store the personal data; and
 - (viii) maintain records to demonstrate its compliance with this clause and Data Protection Legislation.
- (d) The Supplier shall not appoint a third party processor, unless both ISS and the ISS client has provided its prior written consent. Where a third party processor is used pursuant to this clause, the Supplier will be liable for all acts and omissions of that third party.

21. General provisions

21.1 Branding and announcement

- (a) The Supplier must not use ISS' and the ISS Client's name, logo, branding (including any related domain names) in any promotional material, marketing material, social media and other online platforms, similar material or announcement without ISS' prior written consent.
- (b) Nothing in this Contract constitutes an endorsement by ISS of the Supplier's offering, and the Supplier must not conduct itself in a way that implies any endorsement or authorisation by ISS.
- (c) Neither party shall make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of this Contract, the wider transactions contemplated by it, or the relationship between the parties, without the prior written consent of the other parties, except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

21.2 Notices

- (a) Any notice given to a party under or in connection with this Contract shall be in writing following one the following methods:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at either the addresses and to the individuals specified in the Contract Particulars, or if there no Contract Particulars to that party's registered company address; or
 - (ii) sent by email to either the addresses and to the individuals specified in the Contract Particulars, or if there is no Contract Particulars to the individuals as notified between the parties.
- (b) Any notice shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 10 am on the second Business Day after posting; or
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.



- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

21.3 Entire agreement

- (a) This Contract constitutes the entire agreement between the parties.
- (b) Each party acknowledges that in entering into it, it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

21.4 **Third party rights.** Unless it expressly states otherwise, this Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract.

21.5 **Variation.** A variation to this Contract is only effective if it is in writing and signed by the parties or their authorised representatives.

21.6 **Waiver.** No delay by either party in enforcing the provisions of this Contract shall prejudice or restrict the rights of that party nor be construed or deemed to be a waiver of any of that party's rights and no waiver of any breach shall operate as a waiver of any subsequent or continuing breach.

21.7 Governing law and jurisdiction

- (a) This Contract and all matters, disputes and claims (including non-contractual disputes and claims) arising under or in connection with them shall be governed by and interpreted in accordance with the laws of England.
- (b) The parties submit to the exclusive jurisdiction of the courts of England in respect of such disputes and claims.

22. Definitions and interpretation

22.1 Definitions

Affiliate: in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time.

Business Day: a day other than Saturday, Sunday or public holiday in the location where the Contract Items are provided.

Business Hours: 9am to 5pm on a Business Day.

Conditions: is as defined in clause 1.1 (About this Contract).

Confidential Information: all confidential information in any form and on any medium disclosed by one party to the other pursuant to the Contract, including:

- a) ISS Materials;
- b) ISS Client Materials;
- c) Supplier Materials;
- d) any information and materials developed by the parties in the course of carrying out its obligations under this Contract;
- e) any Deliverables and their draft forms;
- f) the existence and terms of this Contract;
- g) information relating to the business, assets, affairs, customers, clients, suppliers, market opportunities of either party or the ISS Client; and
- h) information relating to the operations, processes, service or product information, know-how, designs, trade secrets or software of either party or the ISS Client.

Contract Items: the Goods, Services or Equipment that are ordered, as stated in the PO or the Contract Particulars.

Contract Particulars: is as defined in clause 1.1 (About this Contract).

Deliverables: any document, materials, report or other information in any form or medium which are produced or developed by the Supplier pursuant to the Contract, including the items listed as "Deliverables" in the Contract Particulars.

Delivery Site: the location where the Contract Items are delivered or performed at (which could be an ISS Site or an ISS Client Site).

Equipment: is as defined in clause 9 (Equipment hire).

Goods: is as defined in clause 5 (Supply of Goods).



Intellectual Property Rights (IPRs): patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names, logos and domain names, 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 (including know-how and trade secrets) 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.

ISS Client: the entity with whom ISS (or an ISS Affiliate) has a contract for the provision of facility or facilities management services.

ISS Client Materials: any information in any form relating to the ISS Client, the Contract Items for that ISS Client or the ISS Client Site, and, if the Supplier subsequently generates, processes or stores those materials, those will also be ISS Client Materials.

ISS Materials: all documents, information, items and materials in any form that is owned by ISS, or a third party, which are made available by ISS to the Supplier in connection with the Contract.

ISS Policies: the ISS policies identified in clause 14.1 (Compliance).

PO: is as defined in clause 1.1 (About this Contract).

Services: is as defined in clause 7 (Supply of Services).

Supplier Materials: all documents, information, items and materials in any form that is owned by the Supplier, or a third party, which are made available by the Supplier to ISS or the ISS Client in connection with the Contract.

Term: is as defined in clause 3.1 (Term).

22.2

Interpretation

- (a) A reference to **writing** or **written** includes email, unless stated otherwise.
- (b) A reference to legislation or a legislative provision:
 - (i) is a reference to it as amended, extended or re-enacted from time to time; and
 - (ii) shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- (c) A reference to this Contract or to any other agreement or document is a reference to that agreement or document each case as varied from time to time.
- (d) Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- (e) References to clauses are to the clauses of these Conditions.