



**JAGUAR LAND ROVER LIMITED  
AND AFFILIATES**

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**GLOBAL TERMS AND CONDITIONS  
FOR NON-PRODUCTION SERVICES**

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**Effective 1 January 2013**

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# Jaguar Land Rover

## **GLOBAL TERMS AND CONDITIONS** **FOR NON-PRODUCTION SERVICES**

Jaguar Land Rover Limited ("Jaguar Land Rover") and its affiliated companies around the world comprise a global entity whose business activities consist of development, manufacture, marketing and sale of premium motor vehicles and automotive parts. Our mission is to improve continually our products and services to meet our customer's needs. The automotive vehicle market is undergoing constant development. Our customers are constantly raising their requirements with respect to function, quality and safety. Environmental leadership is becoming an increasingly important aspect of customer choice. Thus, constant change and improvement are necessary to be competitive.

Successful relationships with our suppliers are important to us. Our suppliers are an essential part of our team, playing a pivotal role in helping us to consistently deliver quality products to our customers. Jaguar Land Rover and its suppliers agree that every single component must meet or exceed the requirements and expectations of our customers and that greater customer satisfaction is the only way for both Jaguar Land Rover and its suppliers to achieve long-term increased volume, efficiency and profitability. Our suppliers' commitment to quality and willingness to work together are key to Jaguar Land Rover becoming the leading manufacturer of premium cars in the world which will allow each of us to grow our businesses and to provide superior returns to our respective shareholders.

To achieve our mutual goal, we must work together to exceed customer expectations by consistently delivering exciting new products, with high quality and low cost. In view of these goals and objectives, Jaguar Land Rover and its suppliers agree that the following terms and conditions, govern the purchase delivery of services from the supplier to Jaguar Land Rover.

These terms and conditions and associated documents are issued on behalf of that Jaguar Land Rover legal entity (or the Jaguar Land Rover Affiliate) identified on the face of the Purchase Order as "Buyer" and will apply to all orders issued to you as Supplier of services, but excluding engineering services and consultancy services (the supply of which would be subject to a separate Purchase Order and Buyer's Global Terms and Conditions For Engineering Services or Buyer's Global Terms and Conditions For Consultancy Services (as applicable)). Purchase Orders and other associated purchasing documents will be valid without signature if issued by Buyer through its computer system or other electronic means. The reference to Purchase Order herein shall include a blanket Purchase Order or similar documents issued by Buyer to Supplier and which incorporate these terms and conditions.

### 1. INTERPRETATION

(a) In these terms and conditions the following words have the following meanings unless inconsistent with the context:

**“Affiliates”**

means Buyer's or Supplier's (as relevant) subsidiaries, its holding company and any subsidiaries of such holding company. A company is a “subsidiary” of another company, its “holding company”, if that other company—

- (a) holds 50% or more of the voting rights in it, or
- (b) holds 50% or more of the shares or stock in it; or
- (c) is a member of it and has the right to appoint or remove a majority of its board of directors; or
- (d) is a member of it and controls alone, pursuant to an agreement with other members, a majority of the voting rights in it, or if it is a subsidiary of a company that is itself a subsidiary of that other company;

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|---------------------------------------|---|
| <b>“Background IPR”</b>               | means the Intellectual Property Rights of either Buyer or Supplier which are in existence as at the Commencement Date or which are developed independently of the Services;   |
| <b>“Business Day”</b>                 | means any day other than a Saturday or Sunday or a public or bank holiday in England;   |
| <b>“Business Hours”</b>               | means 9.00 a.m. to 5.00 p.m. inclusive on any Business Day;   |
| <b>“Buyer”</b>                        | means the purchaser of the Services, as identified on the face of the Purchase Order;   |
| <b>“Commencement Date”</b>            | means the date of the Purchase Order;   |
| <b>“Confidential Information”</b>     | means secret or confidential commercial, financial, marketing, technical or other information (including, without limitation, information in or relating to vehicle model programmes, product plans, business plans, marketing plans, research and development projects or Buyer's finances), know-how, trade secrets and other information in any form or medium of Buyer and/or Buyer's Affiliates, whether disclosed orally or in writing before or after the Commencement Date, together with any reproductions of such information in any form or medium or any part(s) of this information; |
| <b>“Deliverables”</b>                 | means all documents, products and materials developed by Supplier and/or its agents, contractors and employees as part of or in relation to the Services in any form or media including, without limitation, drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);  |
| <b>“Fees”</b>                         | means the fees for the Services as set out in the Purchase Order;   |
| <b>“Force Majeure”</b>                | means any cause preventing either Buyer or Supplier from performing any or all of its obligations which arises from or is attributable to circumstances beyond its reasonable control, including, without limitation, acts of God, acts of governmental or supra-national authority, outbreak of hostilities, national emergency, an act of terrorism, riots, civil commotion, fire, explosion, or flood;   |
| <b>“Foreground IPR”</b>               | means any Intellectual Property Rights, including without limitation inventions, designs, discoveries, improvements, concepts, techniques, processes and know-how, whether or not patentable, which arise or are created by Buyer and/or or Supplier (and/or Supplier's sub-contractors) during the term of the Purchase Order and in connection with the Services or as a result thereof;  |
| <b>“Intellectual Property Rights”</b> | means any patent, utility model, registered design, unregistered design right, copyright (including any right in computer software), database right or topography right and any trade secret, trade mark, service mark, trade or business name, goodwill and rights in confidential information and know-how and any associated or similar rights (whether or not any of these are registered and in all cases including applications for registration of any such thing);  |
| <b>“Person”</b>                       | includes any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of state or joint venture;  |

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| <b>“Purchase Order”</b>       | means any purchase order, in Buyer’s standard form, issued by Buyer for the Services incorporating these terms and conditions;  |
| <b>"Supplier"</b>             | means the provider of the Services, as identified on the face of the Purchase Order;  |
| <b>“Services”</b>             | means the Services described or referred to in the Purchase Order (or as varied pursuant to a Purchase Order) including as described in a Statement of Work;  |
| <b>“Supplemental Terms”</b>   | means Buyer’s supplemental terms which contain specific requirements to address specific services, goods or local market requirements, as issued by Buyer from time to time and available from Buyer on request;  |
| <b>"Statement(s) of Work"</b> | means the statement of work or other document(s) proposal(s) or quotation(s) which either alone or together contain Buyer's requirements, specifications, and / or expected service levels which is either issued by Buyer or expressly agreed in writing by Buyer in relation to the Services and referred to on the Purchase Order; and |
| <b>“Web-Guide(s)”</b>         | means Buyer’s web-guides, which contain specific matters such as (but not limited to) taxes, shipping, and environmental, as issued by Buyer from time to time and available from Buyer on request.   |

- (b) In these terms and conditions, unless the context requires otherwise, the following rules apply:
- (i) headings are inserted for convenience only and shall not affect the interpretation or construction of these terms and conditions;
  - (ii) words in the singular shall include the plural and vice versa;
  - (iii) a reference to Buyer or Supplier includes its personal representatives, successors or permitted assigns;
  - (iv) reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; and
  - (v) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
  - (vi) any Buyer Web-Guides or Supplemental Terms and conditions identified in these terms and conditions shall hereby be incorporated by reference. Copies are available from Buyer, upon request.

## 2. OFFER, ACCEPTANCE

(a) A Purchase Order is an offer to Supplier by Buyer to enter into the purchase and supply agreement it describes. Supplier's express agreement to a Purchase Order or commencement of work thereunder will constitute acceptance of the offer.

(b) Acceptance is expressly limited to the terms of Buyer's offer. Any modifications or other terms proposed by Supplier are expressly rejected by Buyer and shall not become part of the agreement in the absence of Buyer's express written acceptance. Any variation to these terms and conditions shall have no effect unless expressly agreed in writing by Buyer and Supplier.

## 3. SERVICES AND OBLIGATIONS OF SUPPLIER

(a) Supplier will provide the Services to Buyer upon these terms and conditions, the terms of the Purchase Order, any applicable Web-Guides or Supplemental Terms and the terms of the Statement of Work. In the event of a conflict between the terms of the Purchase Order and/or any Supplemental Terms and/or these terms and conditions and/or the Statement of Work and /or the Web-guides then to the extent of such conflict, the conflict shall be resolved in the following order of priority: (i) the Purchase Order; (ii) the Supplemental Terms (regardless of whether any Supplemental Terms are referenced on the Purchase Order); (iii) these terms and conditions; (iv) the Web-Guides; and (v) the Statement of Work (regardless of whether the Statement of Work is referenced on the Purchase Order).

(b) While providing the Services Supplier agrees:

- (i) to keep within the costs constraints of the Fees; and
- (ii) to meet all the performance requirements and Deliverables as notified by Buyer from time to time (including, but not limited to, any service levels or other requirements detailed in a Statement of Work).

(c) Supplier will provide the Services in accordance with the timing and locations notified by Buyer to Supplier, or if no timings are provided within a reasonable time. In the event that the timing for the Services has not been (or is reasonably likely not to be) met, Supplier shall notify Buyer in writing and Buyer shall, acting reasonably, determine whether an extension to the timing is appropriate. Unless agreed otherwise in writing by Buyer, time shall be of the essence in respect of the provision of the Services. If Supplier fails to perform the Services by the applicable dates specified in the Purchase Order or Statement of Work, Buyer shall, without limiting its other rights or remedies, have one or more of the following rights (to be exercised in Buyer's sole discretion):

- (i) to terminate the Purchase Order with immediate effect by giving written notice to Supplier;
- (ii) to refuse to accept any subsequent performance of the Services which Supplier attempts to make;
- (iii) to recover from Supplier any costs incurred by Buyer in obtaining substitute services from a third party;
- (iv) where Buyer has paid in advance for Services that have not been provided by Supplier, to have such sums immediately refunded by Supplier; and/or
- (v) to claim damages for any additional costs, losses or expenses incurred by Buyer which are in any way attributable to Supplier's failure to meet such dates or comply with the warranties contained herein.

(d) Supplier agrees that the Services will be provided by employees of Supplier and that Supplier shall ensure that such employees comply with the confidentiality requirements detailed in clause 11(b). If Supplier wishes to use any independent contractors, sub-contractors or agents in provision of the Services it will first provide Buyer written notice listing the independent contractors, sub-contractors or agents who it wishes to engage. If Buyer objects to the use of or identity of any independent contractor, sub-contractor or agent then Supplier shall not appoint such person in relation to the provision of the Services. Supplier must comply with the provisions of this clause 3(d) when making any changes to the identity of the independent contractors, sub-contractors or agents that it wishes to engage.

(e) Supplier shall provide adequate training of its personnel to ensure the Services are provided in accordance with these terms and conditions and Supplier shall inform all persons engaged in relation to the provision of the Services of relevant legislation and shall ensure that such persons comply with such legislation in relation to the carrying out of their duties.

(f) Supplier agrees to prepare and present to Buyer all reports, presentations and documentation which are requested by Buyer in the format and in the timescales as reasonably stipulated by Buyer. The feedback may include, but not be limited to, the results or findings, recommendations, justifications, confirmation of compliance to Buyer standards and benefits to be derived, both of a technical and commercial nature.

(g) Buyer may, at any time, by way of written notice to Supplier, require any changes to the scope, duration or specifications of the Services and the Deliverables. If any changes made by Buyer in accordance with this clause affect the cost or timing of the Services, Buyer and Supplier will negotiate in good faith a reasonable equitable adjustment in the Fees and/or delivery schedules as applicable. Supplier will not make any change to the Services unless done pursuant to Buyer's express written instructions or Buyer's written approval. The terms of the Purchase Order will thus be varied to the extent of the agreed written amendment. For the avoidance of doubt, Buyer shall not be liable for any increase in the Fees due to a change in the Services unless Buyer has agreed such increase in writing and has amended the Purchase Order to reflect the increase in Fees.

(h) Buyer may temporarily suspend the provision of the Services (or part thereof) in any Purchase Order or other written instructions issued by Buyer upon notice to Supplier.

#### 4. WARRANTY

(a) Supplier represents and warrants that it will provide the Services with the experience, diligence, due skill and care expected of an experienced and best practice company in the provision of the type of Services as are within the scope of the Purchase Order (including a Statement of Work), and shall carry out all responsibilities in

accordance with recognised professional standards; and that it is adequately financed to meet all obligations it may be required to meet under the terms of the Purchase Order.

(b) Supplier warrants that the Services will conform in all respects to any description of the Services in the Purchase Order, any Statement of Work and any specifications or other requirement agreed upon between Buyer and Supplier or as varied by agreement between Buyer and Supplier.

(c) Supplier warrants that it shall observe, comply with and embody in the provision of the Services all relevant legislation (including statutory requirements) and undertake compliance with all relevant codes of practice and conduct, including British, European and Buyer notified standards in the provision of the Services.

(d) Supplier warrants that the outcome or results of the performance of the Services by Supplier or its Affiliates, sub-contractors or agents, including but not limited to any Deliverables, will be of a satisfactory or merchantable quality, fit for purpose and will conform in all respects to any standards, requirements, descriptions or specifications specified by Buyer and with any laws and regulations in force in the countries in which the Services are to be provided.

(e) Supplier warrants that it has in place, or will obtain, all necessary consents, approvals, authorisations, licences and permissions to provide the Services, including in relation to the provision of any Deliverables as contemplated by the Purchase Order (including these terms and conditions).

(f) The warranties given in these terms conditions are in lieu of all other warranties, express or implied whether by statute or otherwise relating to the Services to the fullest extent permitted by law. Supplier warrants that it will use its best efforts to ensure that its systems, equipment and any other item necessary to perform its obligations under the Purchase Order will not be affected by any error, interruption or other adversity (save in the event of any error, interruption or other adversity directly arising due to Buyer's wilful misconduct), and that should any such event occur Supplier can demonstrate that proper contingency actions are in place to ensure the performance of the Services within the terms of the timescales and deadlines for the provision of the Services.

(g) Supplier's warranty and any rights of Buyer to make a claim under it will be effective even if Buyer has accepted all or a portion of the Services.

#### 5. TITLE, RISK AND NO LIEN

(a) The Deliverables shall remain at the risk of the Supplier until delivery of the Deliverables in accordance with these terms and conditions, whereupon risk in, and unencumbered title to, the Deliverables shall pass to Buyer.

(b) Supplier agrees that it shall not retain any lien on or over the Deliverables (or any part thereof), and to the extent that any lien is implied under law, Supplier hereby waives any and all rights to enforce any such lien on or over the Deliverables (or any part thereof).

#### 6. INSPECTION AND AUDIT

(a) If requested by Buyer, Supplier will permit Buyer (which, for purposes of this clause 6 includes its authorised representatives), during the term of the Purchase Order and for a period of 7 years following the later of the completion of the Services and the date of final payment to Supplier under the Purchase Order, to:

- (i) examine and copy all pertinent documents, data and other information relating to the Services, Supplier's obligations under the Purchase Order, any payment made to Supplier or any claim made by Supplier;
- (ii) view any facility or process relating to the Services or the Purchase Order, including those relating to production quality; and
- (iii) audit any facility or process to determine compliance with the requirements of the Purchase Order.

(b) Any examination under this clause 6 will be conducted during normal Business Hours and upon advance written notice to Supplier. If requested by Buyer, Supplier will use its best efforts to permit Buyer to obtain from the sub-contractors of, and vendors to, Supplier the information and permission to conduct the reviews specified in this clause 6, regardless of any other right Buyer may have to that information or facility.

## 7. RECORDS AND DELIVERABLES

While performing the Services, Supplier and its employees and agents will develop the Deliverables and deliver the Deliverables to Buyer under the terms of the Purchase Order. Supplier will keep a copy of the Deliverables and any and all pertinent records related to the Services, including, documents, data and other written information for at least 7 years following the later of the last delivery of the Services or the date of the final payment to Supplier under the Purchase Order. Upon Buyer's request, Supplier will then either, return all copies of the Deliverables and records to Buyer or, at Buyer's request, destroy them (and provide a certificate signed by Supplier's Managing Director that such destruction has taken place). Supplier shall keep all Deliverables and records strictly confidential, in accordance with the terms and conditions of the Purchase Order. Notwithstanding the foregoing, unless otherwise prevented from doing so due to binding and written confidentiality restrictions in place with a third party, Supplier shall promptly provide Buyer with any Deliverables and true and accurate copies of any information or records, as may be requested by Buyer from time to time.

## 8. FEES, INVOICING AND PAYMENT

(a) In consideration of the provision of the Services by Supplier, Buyer shall pay the Fees as detailed in the Purchase Order. Buyer will not be obligated to pay Supplier for any fees or charges in excess of the Fees unless such fees and charges have been approved in advance and in writing by Buyer's authorised signatories and reflected in the value of the Purchase Order.

(b) Supplier will invoice Buyer for all Services provided and for any pre-authorised business expenses in accordance with Buyer's then current Payment Terms Web-Guide. If any item or any part of an item shown on an invoice rendered by Supplier is subject to a bona fide dispute or question by Buyer then Buyer shall be entitled to withhold payment of that invoice until such dispute or question has been resolved.

(c) Invoices will accurately document the Services provided during the invoice period and will include such supporting documentation as may be reasonably requested by Buyer to establish the extent to which Services have been rendered.

(d) Buyer will pay all applicable transaction taxes and VAT (collectively "Tax") submitted in a timely manner in accordance with the terms of the Purchase Order. Supplier will separately state Tax on all its invoices and supporting documentation. Supplier is responsible for submitting accurate information required to determine and calculate Tax. Buyer will not be responsible for penalties, interest or fees imposed on Supplier as a result of incorrect calculation or billing of Tax. Supplier will, upon Buyer's request, provide documentation to support the billing and recovery of Tax paid. If so registered, Supplier must provide details of VAT registration numbers to Buyer.

## 9. INTELLECTUAL PROPERTY RIGHTS

(a) Each of Buyer and Supplier and/or its Affiliates shall retain its rights in its Background IPR.

(b) Supplier shall grant and hereby grants Buyer a non-exclusive, royalty-free, worldwide licence to use or otherwise freely exploit its Background IPR and to grant sub-licences to any third parties to the extent that such Background IPR may hinder or prevent the performance of the Services or otherwise limit Buyer's freedom to exploit the results of the Services (including, but not limited to the Deliverables) as it sees fit.

(c) Buyer shall grant and hereby grants Supplier a non-exclusive, non-transferable, royalty-free, worldwide licence to use and exploit its Background IPR, including the right to make or use products or services incorporating the Background IPR, for the sole purpose of performing the Services. Any licence so granted shall not include the right to sell products or services incorporating the Background IPR to any third party, nor to sub-license the Background IPR to any third parties, except as strictly required to enable any sub-contractors to provide Services, or with the express prior written consent of Buyer.

(d) In the event that Foreground IPR (including without limitation Deliverables, inventions, designs, discoveries, improvements, concepts, techniques, processes and know-how, whether or not patentable) arises or is created during the term of the Purchase Order and in connection with the Services or as a result thereof whether by Buyer or Supplier individually or jointly by Buyer and Supplier, it is hereby acknowledged and



agreed that all such Foreground IPR, the right to file applications for the protection thereof (including without limitation applications for patent, utility model, design patent, registered design and copyright) in any country, and all Intellectual Property Rights and other rights arising therefrom, shall be the sole and absolute property, in equity and law, of Buyer.

(e) Buyer shall grant and hereby grants Supplier a non-exclusive, non-transferable, royalty-free, worldwide licence to use and exploit the Foreground IPR, including the right to make or use products or services incorporating the Foreground IPR, for the sole purpose of performing the Services. Any licence so granted shall not include the right to sell products or services incorporating the Foreground IPR to any third parties nor to sub-licence the Foreground IPR to any third parties except with the express prior written consent of Buyer.

(f) Supplier shall promptly notify Buyer of the creation of any and all Foreground IPR promptly following its coming into existence and shall provide full details of same to Buyer. Such details shall include all information including know-how necessary to adequately protect the Foreground IPR. Supplier shall provide such assistance, and undertake such acts, as reasonably requested by Buyer in order to ensure that full title to all Foreground IPR vests in Buyer.

(g) Notwithstanding anything in clause 9(f) above, on termination of the Purchase Order for any reason whatsoever, Supplier shall at its expense do and execute and shall procure that its employees and any sub-contractor and its employees engaged in the performance of the Services do and execute any further thing or document as may be required by Buyer to give effect to clause 9(d).

(h) Buyer shall bear full and sole responsibility (including costs) for the filing, prosecution and maintenance of applications for the protection of the Foreground IPR.

(i) In relation to Intellectual Property Rights Supplier warrants that:

(i) it does not hold any rights under any Intellectual Property Rights (other than its Background IPR) which may directly or indirectly hinder or prevent the performance of the Services or otherwise limit Buyer's freedom to exploit the results of the Services;

(ii) there are no Intellectual Property Rights (other than its Background IPR) which would be infringed or misused by the performance of the Services or the exercise or exploitation of the results of the Services; and

(iii) it is able to provide the Services for use by Buyer without breaching any obligations it may owe to any third party now or, as far as it is at present aware, in the future and hereby undertakes to carry out the Services without breaching any such obligations and further undertakes not to assume any obligations to any third party which would be inconsistent with such undertaking.

(j) For the avoidance of doubt, it is hereby acknowledged and agreed that the Fees include any and all costs as may be incurred in procuring the right to use or otherwise exploit the Intellectual Property Rights of any third party to the extent that such third party rights are used or included in the Services or the results of the Services and which may directly or indirectly hinder or prevent the performance of the Services or the exercise or exploitation of the results of the Services.

(k) All Deliverables shall be owned by Buyer, and shall be considered work made by Supplier as agent for Buyer. Buyer shall have all right, title and interest, including but not limited to all right to obtain copyright, patents or other protections, in and to such Deliverables and any works used as a basis for creating such Deliverables. Neither Supplier, its Affiliates or its sub-contractors or any other party who has copyright to any works comprising any Deliverables, shall object to modification and/or translation of the Deliverables by Buyer.

(l) Allocation of ownership to the right to file the applications referred to in clause 9(h), and any Intellectual Property Rights arising therefrom if granted and any other intangibles referred to in clause 9(h) among Buyer and its Affiliates shall be in accordance with the terms of the Purchase Order (including these terms and conditions).

(m) Nothing in these terms and conditions shall be construed as conferring upon Buyer or Supplier a right to use in the course of trade or apply any trade mark, trade name or design of the other, whether now existing or created subsequently to the Commencement Date unless written permission is given by the other. Any user rights so granted must be subject to a separate trade mark licence agreement upon the terms to be agreed between Buyer and Supplier.

## 10. INFRINGEMENT OF INTELLECTUAL PROPERTY

(a) Supplier shall defend, indemnify, keep indemnified and hold harmless Buyer and its Affiliates, their respective officers, directors and employees, in full against all losses, liability, damages, costs and all expenses, including reasonable attorney fees and expert fees, arising out of or in connection with any claims, demands, actions or legal proceedings, alleging infringement of any Intellectual Property Rights in connection with the Services subject to the following conditions:

- (i) Buyer shall promptly notify Supplier in writing of any such claim or alleged claim of which it has notice and shall not make any admissions without the prior written consent of Supplier;
- (ii) Buyer, at the expense of Supplier, shall allow Supplier to conduct and settle all negotiations and litigation resulting from any such claim provided that such settlement is not likely to have a negative impact on Buyer's reputation;
- (iii) at all times in relation to the claim Buyer shall, at Supplier's cost, act in accordance with the reasonable instructions of Supplier and at the request of Supplier afford all reasonable assistance with all negotiations and litigation; and
- (iv) any legal costs awarded to Buyer as a result of any litigation in relation to the claim are to be for the account of Supplier and if paid to Buyer shall to the extent incurred by Supplier be paid without deduction by Buyer to Supplier promptly after receipt by Buyer.

(b) In the event that Supplier is involved in a claim or alleged claim of which it has notice with a third party in connection with Intellectual Property Rights relating to the Services Supplier shall promptly notify Buyer in writing, providing full details of the claim or alleged claim.

## 11. CONFIDENTIALITY

(a) Supplier acknowledges that in providing the Services hereunder, it may receive or have access to Confidential Information. In particular, any Statement of Work provided by Buyer (including drawings, test data and specifications developed in whole or in part by Buyer) and any Deliverables created by Supplier, shall be Confidential Information of Buyer. In addition, all information which Supplier or its Affiliates or any of its employees, agents or sub-contractors has access to in performing the Services at Buyer's facilities shall be presumed to be Confidential Information. All Confidential Information shall be confidential information and shall be kept strictly confidential by Supplier, regardless of whether such information is marked as "confidential."

(b) Supplier agrees that it shall use at least the same degree of diligence to protect the Confidential Information as it uses to protect its own confidential and sensitive information (being no less than a reasonable level of diligence). Supplier will not disclose any Confidential Information to anyone except to those employees, agents or sub-contractors of Supplier who need access to the Confidential Information in order to perform Services and who are bound by conditions of secrecy in respect of such Confidential Information which are no less strict than those imposed on Supplier under these terms and conditions (which Supplier shall, at Buyer's request, diligently enforce at Supplier's expense). Supplier agrees that it will not use any Confidential Information for any purpose other than performing Services. In particular Supplier shall not use any Confidential Information in providing goods or services to any other customer of Supplier.

(c) The obligations of confidentiality shall not apply to Confidential Information where:

- (i) the Confidential Information is, or becomes (other than through a breach of these terms and conditions or other confidentiality obligations in place) generally known to the public; or
- (ii) the Confidential Information is proven by documentary evidence to have been developed independently by Supplier without reference to any Confidential Information; or
- (iii) the Confidential Information was rightfully received in good faith by Supplier without obligation of confidentiality from a third party; or
- (iv) disclosure is required by law, provided that (where reasonably practicable to do so) the disclosing party gives the non-disclosing party prompt written notice of the request for disclosure, cooperates with the non-disclosing party in obtaining protective order or other remedy, and discloses only that portion of the confidential information which it is legally compelled to disclose.

## 12. PERSONALLY IDENTIFIABLE INFORMATION

(a) In so far as Supplier processes or uses any PII (where "PII" shall have the meaning given to it in the PII Supplement) on behalf of the Buyer in performing the Services, or alternatively, has access to any PII whilst

performing the Services, Supplier shall act strictly in accordance with the provisions of the Personally Identifiable Information (PII) / Personal Data Supplemental Terms and Conditions ("**PII Supplement**") and, at Buyer's request, enter into Buyer's standard form Data Processing Agreement.

(b) Supplier shall defend, indemnify, keep indemnified and hold harmless Buyer and its Affiliates, their respective officers, directors and employees, in full against all losses, liability, damages, costs and all expenses, including reasonable attorney fees and expert fees, arising out of or in connection with any claims, demands, actions or legal proceedings, alleging a breach by Supplier, its Affiliates, sub-contractors or personnel of: (i) any applicable privacy and data protection laws; (ii) this clause 12; or (iii) the PII Supplement.

### 13. TERM AND TERMINATION

(a) The term of the Purchase Order shall commence on the Commencement Date, and subject to earlier termination or extension in accordance with the provisions of these term and conditions, shall continue for the period as set out on the face of the Purchase Order or Statement of Work (as appropriate) or, if no term is set out on the Purchase Order or Statement of Work, shall continue until the later of: (i) the date that the Deliverables are delivered to Buyer in accordance with the terms of the Purchase Order; or (ii) the date that the Services have been completed in accordance with the terms of the Purchase Order.

(b) Without prejudice to any other right or remedy that Buyer may have against Supplier, it shall have the right to terminate the Purchase Order in whole or in part, with or without cause, and without any liability for such termination, upon at least seven days' written notice to Supplier.

(c) Buyer may by notice in writing to Supplier forthwith terminate the Purchase Order in the event of:

- (i) any material breach or persistent breach of Supplier's obligations under the Purchase Order and, where the breach is capable of remedy, Supplier fails to remedy the breach within five days after service of a written notice from Buyer requiring it to be remedied;
- (ii) Supplier becomes insolvent, is placed into administration, receivership or liquidation, commences proceedings to be wound up, enters into any voluntary arrangement with its creditors, or on the happening of any similar event according to the laws of its domicile; or
- (iii) Supplier undergoes any change in its ownership or disposes of all or a substantial part of its business or assets (other than for the purposes of a legitimate reorganisation) without Buyer's prior written consent, which consent shall not be unreasonably withheld or delayed (acknowledging that it would be reasonable for Buyer to withhold such consent if it does not receive adequate evidence of Supplier's ability to continue to perform its obligations in accordance with the terms of the Purchase Order).

(d) Upon receipt of any termination notice, Supplier shall discontinue Services on the date stated in such notice.

(e) Without prejudice to clause 13(c), upon termination of the Purchase Order, Supplier shall be paid the amount due for Services that have been performed to an acceptable standard (as determined by Buyer in its reasonable discretion) prior to the date of termination. In addition, Buyer will reimburse those reasonable expenses of Supplier which were approved in advance by Buyer and which were properly incurred prior to termination. Buyer will not be liable for any other costs, expenses, damages or claims of any sort resulting from termination of the Purchase Order, including any indirect damages or consequential loss or for (whether direct or indirect) pure economic loss, loss of profits and loss of business or loss of savings, howsoever caused.

(f) Upon termination or expiry of the Purchase Order, or upon the request of Buyer, Supplier will surrender to Buyer all copies of Confidential Information which are then in Supplier's possession or control in relation to the Services and all Statements of Work, Deliverables, memoranda, notes, records, drawings, manuals, software, data held on any electronic device, and all other materials which are the property of Buyer or its Affiliates or which contain information which is confidential or proprietary to Buyer or its Affiliates.

(g) Upon receipt of the notice of termination, Supplier, unless otherwise directed by Buyer, will, at Buyer's sole discretion:

- (i) terminate promptly all work under a Purchase Order;
- (ii) transfer title and deliver to Buyer the finished work, the work in process, finished and/or draft Deliverables and the materials which Supplier produced or acquired in accordance with a Purchase Order, and which Buyer agrees to acquire in pursuant to clause 13(e);
- (iii) verify/settle all claims by sub-contractors for actual costs that are rendered unrecoverable by such termination and provided the recovery of materials in Supplier's possession or control is ensured;

- (iv) take actions reasonably necessary to protect property in Supplier's possession or control in which Buyer has an interest until disposal instruction from Buyer has been received; and/or
- (v) upon Buyer's reasonable request, cooperate with Buyer in effecting orderly resourcing of the Services to a different supplier whilst minimising any disruption to Buyer's business.

(h) Termination of the Purchase Order, however arising, shall not affect Buyer's or Supplier's rights, remedies, obligations or liabilities that have accrued up to termination.

#### 14. FORCE MAJEURE

(a) Neither Buyer nor Supplier shall be deemed to be in breach of a Purchase Order for any failure or delay in performing its obligations under the Purchase Order due to a Force Majeure event.

(b) If Buyer's or Supplier's performance of its obligations under the Purchase Order is affected by a Force Majeure event, then:

- (i) it shall give written notice to the other, specifying the nature and extent of the Force Majeure event, within two (2) Business Days of becoming aware of the Force Majeure event and will at all times use all reasonable endeavours to mitigate the severity of the Force Majeure event;
- (ii) the date for performance of such obligation shall be deemed suspended but only for a period which shall not be longer than the delay caused by such event; and
- (iii) it shall not be entitled to payment from the other in respect of extra costs and expenses incurred by virtue of the Force Majeure event.

(c) If an event of Force Majeure causes Supplier to be unable materially to comply with any of its obligations under the Purchase Order, Supplier shall, at its own cost, take such steps as to mitigate the effects of the Force Majeure event and Supplier and Buyer shall agree such terms as are appropriate for the continued performance of the Services. If no such terms are agreed within five (5) Business Days of the commencement of the event of Force Majeure (or such longer period as Buyer and Supplier may agree in writing), Buyer may, by giving written notice to Supplier, forthwith terminate the Purchase Order.

#### 15. INDEMNITY AND INSURANCE

(a) Supplier shall indemnify, keep indemnified and hold harmless Buyer and its Affiliates and their respective officers, directors and employees, in full against all losses, liability, damages, costs, claims and all expenses, including reasonable legal fees and expert fees, arising directly out of Supplier's performance of the Services (or lack thereof) or from Supplier's breach of the terms of the Purchase Order (including these terms and conditions), including claims, actions or legal proceedings alleging:

- (i) death, personal injury or property damage; or
- (ii) any design or defect within the content of the Deliverables; or
- (iii) any violation by Supplier of any law, rule or regulation applicable to Supplier or Supplier's business, facilities or operations, including in relation to the provision of the Services; or
- (iv) any act or omission of Supplier or its employees, agents or sub-contractors in providing the Services or producing the Deliverables, including any injury, loss or damage to persons caused or contributed to by any of their negligence or by faulty design, workmanship or materials.

(b) Neither Supplier nor Buyer shall be liable to the other for any indirect losses arising out of its breach of the terms of the Purchase Order. Notwithstanding the foregoing, nothing under the terms of the Purchase Order shall exclude Buyer or Supplier's liability for: (i) death or personal injury arising from its negligence; (ii) fraud or fraudulent misrepresentation; (iii) any other losses which may not be excluded by law.

(c) Upon receipt of a written request from Buyer, Supplier shall, at its sole expense, provide Buyer with reasonable access to documents, records and witnesses in connection with Buyer's defence and resolution and resolution of any claim, action or legal proceedings referred to in clause 15(a) above.

(d) Buyer may, in its sole discretion, require Supplier to defend and resolve any claim, action or legal proceedings referred to in clause 15(a) above. In the event that Buyer so requires, Supplier shall absorb all loss, liability, damages, costs and all expenses, including reasonable legal fees and expert fees, in connection with such defence.

(e) Supplier shall at all times insure and keep itself adequately insured with a reputable insurance company against all insurable liability in connection with the Services and, in particular, against all its liabilities under the Purchase Order and against the consequences of any act or default of Supplier's, Supplier's Affiliates and sub-contractors' employees whilst on the premises of Buyer (or Buyer's Affiliate) and shall, on request, provide Buyer with such evidence of insurance as Buyer may reasonably require. Supplier shall provide all reasonably practicable assistance required by Buyer or its insurers for the purposes of contesting or dealing with any action, claim or matter arising out of Supplier's performance of the Purchase Order or failure to perform. Without prejudice to Supplier's other obligations in this clause 15, Supplier shall arrange Public Liability insurance with reputable insurers, in its own name against the risk assumed under this clause 15 to a value of not less than £5,000,000 per incident.

(f) Supplier shall co-operate as far as reasonably practicable with Buyer and its Affiliates in defending any actions or claims brought against Buyer or its Affiliates. Such co-operation shall include, but not be limited to, providing documents, drawings, computer files or other materials reasonably requested by Buyer or its Affiliates, and providing any other support reasonably requested by Buyer, its Affiliates or Buyer's professional advisers.

(g) Without prejudice to clause 15(e), Supplier shall arrange suitable and adequate professional indemnity insurance in its own name and it shall maintain such insurance cover with internationally recognised reputable insurers and such insurance cover shall include defending litigation outside its local jurisdiction (including, but not limited to, within the United States of America).

(h) Neither Buyer nor its Affiliates shall be liable for any costs, loss or damage, liabilities, injuries, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business and like loss) to property or stock of Supplier howsoever caused. Further, Buyer and its Affiliates shall not be responsible for death, injury or illness which may be sustained by any employee, agent, sub-contractor, invitee or licensee of Supplier or for any loss, damage or destruction to the property of any such employee, agent, sub-contractor, invitee or licensee or operations of Supplier unless directly due to the negligent act or wilful default of Buyer or its Affiliates.

#### 16. RIGHT OF SET-OFF

Supplier agrees that all its accounts with Buyer will be administered on a net settlement basis and that Buyer may set off and recoup debits and credits, including Buyer's attorney fees and costs of enforcement, against any of Supplier's accounts regardless of the basis for such debits or credits and without additional notice. In this clause 16 "Buyer" includes Buyer's Affiliates, and "Supplier" includes Supplier's Affiliates.

#### 17. WAIVER AND REMEDIES

No delay or omission by Buyer or Supplier in exercising the right or power it has pursuant to the terms of the Purchase Order shall impair or be construed as a waiver of such right or power. No waiver of any breach of any provision of the Purchase Order (including these terms and conditions) shall constitute a waiver of any other breach of such or any other provision. Remedies available to Buyer or Supplier in relation to the Purchase Order shall be cumulative and additional to any other or further remedies implied or available at law, in equity or contained in these terms and conditions.

#### 18. ENTIRE AGREEMENT

The Purchase Order, these terms and conditions, any Buyer Supplemental Terms and Conditions or Web-Guides, and Statement of Work and any documents referred to on the Purchase Order set forth the entire and only agreement and understanding between Buyer and Supplier relating to the provision of the Services as detailed in the Purchase Order and, save in respect of fraudulent misrepresentation, supersedes all negotiations, commitments and representations made prior to the date of acceptance of the Purchase Order.

#### 19. ASSIGNMENT AND SUB-CONTRACTING

(a) The rights and obligations under the Purchase Order or the Purchase Order itself, either in whole or in part, shall not be assigned or transferred by Supplier without the prior written consent of Buyer.

(b) Where Supplier becomes entitled to sub-contract the provision of the Services in accordance with clause 3(d), Supplier shall, before engaging any sub-contractors, enter into confidentiality obligations with such sub-contractors which are not less strict than as imposed on Supplier under these terms and conditions (which Supplier shall, at Buyer's request, diligently enforce at Supplier's expense). Where Supplier engages sub-contractors, Supplier shall remain fully responsible and liable for the supply of the Services and the acts and omission of its sub-contractors.

## 20. NO PARTNERSHIP

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

## 21. BASIC WORKING CONDITIONS AND EMPLOYMENT STATUS

(a) When Supplier provides the Services Supplier will not: (i) use forced labour, regardless of its form; (ii) employ any person below the age of 15, unless it is part of a government approved job training, apprenticeship or other program that would be clearly beneficial to its participants; or (iii) engage in physically abusive disciplinary practices.

(b) If Supplier retains sub-contractors to perform the Services, or any part thereof, Supplier will use only sub-contractors that will adhere to the requirements of clause 21(a) above. Supplier will monitor the sub-contractor's compliance.

(c) Buyer has adopted a *Code of Basic Working Conditions* that includes the requirements of clause 21(a) and other work-place practices. The Code applies to all of Buyer's operations. The Code can be found via Buyer's Social Responsibility Web-Guide or by contacting Buyer directly. Supplier is encouraged to adopt and enforce a similar code of practice and to have its sub-contractors do so.

(d) Buyer may retain an independent third party, or request Supplier to retain one reasonably acceptable to Buyer, to: (i) audit Supplier's compliance with the requirements of this clause 21; and (ii) provide Supplier and Buyer with written certification of Supplier's compliance, including areas for potential improvement.

(e) Supplier will bear the cost of any third-party audit and certification, regardless of which party retained the auditor. Buyer, at its sole option, may accept an audit or certification by Supplier in lieu of a third-party certification.

## 22. COMPLIANCE WITH ANTI-BRIBERY LAWS

(a) Supplier shall: (i) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption (the "**Relevant Requirements**"); (ii) not engage in any activity, practice or conduct which would constitute an offence under the Relevant Requirements; (iii) comply with Buyer's Anti-bribery and Gifts Policies as notified to the Supplier, in each case as Buyer may update them from time to time (the "**Relevant Policies**"); (iv) have and shall maintain in place throughout the term of the Purchase Order its own policies and procedures, to ensure compliance with the Relevant Requirements and the Relevant Policies, and will enforce them where appropriate; and (v) promptly report to the Buyer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Purchase Order.

(b) Supplier shall ensure that any person associated with the Supplier (including any subcontractor) who is performing services or providing goods, software, data, information or other materials in connection with the Purchase Order does so only in compliance with the Relevant Requirements and the Relevant Policies (together the "**Relevant Terms**"). Supplier shall be responsible for the observance and performance of the Relevant Terms by such persons and shall be directly liable to Buyer for any breach by such persons of any of the Relevant Terms.

23. SEVERABILITY

If any court of competent jurisdiction finds any term or condition to be unenforceable or invalid in whole or in part, such finding shall not affect the validity of the other provisions or the remainder of the provision in question. If any invalid, unenforceable or illegal provision of the Purchase Order would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

24. PUBLICITY

If Supplier wishes to publicly disclose the existence of its relationship with Buyer in relation to the provision of the Services then Supplier shall not do so without the express prior written consent of Buyer to the form and manner of each such disclosure. Where Buyer has given such consent then Buyer, in its sole discretion, reserves the right to withdraw such consent at any time upon notice to Supplier.

25. SURVIVAL

Any terms and conditions above relating to warranties, indemnification, Intellectual Property Rights, infringement, confidentiality, assignment, governing law and dispute resolution shall survive the expiration or termination of the Purchase Order for any reason whatsoever. For the avoidance of doubt clauses 1, 4, 5, 6, 7, 8(d), 9, 10, 11, 12, 13 15, 16, 18, 22, 23, 24, 25, 26, 27, 28 and 29 shall survive termination or expiry of the Purchase Order.

26. NOTICES

(a) Any notice, demand or communication in connection with the Purchase Order will be in writing and may be delivered by hand, first class post, registered post, Special Delivery post, Airmail, international courier or facsimile (but not by e-mail), addressed to the recipient at its registered office or its address, or facsimile number as the case may be. Notices to be sent to Buyer shall be marked for the attention of The Company Secretary.

(b) The notice, demand or communication will be deemed to have been duly served:

(i) if delivered by hand, at the time of delivery;

(ii) if delivered by first class post or Special Delivery post or international courier, 48 hours after being posted (or delivered to the international courier) or in the case of Airmail 10 Business Days after being posted;

(iii) if delivered by facsimile, at the time of transmission, provided that a confirming copy is sent by first class post, registered post, Special Delivery post, Airmail or international courier to the other party within 24 hours after transmission;

provided that, where in the case of delivery by hand or transmission by facsimile, such delivery or transmission occurs either after 4.00 p.m. on a Business Day, or on a day other than a Business Day, service will be deemed to occur at 9.00 a.m. on the next following Business Day (such times being local time at the address of the recipient).

27. THIRD PARTY RIGHTS

(a) Unless otherwise agreed by Buyer, Buyer's Affiliates may, at its/their own option, benefit from the Services and rely on the Deliverables provided by Supplier.

(b) Save as in respect of Buyer's Affiliates, Buyer and Supplier do not intend that any term of the Purchase Order should be enforceable by any person other than Buyer and Supplier.

28. BAILED PROPERTY

Supplier bears all responsibility for loss of, theft of and damage to any property owned by Buyer and in Supplier's possession or control for use in performing a Purchase Order, including responsibility for loss and damage which occurs (howsoever caused) despite Supplier's exercise of reasonable care, but excluding normal wear and tear. Supplier will: (i) properly house and maintain such property on Supplier's premises; (ii) prominently mark it as the property of Buyer; (iii) refrain from commingling it with the property of Supplier or

with that of a third party save as required to do so in order to perform the Services; (iv) adequately insure such property against loss or damage; and (v) not move it to another location whether owned by Supplier or a third party, without the prior written consent of Buyer, except in the case of an emergency, Supplier may move such property provided that it gives Buyer notice that the property has been moved and the location of the property as soon as reasonably practicable. Buyer will have the right to enter Supplier's premises at reasonable times to inspect such property and Supplier's records pertaining thereto. Where permitted by law, Supplier waives any lien that Supplier might otherwise have on any of Buyer's property for work done thereon or otherwise. Supplier will assign to Buyer any claims Supplier has against third parties with respect to Buyer's property. Upon request, Supplier immediately will make such property available for collection by Buyer (or its representatives) and, at Buyer's request, Supplier shall load such property onto vehicles used by Buyer's carrier to transport such property. Supplier will cooperate with Buyer's collection of the property from Supplier's premises.

29. DISPUTE RESOLUTION

(a) Buyer and Supplier will act in good faith and use all reasonable endeavours to resolve any disputes or claims that may arise in connection with the Purchase Order between themselves through their respective managers.

(b) In the event that the representatives of Buyer and Supplier fail to resolve any dispute within 10 Business Days of either Buyer or Supplier serving a notice in writing to the other that a matter is in dispute (a "Dispute Notice"), the matter shall be escalated within a further 5 Business Days to the relevant director of Buyer and of Supplier or anyone directly delegated by those individuals to resolve matters.

(c) If the negotiations referred to in clause 29(b) above should fail to resolve the dispute within 28 days of service of the Dispute Notice, then either Buyer or Supplier may seek legal redress through the non-exclusive jurisdiction of the English courts. Neither Buyer nor Supplier shall be prevented, by any of these terms and conditions, from applying at any time to the English or other appropriate courts for such interim or conservatory measures (including but not limited to injunctive relief or measures relating to the preservation of property) as may be considered appropriate.

(d) In the event of Buyer and Supplier entering into the dispute resolution procedure then, unless Buyer or Supplier agree otherwise in writing, in no circumstances should the provision of the Services be interrupted or delayed by the dispute.

(d) The laws of England and Wales shall apply to the Purchase Order (including these terms and conditions).

\*\* DOCUMENT ENDS\*\*