

## **1 Definitions and interpretation**

Certain definitions and interpretation apply to these Conditions. These are set out in clause 31 below.

## **2 Application of these Conditions**

- 2.1 These Conditions apply to and form part of the Contract between the Supplier and Blueleaf. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2 No terms or conditions contained in the Supplier's quotation, confirmation of order or other document shall form part of the Contract except to the extent that Blueleaf otherwise agrees in writing.
- 2.3 No variation of these Conditions or to an Order or to the Contract, shall be binding unless expressly agreed in writing and signed on behalf of Blueleaf.
- 2.4 The Supplier will not sub-contract the Services without the prior written authorisation of Blueleaf.
- 2.5 Each Order by Blueleaf to the Supplier shall be an offer to purchase Services subject to these Conditions.
- 2.6 An Order may be withdrawn or amended by Blueleaf at any time before acceptance by the Supplier.
- 2.7 Acceptance of an Order by the Supplier shall take place when it is expressly accepted or by any other conduct of the Supplier which is consistent with acceptance of the Order.

## **3 Price**

The price for the Services shall be as set out in the Order. No increase in the Price may be made without at least three (3) months' notice to Blueleaf before the proposed price increase is to take effect. The then current Price will continue to apply to Orders for Services placed before the change in Price is implemented pursuant to this clause.

## **4 Payment**

- 4.1 The Supplier shall invoice Blueleaf for the Services no sooner than completion of performance of the Services or, if later, Blueleaf's acceptance of the Services.
- 4.2 Blueleaf shall pay each validly submitted invoice of the Supplier within 45 days of receipt of invoice.
- 4.3 VAT shall be charged by the Supplier and paid by Blueleaf at the then applicable rate.

## **5 Cancellation**

- 5.1 Blueleaf shall have the right to cancel the Order for the Services or for any part of the Services which have not yet been performed.

## **6 Performance of the Services**

- 6.1 The Services shall not be delivered by or performed in instalments unless otherwise agreed in writing by Blueleaf.
- 6.2 Each delivery or performance of the Services shall be accompanied by a delivery note stating the date of the Order and Blueleaf's purchase order number and the category, type and quantity of Services performed.
- 6.3 The Supplier shall use its best efforts to achieve the KPIs. Failure to achieve the KPIs may amount to a material breach of contract for the purposes of clause 17.1.1.
- 6.4 Time of performance is of the essence. If the Supplier fails to perform any of the Services by the date specified in the Order, Blueleaf shall (without prejudice to its other rights and remedies) be entitled at Blueleaf's sole discretion:
- 6.4.1 to terminate the Contract in whole or in part;
  - 6.4.2 to purchase the same or similar Services from a supplier other than the Supplier; and
  - 6.4.3 to recover from the Supplier all costs and losses resulting to Blueleaf, including the amount by which the price payable by Blueleaf to acquire those Services from another supplier exceeds the price payable under the Contract, and any loss of profit.

## **7 Acceptance, rejection and inspection**

- 7.1 Blueleaf shall not have accepted, or be deemed to have accepted, the Services until the Services have been performed at the Location.
- 7.2 Blueleaf shall be entitled to reject any Services which are not in full compliance with the terms and conditions of the Contract.
- 7.3 The rights of Blueleaf in this clause 7 are without prejudice to Blueleaf's rights under clause 9.

## **8 Title to Blueleaf Materials**

- 8.1 The Supplier acknowledges that all tooling, materials and other equipment provided to the Supplier by Blueleaf (Materials) and all rights in the Materials are and shall remain the exclusive property of Blueleaf. The Supplier shall keep the Materials in safe custody at its own risk, maintain them in good condition until returned to Blueleaf, and not dispose or use the same other than in accordance with Blueleaf's written instructions or authorisation.

## **9 Warranty**

- 9.1 The Supplier warrants and represents that the Services shall:
- 9.1.1 conform to any Specification;
  - 9.1.2 be performed and supplied in accordance with Good Industry Practice and supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II, s 13; and
  - 9.1.3 be fit for purpose and any purpose held out by the Supplier and as otherwise required to meet Blueleaf's needs.

- 9.2 Without prejudice to clause 9.1, the Supplier shall give and shall pass on any third-party warranties relating to the Services and referred to in the Contract.
- 9.3 The Supplier agrees that the approval by Blueleaf of any design or Specification provided by the Supplier shall not relieve the Supplier of any of its obligations under this clause 9.
- 9.4 Blueleaf may reject any Services that do not comply with clause 9.1 and the Supplier shall, at Blueleaf's option, promptly re-perform or refund the price of any such Services.
- 9.5 Blueleaf's rights under these Conditions are in addition to, and do not exclude or modify, the rights and conditions contained in the Supply of Goods and Services Act 1982, s 12 to 16 and the Sale of Goods Act 1979, s 13 to 15.

## 10 Anti-bribery

- 10.1 For the purposes of this clause 10 the expressions '**adequate procedures**' and '**associated with**' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- 10.2 Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that all of that party's personnel and subcontractors involved in performing the Contract so comply.
- 10.3 Without limitation to clause 10.2, neither party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.
- 10.4 Each party shall immediately notify the other as soon as it becomes aware of a breach of any of the requirements in this clause 10.

## 11 Anti-slavery

- 11.1 The Supplier undertakes, warrants and represents that:
- 11.1.1 neither the Supplier nor any of its officers, employees, agents or subcontractors has:
- (a) committed an offence under the Modern Slavery Act 2015 (a **MSA Offence**); or
  - (b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
  - (c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
- 11.1.2 it shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy;
- 11.1.3 it shall notify Blueleaf immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or sub-contractors have breached or potentially breached any of the Supplier's obligations under clause 11.1.

## **12 Indemnity and insurance**

- 12.1 The Supplier shall indemnify, and keep indemnified, Blueleaf from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by Blueleaf as a result of or in connection with the Supplier's breach of any of the Supplier's obligations under the Contract.
- 12.2 The Supplier shall have in place contracts of insurance with reputable insurers to cover all acts or omissions, and any person for whose acts the Supplier may be liable, relating to this Contract and the performance of the Services. On request, the Supplier shall supply evidence of the maintenance of the insurance and of its terms.

## **13 Limitation of liability**

- 13.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 13.
- 13.2 Subject to clause 13.4, Blueleaf's total liability shall not exceed the sum of £1,000,000.
- 13.3 Subject to clause 13.4, Blueleaf shall not be liable for consequential, indirect or special losses, nor for any of the following (whether direct or indirect): loss of profit; loss of use; loss of production; loss of contract; loss of opportunity or; harm to reputation or loss of goodwill.
- 13.4 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of death or personal injury caused by negligence; fraud or fraudulent misrepresentation; or any other losses which cannot be excluded or limited by applicable law.

## **14 Intellectual property rights**

- 14.1 All specifications provided by Blueleaf and all Intellectual Property Rights in the Services made or performed in accordance with such specifications shall vest in and remain at all times the property of Blueleaf and such specifications may only be used by the Supplier as necessary to perform the Contract. The Supplier assigns (or shall procure the assignment) to Blueleaf absolutely, with full title guarantee, all right, title and interest in any such Intellectual Property Rights, and the Supplier shall do all such things and sign all documents necessary in Blueleaf's opinion to so vest all such Intellectual Property Rights in Blueleaf, and to enable Blueleaf to defend and enforce such Intellectual Property Rights.

## **15 Confidentiality and announcements**

- 15.1 The Supplier shall keep confidential all Confidential Information of Blueleaf and subject to clause 15.4 shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:
- 15.1.1 any information which was in the public domain at the date of the Contract;
- 15.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
- 15.1.3 any information which is independently developed by the Supplier without using information supplied by Blueleaf; or

- 15.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.
- 15.2 This clause shall remain in force for a period of five years from the date of the Contract and, if longer, three years after termination of the Contract.
- 15.3 The Supplier shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.
- 15.4 To the extent any Confidential Information is Protected Data such Confidential Information may be disclosed or used only to the extent such disclosure or use does not conflict with the provisions of clause 16.

## **16 Processing of personal data**

- 16.1 The parties agree that Blueleaf is a Controller and that the Supplier is a Processor for the purposes of processing Protected Data pursuant to this Contract. The Supplier shall, and shall ensure its Sub-Processors and each of the Supplier Personnel shall, at all times comply with all Data Protection Laws in connection with the processing of Protected Data and the provision of the Services. Nothing in this Contract relieves the Supplier of any responsibilities or liabilities under Data Protection Laws.
- 16.2 The Supplier shall only process (and shall ensure Supplier Personnel only process) the Protected Data in accordance with clause 16, this Contract and Blueleaf's written instructions from time to time except where otherwise required by applicable law (and in such a case shall inform Blueleaf of that legal requirement before processing, unless applicable law prevents it doing so on important grounds of public interest). The Supplier shall immediately inform Blueleaf if any instruction relating to the Protected Data infringes or may infringe any Data Protection Law.
- 16.3 The Supplier shall at all times implement and maintain appropriate technical and organisational measures to protect Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access. The Supplier shall:
  - 16.3.1 not permit any processing of Protected Data by any agent, subcontractor or other third party (except its own employees that are subject to an enforceable obligation of confidence with regards to the Protected Data) without the prior specific written authorisation of that Sub-Processor by Blueleaf and only then subject to such conditions as Blueleaf may require;
  - 16.3.2 ensure that access to Protected Data is limited to the authorised persons who need access to it to supply the Services;
  - 16.3.3 prior to the relevant Sub-Processor carrying out any processing activities in respect of the Protected Data, appoint each Sub-Processor under a binding written contract containing the same obligations as under this clause 16 in respect of Protected Data that is enforceable by the Supplier and ensure each such Sub-Processor complies with all such obligations;
  - 16.3.4 remain fully liable to Blueleaf under this Agreement for all the acts and omissions of each Sub-Processor and each of the Supplier Personnel as if they were its own; and
  - 16.3.5 ensure that all persons authorised by the Supplier or any Sub-Processor to process Protected Data are reliable and:

- (a) adequately trained on compliance with this clause 16 as applicable to the processing;
  - (b) informed of the confidential nature of the Protected Data and that they must not disclose Protected Data;
  - (c) subject to a binding and enforceable written contractual obligation to keep the Protected Data confidential; and
  - (d) provide relevant details and a copy of each agreement with a Sub-Processor to Blueleaf on request.
- 16.4 The Supplier shall (at its own cost and expense):
  - 16.4.1 promptly provide such information and assistance (including by taking all appropriate technical and organisational measures) as Blueleaf may require in relation to the fulfilment of Blueleaf's obligations to respond to requests for exercising the Data Subjects' rights under applicable Data Protection Laws; and
  - 16.4.2 provide such information, co-operation and other assistance to Blueleaf as Blueleaf reasonably requires (taking into account the nature of processing and the information available to the Supplier) to ensure compliance with Blueleaf's obligations under Data Protection Laws.
- 16.5 The Supplier shall (at no cost to Blueleaf) record and refer all requests and communications received from Data Subjects or any Supervisory Authority to Blueleaf which relate to any Protected Data promptly (and in any event within 3 days of receipt) and shall not respond to any without Blueleaf's express written approval and strictly in accordance with Blueleaf's instructions unless and to the extent required by law.
- 16.6 The Supplier shall not process and/or transfer, or otherwise directly or indirectly disclose, any Protected Data in or to countries outside the United Kingdom without the prior written consent of Blueleaf.
- 16.7 The Supplier shall (and shall ensure all Sub-Processors shall) promptly make available to Blueleaf (at the Supplier's cost) such information as is reasonably required to demonstrate the Supplier's and Blueleaf's compliance with their respective obligations under this clause 16 and the Data Protection Laws, and permit audits by Blueleaf for this purpose.
- 16.8 The Supplier shall promptly (and in any event within 24 hours):
  - 16.8.1 notify Blueleaf if it (or any of its Sub-Processors or the Supplier Personnel) suspects or becomes aware of any suspected, actual or threatened occurrence of any Personal Data Breach in respect of any Protected Data; and
  - 16.8.2 provide all information as Blueleaf requires to report the circumstances referred to in clause 16.8.1 to a Supervisory Authority and to notify affected Data Subjects under Data Protection Laws.
- 16.9 The Supplier shall (and shall ensure that each of the Sub-Processors and Supplier Personnel shall) without delay (and in any event within 3 days), at Blueleaf's written request, either securely delete or securely return all the Protected Data to Blueleaf in such form as Blueleaf reasonably requests.
- 16.10 This clause 16 shall survive termination or expiry of this Contract for any reason.

## **17 Termination**

- 17.1 Blueleaf may terminate the Contract at any time by giving notice in writing to the Supplier if:
- 17.1.1 the Supplier commits a material breach of the Contract and such breach is not remediable or, if remediable, which is not remedied within 14 days of receiving written notice of such breach;
  - 17.1.2 any accreditation or other authorisation held by the Supplier is not renewed, is revoked or modified such that the Supplier is no longer able to comply with its obligations under the Contract; or
  - 17.1.3 it does not accept any increase to the Price proposed by the Supplier pursuant to clause 3.2.
- 17.2 Blueleaf may terminate the Contract at any time by giving notice in writing to the Supplier if the Supplier:
- 17.2.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
  - 17.2.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if Blueleaf reasonably believes that to be the case;
  - 17.2.3 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
  - 17.2.4 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
  - 17.2.5 has a resolution passed for its winding up;
  - 17.2.6 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
  - 17.2.7 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within [seven] days of that procedure being commenced;
  - 17.2.8 has a freezing order made against it;
  - 17.2.9 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title in those items; or
  - 17.2.10 is subject to any events or circumstances analogous to those in clauses 17.2.1 to 17.2.9 in any jurisdiction;
- 17.3 Blueleaf may terminate the Contract at any time by giving not less than four weeks' notice in writing to the Supplier if the Supplier undergoes a change of Control.
- 17.4 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Buyer at any time up to the date of termination.

## **18 Dispute resolution**

- 18.1 Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 18.
- 18.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.
- 18.3 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:
- 18.3.1 Within 7 days of service of the notice, the procurement managers of the parties shall meet to discuss the dispute and attempt to resolve it.
- 18.3.2 If the dispute has not been resolved within 7 days of the first meeting of the procurement managers, then the matter shall be referred to the chief executives (or persons of equivalent seniority). The chief executives shall meet within 7 days to discuss the dispute and attempt to resolve it.
- 18.4 If the dispute has not been resolved within 14 days of the first meeting of the chief executives then the matter may be referred to mediation in accordance with the London Court of International Arbitration Mediation Rules.

## **19 Notices**

- 19.1 Any notice given by a party under these Conditions shall:
- 19.1.1 be in writing and in English;
- 19.1.2 be signed by, or on behalf of, the party giving it (except for notices sent by email); and
- 19.1.3 be sent to the relevant party at the address set out in the Contract
- 19.2 Notices may be given, and are deemed received:
- 19.2.1 by hand: on receipt of a signature at the time of delivery;
- 19.2.2 by Royal Mail Recorded Signed For post: at 9.00 am on the second Business Day after posting; and
- 19.2.3 by email provided confirmation is sent by first class post on receipt of a delivery or read receipt email from the correct address.

## **20 Cumulative remedies**

The rights and remedies provided in the Contract for Blueleaf only are cumulative and not exclusive of any rights and remedies provided by law.

## **21 Entire agreement**

- 21.1 The parties agree that the Contract and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.



21.2 Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

21.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.

## **22 Assignment**

22.1 The Supplier may not assign or encumber any right or obligation under the Contract, in whole or in part, without Blueleaf's prior written consent.

22.2 Notwithstanding clause 22.1, the Supplier may perform any of its obligations and exercise any of its rights granted under the Contract through any Affiliate provided that it gives Blueleaf prior written notice of such subcontracting or assignment including the identity of the relevant Affiliate. The Supplier acknowledges and agrees that any act or omission of its Affiliate in relation to the Supplier's rights or obligations under the Contract shall be deemed to be an act or omission of the Supplier itself.

## **23 Set off**

Blueleaf shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Supplier under the Contract.

## **24 No partnership or agency**

The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

## **25 Severance**

If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

## **26 Waiver**

No failure, delay or omission by Blueleaf in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

## **27 Conflicts within contract**

If there is a conflict between the terms contained in the Conditions and the terms of the Order or of the Commercial Terms, the terms of the Commercial Terms or the Order shall prevail over the Conditions.

## **28 Third party rights**

- 28.1 Except as expressly provided for in clause 28.2 a person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.
- 28.2 Any Affiliate of Blueleaf shall be entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

## **29 Governing law**

The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

## **30 Jurisdiction**

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).

## **31 Definitions and interpretation**

- 31.1 In these Conditions:

Affiliate	means any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;
Bribery Laws	means the Bribery Act 2010 and all other applicable UK legislation, statutory instruments and regulations in relation to bribery or corruption;
Commercial Terms	an agreement which may be entered into between Blueleaf and the Supplier, which sets out additional terms and which incorporates these Conditions;
Conditions	means Blueleaf's terms and conditions of purchase set out in this document;
Confidential Information	means any commercial, financial or technical information, information relating to the Services, plans, know-how or trade secrets which is obviously confidential or has been identified as such, or which is developed by Blueleaf;
Contract	means the agreement between the Supplier and Blueleaf for the sale and purchase of the Services incorporating these Conditions, the Order and any Commercial Terms;
Controller	shall have the meaning given to it in the GDPR;

Data Protection Laws	shall have the meaning given in applicable Data Protection Laws from time to time;
Data Subject	means the Goods or Services or both as the case may be;
GDPR	means the General Data Protection Regulation EU 2016/679;
Good Industry Practice	means the exercise of that degree of professionalism, skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or company engaged in the same type of activity under the same or similar circumstances;
Intellectual Property Rights	means trade marks, trade names, copyright, patents, know-how, trade secrets, design rights, domain names, rights in confidential information, rights to sue for passing off, and all similar rights, whether registered or not, including any applications to protect or register such rights to which the relevant party is or may be entitled, and in whichever part of the world existing;
Location	means the address(es) for delivery of the Goods and performance of the Services as set out in the Order;
KPIs	any key performance indicators agreed between Blueleaf and the Supplier from time to time;
Modern Slavery Policy	means Blueleaf's anti-slavery and human trafficking policy in force and notified to the Supplier from time to time;
Order	means Blueleaf's order for the Services as set out in Blueleaf's order form;
Personal Data	shall have the meaning given in the applicable Data Protection Laws from time to time;
Personal Data Breach	shall have the meaning given in the applicable Data Protection Laws from time to time;
Price	has the meaning given in clause 3.1;
processing	has the meaning given in applicable Data Protection Laws from time to time (and related expressions, including process, processing, processed, and processes shall be construed accordingly);

Processor	shall have the meaning given in applicable Data Protection Laws from time to time;
Protected Data	means Personal Data received from or on behalf of Blueleaf, or otherwise obtained in connection with the performance of the Supplier's obligations under this Contract;
Services	means the services set out in the Order and to be supplied by the Supplier to Blueleaf;
Specification	means the description or specification of the Services set out or referred to in the Order; and
Sub-Processor	means any agent, subcontractor or other third party engaged by the Supplier (or by any other Sub-Processor) for carrying out any processing activities in respect of the Protected Data;
Supplier	means the person who sells the Services to Blueleaf and whose details are set out in the Order;
Supplier Personnel	means all employees, officers, staff, other workers, agents and consultants of the Supplier, its Affiliates and any of their sub-contractors who are engaged in the performance of the Services from time to time; and
VAT	means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Services.

31.2 In these Conditions, unless the context otherwise requires:

- 31.2.1 any clause, schedule or other headings in these Conditions are included for convenience only and shall have no effect on the interpretation of these Conditions;
- 31.2.2 a reference to a 'party' means either the Supplier or Blueleaf and includes that party's personal representatives, successors and permitted assigns;
- 31.2.3 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 31.2.4 words in the singular include the plural and vice versa; and
- 31.2.5 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form.