



Q3 – Purchase Terms and Conditions

These terms apply to Q3 Facilities Holdings Limited and all of its subsidiaries.

1. Definitions and interpretation

1.1 In these conditions, the following definitions shall apply:

Agreement: means the Framework Agreement which shall consist of;

- a. the Contract Form and its Appendices;
- b. any Purchase Order;
- c. these Conditions.

Business Day: means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

Change of Control: has the meaning given to it in section 1124 of the Corporation Tax Act 2010;

Conditions: these purchase terms and conditions, as amended from time to time;

Contract Form: means the contract form as executed by Q3 and the Contractor;

Contractor: means the Contractor as defined in the Contract form;

Deliverables: means all documents, products and materials developed by the Contractor and/or its agents, contractors, suppliers, sub-contractors and/or employees as part of or in relation to the Goods and Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);

Direct Losses: means all damages, losses, indebtedness, claims, actions, expenses, costs (including, without limitation, any reasonable and properly incurred legal or professional services costs), proceedings, demands and charges whether arising under statute, contract or at common law, excluding any Indirect Losses;

Effective Date: has the meaning given to it in the or, if no such term is defined in the Purchase Order, the date of the Purchase Order;

Goods: means the goods (or any part of them), including without limitation any Deliverables, to be provided by the Contractor as set out in the Order;

Goods Specification: means any specification for the Goods, including any related plans and drawings, that is agreed in writing by Q3 and the Contractor;

Group Company: means and includes each and any subsidiary or holding company of Q3 and each and any subsidiary of a holding company of Q3, and any reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006;



Indirect Losses: means loss of profits and/or revenue, loss of production, loss of business, loss of business opportunity, any special loss or any claim for consequential loss or for indirect loss of any nature;

Intellectual Property Rights: means any patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including, without limitation, know-how), 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;

Key Personnel: means the individuals appointed or employed by the Contractor from time to time as listed or referenced in the Contract Form;

Order: means a Contract Form and/ or Purchase Order for the supply of Goods and/ or Services;

Policies: means the Q3 standard policies and procedures as may be amended from time to time, a copy of which has been provided to the Contractor;

Price: has the meaning given to it in Clause 8.1;

Purchase Order: means a purchase order issued by Q3 to the Contractor;

Q3: means Q3 Facilities Holdings Limited (Company Registration Number 11114105) and all of its subsidiaries;

Replacement Services: means any goods or services ordered by Q3 from a third-party contractor in substitution for any of the Goods and Services which the Contractor has failed to provide in accordance with the terms of the Agreement;

Services: means the services (or any part of them), including without limitation any Deliverables, to be provided by the Contractor as set out in the Order; and

Term: means the term of the Agreement as set out in the Order;

1.1 A reference to a statute, statutory provision or statutory instrument is a reference to it as amended, extended or re-enacted from time to time and to any regulations made under it.

1.2 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.3 A reference to writing include email.

2. Introduction and scope

2.1 The Order constitutes an offer by Q3 to purchase Goods and/or Services in accordance with these Conditions. The Contractor agrees to provide the Goods and/or Services in accordance with these Conditions.



2.2 These Conditions will apply to the exclusion of any other terms or conditions contained in any other document and/or other communication or which are implied by trade, custom, practice or course of dealing used by the Contractor. The provision of any order confirmation and/or acknowledgement and/or the provision of the Goods and/or Services shall constitute acceptance of the terms and conditions of the Agreement.

2.3 The benefit (subject to the burden) of an Order may be taken by any Group Company and these terms and conditions may be enforced by any of them, in each case either as principal or as the duly authorised agent for any of the other Group Companies. This is done to assist the effective processing and administration of each Order and does not in any way affect the Contractor's rights.

2.4 These Conditions shall apply to the supply of both Goods and Services in so far as they are applicable to the provision of such Goods and Services.

2.5 If any conflict exists between the Conditions and the Order, the Order shall prevail.

3. Supply of Services

3.1 The Services shall be provided in the quantities, by the times and at the locations set out in the Order unless otherwise agreed with Q3 in writing and Q3 shall not be obliged to accept any incomplete delivery or any Services in excess of the amounts ordered.

3.2 The Contractor shall be the non-exclusive supplier of the Services to Q3 for the Term. The Contractor acknowledges that Q3 makes no guarantee or representation as to any minimum value or volume of the Services required during the Term.

3.3 Unless specifically provided for in the Order, the Contractor shall ensure that the Services are fully compatible with Q3's equipment and/or property.

3.4 The Contractor acknowledges that Q3 relies on the skill and judgment of the Contractor in the supply of the Services and the performance of its obligations.

3.5 The Contractor shall be deemed to have satisfied itself as regards the nature and extent of the Services, including but not limited to the time necessary to complete the Goods and Services, access to the location(s) where the Services are to be provided or performed, and the personnel and equipment necessary to provide or perform the Services.

3.6 The Contractor shall at all times in its performance of the Services, act in accordance with any relevant specification, law or regulatory requirement (including anti-bribery and anti-slavery laws and regulations) and shall supply, where relevant and appropriate, a certificate confirming conformance with all appropriate regulatory approvals and health and safety requirements.

3.7 The Contractor shall at all times in its performance of the Services have regard to the good reputation of Q3 and in performing the Services shall not damage Q3's reputation, goodwill and/or custom.

3.8 In providing the Services, the Contractor shall:

a. co-operate with Q3 in all matters relating to the Services, and comply with all instructions of Q3;



- b. perform the Services with the best care, skill and diligence in accordance with best practice in the Contractor's industry, profession or trade;
- c. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Contractor's obligations are fulfilled in accordance with the Agreement;
- d. ensure that the Services and/or Deliverables will conform with all descriptions and specifications set out in the Order, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Contractor by Q3;
- e. provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- f. use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to Q3, will be free from defects in workmanship, installation and design;
- g. obtain and at all times maintain all necessary licences, consents, permissions, authorisation consents and permits; and
- h. observe all health and safety rules and regulations and any other security requirements that apply at any of Q3's premises.

3.9 Where the Order specifies the time of performance or delivery of the Goods and Services, time for such performance or delivery shall be of the essence.

3.10 The Contractor shall notify Q3 if any delivery or performance is likely to be delayed beyond the date specified in the Order or, if no such date is specified in the Order, beyond the date which had been agreed between Q3 and the Contractor.

3.11 Failure by the Contractor to promptly notify Q3 of any likely delay shall entitle Q3 to terminate without liability all or any part of the Order. Q3 shall also be entitled to compensation for any Direct Losses resulting from such failure and/or delay. In all other circumstances, if any delay which is promptly notified to Q3 does or is likely to exceed ten (10) days, Q3 shall be entitled to terminate without liability on its part all or any part of the Order and/or to compensation for any resulting Direct Losses.

3.12 In addition to any other right Q3 may have, Q3 shall be entitled to postpone the date of delivery or performance for whatever period it thinks fit upon giving notice in writing to the Contractor. The Contractor shall not make any additional charges for providing or performing the Services where Q3 exercises this right, unless the Contractor can demonstrate to the reasonable satisfaction of Q3, that such additional charges are unavoidable due to the proposed postponement. In such circumstances Q3 shall be entitled to terminate the Agreement immediately without any liability whatsoever if it determines (at its sole discretion) that the increase in charges is not reasonable.

3.13 If the Services are delivered or performed in instalments, Q3 may treat the Agreement either as a single contract and not severable, or it may elect to terminate the whole of any unfulfilled part of the Agreement without any further liability to the Contractor.



3.14 The Contractor shall liaise with Q3 (and any third parties designated by Q3) regularly and at such intervals as Q3 may request in connection with the Services. The Contractor shall provide Q3's nominated representative(s) with access to observe performance of the Services at all key stages in their development.

3.15 If an inspection by Q3 at any time after delivery by the Contractor establishes that all or any part of the Services supplied does not comply with all the requirements of the Agreement, Q3 may (without limitation) reject the Services supplied, and require rectification, or re-performance of the Services and in each case recover its losses, costs and expenses from the Contractor.

3.16 Where the Contractor attends site to carry out the Services and is unable to gain access to the service area or to successfully complete the Services due to access restrictions or the acts and/or omissions of authorised representatives of Q3 on site (a "Wasted Journey"), the Contractor undertakes and agrees to use its best endeavours to take all steps to contact an authorised representative of Q3 on site to gain access and/or resolve any on-site restrictions.

3.17 In the event of a Wasted Journey where the Contractor has been unable to successfully provide the Services, the Contractor shall only invoice Q3 for its reasonable charges incurred, which shall not exceed the Contractor's transport only charge.

3.18 The Contractor is not entitled to charge any Wasted Journey charge where the Contractor has attempted to attend a site outside of the service times agreed by Q3 in writing or where the Contractor is unable to demonstrate compliance with Clause 3.16. Where service times have not been specified by Q3, the agreed service times shall be deemed to be 0900 to 1700 hours Monday to Friday (excluding public holidays).

3.19 The Contractor shall give Q3 not less than 30 days' written notice where it proposes to alter the scheduled service times agreed by Q3 or, where service times have not been specified, outside of the standard service times set out in Clause 3.18 above. Where the Contractor's revised service times will no longer satisfy the requirements of Q3, Q3 reserves the right to terminate the Agreement in accordance with Clause 19.1.

3.20 Q3 shall be entitled to deduct from the Price or reclaim from the Contractor any reasonable costs associated with the procurement of any Replacement Services or any costs associated with the Services which the Contractor has failed to provide in accordance with the terms of the Agreement. These costs will include, without limitation, any premium paid and/or transportation or delivery charges required to achieve the timeframe originally specified for the provision of the Services in the Agreement.

4. Provision of the Goods

4.1 The Contractor shall ensure that the Goods shall:

- a. correspond with their description and any applicable Goods Specification;
- b. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Contractor or made known to the Contractor by Q3, expressly or by implication, and in this respect Q3 relies on the Contractor's skill and judgment;
- c. where applicable, be free from defects in design, materials and workmanship and remain so for twelve (12) months after delivery; and



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

4.2 Unless otherwise stated in the Order, where the Goods are to be delivered by the Contractor, the point of delivery shall be when the Goods are removed from the Contractor's transporting vehicle:

- a. on the date specified in the Order or, if no such date is specified, on the date agreed between Q3 and the Contractor;
- b. during Q3's normal hours of business on a Business Day, or as otherwise instructed in writing by Q3;
- c. at the location specified in the Order or such other location as instructed in writing by Q3 before delivery, and the Contractor shall offload the Goods as directed by Q3.

4.3 Where the Goods are to be collected by Q3, the point of delivery shall be when the Goods are loaded onto Q3's transporting vehicle.

4.4 Delivery will be deemed to be incomplete if the Contractor fails to provide Q3 with all the documentation or training necessary for the safe and proper operation or intended use of the Goods and Q3 shall have the right to inspect and test the Goods at any time before delivery.

4.5 The issue by Q3 of a receipt for the Goods shall not constitute any acknowledgment of the condition, quantity or nature of the Goods.

4.6 The Contractor must ensure all Goods are suitably packaged, marked in a proper manner and in accordance with any Q3 instructions, statutory requirements and any requirements of the carriers. Q3 shall not be obliged to return any packaging materials for any Goods whether or not they are accepted by Q3.

4.7 If the Goods require the carrying out of tests, installation or training, delivery shall not be deemed to be complete until such tests have been passed, all Goods installed, or training delivered to Q3's unconditional satisfaction and the Contractor shall provide Q3 on request with copies of all test reports and all data discovered as a result of testing.

4.8 If Q3 installs any Goods supplied to it, the Contractor shall supply in advance of delivery a functional description of each part of the Goods, together with sufficient drawings and instructions to allow Q3 to install, operate and maintain the Goods including details of any special environmental controls required to ensure that the Goods and Services meet any relevant specification.

5. Hazardous goods

5.1 If any Goods or Services to be provided or performed under the Agreement involve the use of any hazardous substances or requires any special precautions to be taken to ensure safety in handling, transport, storage or use, the Contractor shall prior to delivery furnish Q3 with written details of the nature of those substances and the precautions to be taken and shall ensure that before despatch appropriate instructions and warnings are clearly and prominently marked or securely attached to any containers into which they are packed.

5.2 In particular (but without limitation) the Contractor shall provide to Q3 in writing all such data, instructions and warnings as are required to comply with applicable legislation, including without limitation, relating to



health and safety and shall indemnify Q3 against any and all liabilities, claims and expenses which may arise as a result of the Contractor's failure to do so.

6. Remedies

6.1 If the Contractor fails to complete the delivery or performance of any Services or Goods in accordance with the Agreement, for any reason other than Force Majeure, Q3 shall be entitled to:

- a. reject the Goods and/or Services (in whole or in part) whether or not title has passed and to return them to the Contractor at the Contractor's own risk and expense;
- b. require the Contractor to remedy such defect at its own cost within seven (7) days including without limitation to repair or replace any rejected Goods and/or Services (in which case the Contractor shall also be liable to Q3 for any costs arising out of any damage caused by the Contractor in remedying such defects and shall also provide free of charge any additional Goods and/or Services necessary to remedy the Goods and/or Services);
- c. recover from the Contractor any costs incurred by Q3 in having such defects remedied;
- d. cancel any Goods and/or Services which have not been delivered or provided by the date required and require a full refund of any part of the Price which has been paid; and/or
- e. charge to the Contractor any additional costs, losses or expenses which Q3 may incur due to the Contractor's failure to deliver or perform the correct Goods and/or Services in accordance with the Agreement, including, but not limited to, any additional costs incurred by Q3 in obtaining any Replacement Services from a third party and any payments contractually due to third parties as a result of the Goods and/or Services not being so provided by the specified delivery date.

6.2 Clause 6.1 shall extend to any substituted or remedial services and/or repaired or replacement Goods and Services supplied by the Contractor.

6.3 Q3's rights under the Agreement are in addition to its rights and remedies implied by statute and common law.

7. Ownership and risk

7.1 Subject to Clauses 7.2, 7.3 and 7.4, the risk and title in any Goods shall pass to Q3 when delivered and the time of delivery shall be determined in accordance with Clause 4.

7.2 Risk of loss or damage to, and title in any Goods rejected by Q3 in accordance with the Agreement shall revert to the Contractor upon notification of that rejection by Q3.

7.3 Any equipment and materials provided by the Contractor for the provision of the Services shall remain the property of the Contractor. Q3 will take all reasonable care of such equipment but no liability is accepted for any loss or damage, including ordinary wear and tear which is not proven to have directly been caused by the negligence or default of Q3.

7.4 The Contractor is expected to provide a replacement if the equipment or materials no longer meet any relevant standard that is reasonably expected by Q3.

8. Price and payment

8.1 The price for the Goods and Services shall be as set out, described and/or calculated in or pursuant to the Order and will be fixed unless the Order provides otherwise (the “Price”). The Price shall be exclusive of VAT but inclusive of all other taxes, charges and expenses including packaging, shipping, carriage, insurance, testing and delivery of any Goods to the delivery address and any duties, imposts or levies.

8.2 The Price for any Goods and Services shall be the full and exclusive remuneration of the Contractor in respect of the Goods and Services and unless otherwise agreed in writing by Q3, the Price shall include all costs and expenses of the Contractor directly or indirectly incurred in connection with the performance of the Goods and Services.

8.3 No increase to the Price may be made without the prior written consent of Q3. Q3 shall be entitled to any discount of prompt payment, bulk purchase or volume of purchase customarily granted by the Contractor, whether or not shown on its own terms and conditions of sale.

8.4 Unless specified otherwise in the Order, the Contractor shall invoice Q3 at any time after the later of the due date for completion and/or delivery of the Order and the actual date of such completion and/or delivery. The invoice shall state clearly that it is an invoice and include the contract reference number, the full name of the Q3 contracting legal entity, the period to which the Price relates, the date, the contact name at Q3, a description of the Goods and Services to which the invoice relates, a valid Q3 purchase order number, the Contractor’s name and registered company VAT number and such other information as Q3 may reasonably require. Any incomplete invoice will be invalid. For the avoidance of doubt, Q3 shall not be bound by price other than as set out, described and/or calculated in or pursuant to the Order. The Contractor shall not be entitled to claim any adjustment to the Price arising from any error generated by Q3 in a Purchase Order.

8.5 Q3 shall pay all undisputed invoiced amounts within thirty (30) days from the end of the month of receipt of the date of a correctly rendered and valid invoice to a bank account nominated in writing by the Contractor other than in the specific circumstances where the flow down provisions of the Public Contracts Regulations 2015 apply.

8.6 Q3 shall not be obliged to pay and/or consider any invoice that:

- a. does not comply with Clause 8.4 of these Conditions;
- b. exceeds a valid Order; and/or
- c. is received more than ninety (90) days after the Goods have been delivered and/or Services completed.

8.7 All invoices must be sent by email or post to the address stipulated by Q3.

8.8 If Q3 disputes any invoice (or part thereof) in good faith then Q3 shall notify the Contractor in writing of such dispute (but no later than 7 days prior to the payment due date) and Q3 may withhold payment of such disputed invoices pending resolution of such dispute in accordance with the terms hereof. The parties agree that this payment mechanism constitutes an adequate mechanism that replaces the regime set out in the Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy Economic Development and Construction Act 2009 and Scheme for Construction Contracts, insofar as this legislation applies to the Services being delivered by the Contractor.



8.9 If Q3 has agreed to reimburse the Contractor for expenses incurred in the performance of the Services then the Contractor shall provide receipts or such other evidence as Q3 may require to support any claim for such expenses.

8.10 Without prejudice to any other right or remedy Q3 may have, Q3 reserves the right to set off any liability of Q3 and/or a Group Company to the Contractor, whether either liability is present or future, liquidated or unliquidated arising under the Agreement or any other agreement which may exist from time to time between them, against any liability of the Contractor to Q3 under the Agreement. All amounts due under the Agreement or against Q3 under any other agreement shall be paid by the Contractor to Q3 in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

8.11 Q3 shall deduct the cost of any Goods which are returned by Q3 or any Services rejected by Q3 from the next payment due to the Contractor. Where the return of any Goods or the rejection of any Services puts the Contractor into a debt position and Q3 is unable to deduct the balance from a payment due, Q3 will issue a debit note and shall require settlement of the debit note by the Contractor within fourteen (14) days of the date of the debit note.

8.12 The Contractor shall not suspend the supply of the Services unless the Contractor is entitled to terminate the Agreement for failure to pay undisputed sums of money.

8.13 Interest shall be payable on any amount due and payable under the Agreement (including, without limitation, any rebate) which is not paid by the due date for its payment. Such interest shall accrue on the overdue amount at the rate of 5% per annum above the Bank of England's base rate from time to time and shall be calculated on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. This Clause 8.13 shall not apply to payments that the defaulting party disputes in good faith.

Records

8.14 The Contractor shall keep and maintain complete, accurate and up to date records relating to the supply and performance of the Goods and Services and the operation of the Agreement, including without limitation, records of:

- a. the Goods and Services provided and the supply and/or status of such Goods and Services;
- b. any expenditure charged, paid and/or reimbursed;
- c. any rebates, discounts or beneficial payment terms in place with the Contractor's sub-contractors and/or suppliers (if any) which relate to the Goods and Services and/or the Agreement;
- d. compliance with the Policies; and
- e. any files, documents, correspondence, agreements, specifications, accounts, accounting records (including without limitation, all invoices, purchase orders, rebates, receipts for all charges and expenses) relating to the Goods and Services and/or the Agreement,

and shall ensure that its sub-contractors and/or suppliers (if any) retain the same such records relating to the Goods and Services and/or the Agreement.



8.15 The records referred to in Clause 8.14 shall be:

- a. retained by the Contractor and/or its sub-contractors and/or suppliers (if any) throughout the duration of the Agreement and for at least six (6) years following the termination of the Agreement;
- b. adequately protected against loss, corruption and/or damage by the Contractor and/or its sub-contractors and/or suppliers (if any); and
- c. made available to Q3 and/or Q3's employer(s) (if any) on twenty-four (24) hours' written notice.

8.16 The Contractor shall permit Q3, its employer(s), its employees, nominated representatives, advisers and independent auditor to examine on twenty-four (24) hours' written notice and within normal working hours such records as are to be kept by the Contractor and/or its sub-contractors and/or suppliers (if any) under Clause 8.14 (including access to and inspection of electronically stored information relating to the Goods and Services and/or the Agreement) and any other documents in the possession of the Contractor and/or its sub-contractors and/or suppliers (if any) relating to the Agreement. Such examination shall be permitted at the offices of the Contractor or at such other places where the records may be kept. If a physical examination takes place the Contractor shall make available to Q3 an office suitable for at least three representatives of Q3 with adequate facilities, including, desks, chairs, personal computer and access to photocopiers and printers. The Contractor and/or its sub-contractors and/or suppliers (if any) shall permit Q3, its employer(s), employees, nominated representatives, advisers and independent auditors to take copies of such records and shall promptly provide proper explanations to any questions raised relating to the contents of these records. The Contractor and/or its sub-contractors and/or suppliers (if any) shall afford Q3 such assistance as it shall reasonably require in order to understand the records.

8.17 The Contractor shall indemnify Q3 on a continuing basis against any liability, including, without limitation, interest, penalties, expenses or costs incurred, which is levied, demanded or assessed on Q3 at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under the Agreement. Any amounts due under this Clause 8.17 shall be paid by the Contractor to Q3 not less than five (5) days before the date upon which the tax or other liability is payable by Q3.

9 Variations

9.1 The Contractor shall accept any reasonable variation to the specification for the Goods and Services requested by Q3. The price shall be adjusted and agreed in writing by Q3 to reflect the variation having regard to the rates and prices used in the Order or, where these are not relevant, to what is fair and reasonable.

9.2 Neither party shall be bound by any variation to the Order unless and until it is confirmed in a variation to the Order signed by an authorised representative of each party.

10. Intellectual property

10.1 In respect of the Goods and Services and any goods that are transferred to Q3 as part of the Services provided under the Agreement, including without limitation the Deliverables or any part of them, the Contractor warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to Q3, it will have full and unrestricted rights to sell and transfer all such items to Q3.

10.2 The Contractor hereby assigns absolutely by way of present and (to the extent permissible by law) future assignment with full title guarantee and free from all third party rights and at no cost to Q3, all Intellectual



Property Rights which are created by the Contractor or on the Contractor's behalf throughout the term of the Agreement, in connection with the provision of the Goods and Services, including without limitation the Deliverables.

10.3 The Contractor shall, and shall procure that the Contractor's employees, consultants, agents, suppliers and/or sub-contractors shall do all such further acts and things and execute any such documents as Q3 may require in order to secure the full benefit of the Agreement, including all rights, title and interest in and to the Intellectual Property Rights assigned to Q3 in accordance with this Clause 10.

10.4 The Contractor shall not use or permit the use of any of the intellectual property belonging to Q3 (or Q3's licensors), including without limitation logos or other Intellectual Property Rights without the prior written agreement of Q3.

10.5 The Contractor will indemnify and hold Q3 harmless against any damages (including costs) that may be awarded or agreed to be paid in respect of any claim or action that any Goods and Services supplied by the Contractor infringes any intellectual property right of any third parties.

11. Compliance

11.1 If the Contractor is not the manufacturer of the Goods and if required by Q3 the Contractor shall assign the benefit of any warranty or guarantee given by the manufacturer or the Contractor's supplier relating to the Goods.

11.2 Where any Goods supplied under the Agreement are the subject of a guarantee and if within the relevant guarantee period Q3 gives notice in writing to the Contractor of any defect in the design, materials or workmanship of the Goods (other than a design made, furnished or specified by Q3 for which the Contractor has in writing disclaimed responsibility), the Contractor shall, as soon as possible, replace or repair (at Q3's sole option, acting reasonably) the relevant Goods so as to remedy the defects without cost to Q3, provided that Q3 shall, where practicable, within a reasonable period of time of discovery of any defect, return the defective Goods or parts of them to the Contractor at the Contractor's risk and expense unless it has been agreed between the parties that the necessary replacement or repair shall be carried out by the Contractor on Q3's premises.

11.3 The liabilities of the Contractor under this Clause 11 shall be in addition and without prejudice to any other rights or remedies of Q3 (whether arising in contract, tort, at common law, under statute or otherwise).

12. Further obligations

12.1 For the avoidance of doubt, the Contractor and its employees, agents, suppliers and sub-contractors are deemed to have accessed, read and complied with all Policies on a continuing basis throughout the term of the Agreement unless it has notified Q3 in writing that it is unable to do so before the commencement of the Agreement.

12.2 The Contractor shall ensure that any person associated with the Contractor who is performing services or providing goods in connection with the Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Contractor in this Clause 12 (the "Relevant Terms"). The Contractor shall be responsible for the observance and performance by such



persons of the Relevant Terms, and shall be directly liable to Q3 for any breach by such persons of any of the Relevant Terms.

12.3 Breach of this Clause 12 shall be deemed a material breach under Clause 19 and Q3 may terminate all or any part of the Agreement without any liability by notice to the Contractor.

13. Personnel

13.1 Q3 reserves the right to refuse access to any premises controlled by Q3 to any person employed by the Contractor or any sub-contractor whose admission would in the opinion of Q3 be undesirable.

13.2 If and when directed by Q3 the Contractor shall provide lists of the names and addresses of all persons who may at any time require permission to access any premises controlled by Q3 in connection with the performance of the Agreement. The Contractor shall also specify the capacities in which such employees are concerned with the Agreement and provide such other particulars as Q3 may reasonably require.

13.3 The decision of Q3 on whether any person is to be refused admission to any premises under its control and on whether the Contractor has complied with the obligations set out in Clause 13.2 shall be final and conclusive.

13.4 The Contractor shall be responsible for any income tax, national insurance contributions or other statutory payments in relation to any and all individuals employed or engaged in the provision of the Services from time to time (the "Employees") and will ensure that they are deducted and/or paid to the relevant authorities. The Contractor shall indemnify Q3 against all demands, claims, actions, proceedings, damages, payments, losses, costs, expenses or other liabilities (together "Losses") arising out of any claim or assertion that any Employee is or was an employee, servant or worker of Q3 by reason of being engaged in the Services or arising out of any act or omission of the Contractor or any of the Contractor's sub-contractors, employees or agents in relation to any Employee.

13.5 At any time during the continuance of the Agreement Q3 may require the Contractor to provide to Q3 (or any other person nominated by Q3) within fourteen (14) days, such information as Q3 or Q3's nominee may reasonably require in connection with the employment or engagement of the Employees. This Clause 13.5 is without prejudice to Clause 13.6 below.

13.6 The Contractor will procure that there will be no transfer of employment of any of the Employees to Q3 or any person who provides services to Q3 (a "Future Service Provider") following the termination of the Agreement or the termination of the provision of any of the Goods and/or Services by the Contractor (directly or indirectly) and on or prior to any such termination the Contractor shall ensure that all Employees are redeployed elsewhere in the Contractor's or the Contractor's sub-contractors' business or are dismissed at the Contractor's expense.

13.7 The Contractor shall indemnify Q3 (for Q3's benefit and that of any Future Service Provider) and hold Q3 harmless against all Losses incurred by Q3 and/or any Future Service Provider by virtue of the operation or alleged operation of the Transfer of Undertakings (Protection of Employment) Regulations 2006 in connection with the termination of the Agreement or termination of the provision of any of the Goods and Services (including any dismissal or alleged dismissal of any Employee by Q3 or a Future Service Provider).



13.8 The Contractor acknowledges that the Key Personnel of the Contractor listed or referred to in the Order are essential to the proper provision of the Goods and Services to Q3. The Key Personnel shall not be released from supplying the Goods and Services without Q3's prior written agreement, except where this is unavoidable because of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.

13.9 Any replacements to the Key Personnel shall be subject to Q3's prior written agreement. Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Goods and Services.

14. Q3 property

14.1 Any property which is issued by or on behalf of Q3 to the Contractor in connection with the Order shall remain the property of Q3 and shall be used solely in connection with the Order and not for any other purpose without the prior written agreement of Q3.

14.2 All Q3 property shall be deemed to be in good condition when received by or on behalf of the Contractor unless it notifies Q3 to the contrary within five (5) days of the date it receives such property. The Contractor shall return such property promptly to Q3 on the earlier of the completion of the Services or the termination of the Agreement and it shall be responsible for all loss or damage caused to such property from whatsoever cause.

14.3 The Contractor may be permitted to use accommodation provided by Q3. Such accommodation shall be used purely for the purposes of providing the Services. Any such accommodation shall be kept clean and not damaged in any way. The Contractor shall also pay for any services made available to the accommodation and used by the Contractor, including but not limited to electricity, gas, water and telephone lines. The Contractor shall immediately vacate the accommodation when instructed to do so by Q3. The accommodation shall be left in a clean and tidy condition and in a state of repair equivalent to that it was in when the Contractor was initially given access and any costs incurred by Q3 in repairing the same shall be recoverable from the Contractor as a debt.

15. Indemnity

15.1 The Contractor shall indemnify Q3 fully from and against all losses, claims, proceedings, demands, charges, actions, damages, costs, expenses and any other liabilities whatsoever suffered or incurred by Q3 and/or any Group Company (including any professional or legal expenses incurred) that may arise out of, or in connection with:

- a. the performance or non-performance by the Contractor of its obligations under the Agreement or the presence of any Contractor or any staff on Q3's premises;
- b. any act or omission or negligence of the Contractor (including the Contractor's employees, consultants, agents, suppliers and sub-contractors) in supplying, installing, testing, commissioning or performing the Goods or Services;
- c. any liability Q3 might incur under the Consumer Protection Act 1987 or General Product Safety Regulations 2005 in respect of the Goods or any other items in which the Goods are incorporated; and

d. any liability to any third party arising in connection with the Goods or Services which Q3 may incur whether by court proceedings or by a bona fide out-of-court settlement.

15.2 The Contractor shall not be liable to Q3 for any damage or injury to the extent that the same is caused by or arises out of Q3's negligent acts or omissions.

15.3 The Contractor shall be liable for additional operational, administrative costs and/or expenses or wasted expenditure resulting from the direct breach of the Agreement by the Contractor.

16. Insurance

16.1 The Contractor shall effect and maintain with a reputable insurance company of good repute the following policies of insurance providing cover consistent at least with the best industry practice of suppliers of Goods and Services of the type to be supplied by the Contractor to Q3, in amounts of not less than those stated below for any claim or series of related claims, for the period over which the Agreement is to be performed and for a minimum of six (6) years following expiration or earlier termination of the Agreement. The policies shall contain an indemnity to principle clause:

- a. Employers liability insurance of not less than £10 million or the minimum level required by law;
- b. Public liability insurance of not less than £5 million;
- c. Product liability insurance of not less than £5 million; and
- d. Professional indemnity insurance of not less than £2 million.

16.2 The Contractor shall promptly provide to Q3 copies of all insurance policies referred to in Clause 16 or a broker's verification of insurance to demonstrate that such insurances are in place, together with copies of receipts or other evidence of payment of the latest premiums due under those policies.

17. Limitation of liability

17.1 Nothing in the Agreement shall exclude or limit either party's liability for:

- a. death or personal injury arising from that party's negligence;
- b. fraud or fraudulent misrepresentation;
- c. any other liability that cannot be limited or excluded by law; and/or
- d. any liability under Clause 15.1c.

17.2 Save as set out in Clause 17.1, Q3's aggregate liability to the Contractor (whether in tort, including gross negligence, or for breach of contract or statutory duty or otherwise) under or in connection with the Agreement, shall be limited to the lesser of:

- a. 100% of the price for the Goods and Services (including VAT) which have accrued during the previous 12 months; or
- b. £100,000 (one hundred thousand pounds),



and Q3 shall not be liable in any circumstances for any Indirect Losses suffered or incurred by the Contractor under or in connection with the Agreement.

18. Restrictions on the Contractor

18.1 In order to protect the legitimate business interests of Q3 and each Group Company, the Contractor covenants with Q3 for itself and as agent for each Group Company that it shall not directly or indirectly (except with the prior written consent of Q3) during the Term and for 12 months after termination:

- a. solicit or entice away (or attempt to solicit or entice away) from the employment or service of Q3 or any Group Company the services of any company or person employed or engaged by Q3 or any Group Company other than by means of a national advertising campaign open to all-comers and not specifically targeted at such staff of Q3 or any Group Company; or
- b. solicit or entice away (or attempt to solicit or entice away) from Q3 or any Group Company the business or custom of any firm, company or person who is or has been at any time during the immediately preceding 12 months a customer or prospective customer of, or in the habit of dealing with, Q3 or any Group Company.

18.2 The covenants in clause 18.1 are intended for the benefit of, and shall be enforceable to the fullest extent permitted by law, by each of Q3 and each Group Company and shall apply to actions carried out by the Contractor in any capacity (including as shareholder, partner, director, principal, consultant, officer, agent or otherwise) and whether directly or indirectly, on its own behalf or on behalf of, or jointly with, any other person.

19. Termination

19.1 Q3 may terminate all or any part of the Agreement without any liability immediately by notice to the Contractor in the following circumstances:

- a. if the Contractor breaches any term of the Agreement or any Policy and (where in Q3's reasonable opinion the breach can be remedied without any delay to the time for supply) fails to remedy the breach by that time for performance or (if earlier) within five (5) days of Q3 so requiring;
- b. the Contractor gives Q3 not less than thirty (30) days' written notice that it proposes to alter (i) the Price and/or (ii) its scheduled service times, which Q3 considers will no longer be appropriate;
- c. in the performance of the Services, the Contractor has contravened Clause 3.6 of these Conditions (including, but not limited to, any contravention of health and safety legislation);
- d. if there is a Change of Control of the Contractor;
- e. if the Contractor ceases to or threatens to cease to carry on business, the Contractor's financial position is such that either the Contractor, the Contractor's directors, members or creditors as appropriate take or are entitled to take steps to institute formal insolvency proceedings with respect to the Contractor of a type provided for by the Insolvency Act 1986 (or any similar or analogous legislation, whether under English law or otherwise), including without limitation administration, liquidation, administrative receivership, receivership,



voluntary arrangement, scheme of arrangement or bankruptcy, or if the Contractor is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

f. if the Contractor offers or gives, or agrees to give, to any employee, agent or representative of Q3 any gift, inducement or consideration of any kind in connection with the Agreement or any other agreement with Q3, or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement or any such other agreement; or

g. if the Contractor breaches any of the Policies.

19.2 Without prejudice to its rights under Clause 19.1, Q3 shall have the right to terminate the Agreement at any time on giving the Contractor at least one (1) months' notice in writing.

19.3 On termination of the Agreement for any reason, the Contractor shall immediately deliver to Q3 all Deliverables whether complete or not, and return any materials, equipment, tools, drawings, specifications and data supplied by Q3 to the Contractor. Until they have been returned or delivered, the Contractor shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Agreement. If the Contractor fails to do so, then Q3 may pursue such rights and actions available to it in order to take possession of them.

19.4 Clauses 5.2, 8.10, 8.14 to 8.17 (inclusive), 10, 13.4, 13.7, 15 to 18 (inclusive), 20 to 22 (inclusive) and 25 shall survive termination of the Agreement.

19.5 Notwithstanding the service of a notice to terminate the Agreement, the Contractor shall continue to fulfil its obligations under the Agreement until the date of expiry or termination of the Agreement.

20. Transition to another contractor

20.1 During the period of any termination notice pursuant to the Agreement, and in any case for a reasonable period, to be determined at the sole discretion of Q3, thereafter, the Contractor shall act professionally and reasonably and co-operate fully with the transfer of responsibility for and knowledge of the Goods and Services to Q3 or to any new contractor(s) of such services and/or goods the same or similar to the Goods and Services, and for the purposes of this Clause 20 the meaning of the term "co-operate" shall include, without limitation:

a. liaising with Q3 and/or any new contractor(s), and providing reasonable assistance and advice concerning the Goods and Services and their transfer to Q3 or to such new contractor(s);

b. allowing any new contractor(s) access to its business, its records and documents relating to the Goods and Services (at reasonable times and on reasonable notice) but not so as to interfere with or impede the provision of the Goods and Services by the Contractor; and

c. providing to Q3 and/or to any new contractor(s) all and any knowledge, information, stock, records or documentation concerning the Goods and Services which is reasonably required for the efficient transfer of responsibility for their performance but information which is commercially sensitive to the Contractor or subject to a legally binding confidentiality agreement shall not be provided (and for the purpose of this Clause 20, "commercially sensitive" shall mean information which would, if disclosed to a competitor of the Contractor, give that competitor a competitive advantage over the Contractor and thereby prejudice the business of the Contractor and shall not include any information relating to the employees of the Contractor.



20.2 The Contractor shall use all reasonable endeavours so as to facilitate the smooth transfer of responsibility for the Goods and Services to a new contractor and/or contractors and/or to Q3 (as the case may be) and the Contractor shall take no action at any time during the term of the Agreement or thereafter which is calculated or intended, directly or indirectly, to prejudice or frustrate or make more difficult any such transfer.

21. Dispute resolution

21.1 If any dispute arises in connection with the Agreement (a "Dispute"), an authorised representative of the Contractor and Q3 shall, within thirty (30) days of a written request from one party to the other, meet in good faith at a Q3 office to resolve the Dispute.

21.2 If the Dispute remains unresolved either the Contractor or Q3 shall refer it to mediation in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure that is in force at the date of the referral. Unless otherwise agreed between the Contractor and Q3, the mediator will be nominated by CEDR. To initiate the mediation either party may give notice in writing (the "Mediation Notice") to the other requesting a mediation. A copy of the request will be sent to CEDR. The mediation will start not later than sixty (60) days after the date of the Mediation Notice.

21.3 The following principles shall apply to the mediation:

- a. unless the Contractor and Q3 otherwise agree, all negotiations connected with the Dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of either party in any future proceedings;
- b. if the Contractor and Q3 reach agreement on the resolution of the Dispute, the agreement shall be recorded in writing and binding on them once it is signed by duly authorised representatives of both parties;
- c. failing agreement, the Contractor and Q3 may invite the mediator to provide a non-binding but informative written opinion if the parties provide consent to this in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Agreement without the prior written consent of both parties.

21.4 If the parties fail to reach agreement by the conclusion of the mediation then the parties shall be free to commence formal legal proceedings in the courts in relation to the Dispute. Nothing in this Clause 21 shall prevent (i) a party seeking urgent injunctive relief from the courts where it considers this is necessary to protect its position or (ii) Q3 commencing proceedings at any time.

22. Confidentiality and Announcements

22.1 Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 22.2.

22.2 Each party may disclose the other party's confidential information:



a. to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 22; and

b. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

22.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

22.4 The Contractor shall not and shall ensure that the Contractor's personnel shall not without the prior written consent of Q3 advertise or publicly announce that they are undertaking work for Q3, nor make any public statement in respect of Q3, or any of their customers, directors, officers, employees, associates, agents, representatives, sub-contractors, consultants or any of Q3's or Q3's business arrangements or any of the information obtained by the Contractor throughout the period of the Agreement.

23. Force majeure

Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for four weeks, the party not affected may terminate the Contract by giving seven days' written notice to the affected party.

24. Assignment and sub-contracting

24.1 The Contractor shall not assign, transfer, mortgage, charge, sub-contract or deal in any other manner with all or any of its rights, liabilities or obligations under the Agreement, whether in whole or in part, without first obtaining Q3's prior written consent. Such consent, if granted shall not release the Contractor from any of its obligations and liabilities which may exist under the Agreement from time to time.

24.2 Q3 may assign, transfer or sub-contract any or all of its rights and obligations under the Agreement to another Group Company.

25. General

25.1 Q3 engages the Contractor as an independent contractor. Nothing in the Agreement shall create a partnership or the relationship of principal and agent or employer and employee.

25.2 Unless otherwise permitted by the Agreement, each party shall bear its own costs and expenses in connection with the negotiation, preparation, execution and performance of the Agreement and any documents referred to in it.

25.3 If any provision of the Agreement is found by any court or administrative body or competent jurisdiction to be or becomes invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the invalidity, illegality or unenforceability shall not affect the other provisions of the Agreement which shall remain in full force and effect.

25.4 A waiver of Q3's rights shall not operate as a waiver of any subsequent breach or default and shall only be effective if given in writing. No right, power or remedy conferred upon or reserved for either party is exclusive



of any other right, power or remedy available to that party and the rights, power or remedy available to that party and the rights, powers and remedies shall be cumulative.

25.5 All notices which are required to be given under the Agreement shall be in writing and shall be sent to the address of the recipient set out in the Contract Form or such other address as the recipient may designate by notice given in accordance with the provisions of this Clause 25.

25.6 Notices may be delivered personally or by first class pre-paid letter and shall be deemed to have been served if by hand when delivered and signed for, if by first class post to an address in the United Kingdom 48 hours after posting and if by first class post to an address elsewhere ninety-six (96) hours after posting. A notice required under the Agreement shall not be validly given if sent by email or fax.

25.7 The Agreement constitutes the entire understanding between Q3 and the Contractor and supersedes all previous agreements between the parties relating to its subject matter. The Contractor has not relied on any representation or promise except as expressly set out in the Agreement.

25.8 For the purposes of Section 1(2) of the Contracts (Rights of Third Parties) Act 1999 the parties state that, save as set out in the Agreement, they do not intend any term of the Agreement to be enforced by third parties.

25.9 The Agreement and any dispute arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and, subject to Clause 20, the parties agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).