

## DX TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

### 1. INTERPRETATION

1.1 In these Conditions, the following definitions apply:

**Business Day:** a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.

**Conditions:** these terms and conditions of purchase.

**Contract:** any contract between DX and the Supplier for the supply of Goods and/or Services in accordance with these Conditions.

**Customer Materials:** has the meaning set out in Clause 5.3(i).

**Deliverables:** all documents, products and materials developed or supplied by the Supplier 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).

**Delivery Location:** the location set out in the Purchase Order or as instructed by DX before delivery.

**DX:** the DX entity identified in the Purchase Order.

**DX Group:** each of DX's subsidiaries, its holding company and any subsidiary of such holding company (as defined in Section 1159 of the Companies Act 2006).

**Goods:** the goods (or any part of them) set out in the Purchase Order and/or Specification.

**Specification:** any specification for the Goods or Services (including any Deliverables), including any related plans and drawings, which are agreed in writing by DX and the Supplier.

**Intellectual Property Rights:** all patents, rights to inventions, copyright and related rights, trademarks, service marks, domain names, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Purchase Order:** DX's requisition for the supply of Goods and/or Services or DX's written acceptance of the Supplier's proposal or quotation.

**Services:** the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Purchase Order and/or Specification.

**Supplier:** the supplier identified on the Purchase Order.

1.2 In these Conditions:

(a) a reference to a statute or statutory provision is a reference to such statute or statutory provision and any subordinate legislation, in each case as amended or re-enacted; and  
(b) the words **including, include, in particular** and similar shall be construed as illustrative and not exhaustive.

### 2. BASIS OF CONTRACT

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

2.2 The Purchase Order shall be deemed to be accepted on the earlier of:

(a) the Supplier issuing written acceptance of the Purchase Order; or  
(b) any act by the Supplier consistent with fulfilling the Purchase Order, at which point and on which date the Contract shall come into force.

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, (whether before or after the placing of the Purchase Order) or which are implied by trade, custom, practice or course of dealing.

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

2.5 DX contracts for the purchase of Goods and/or Services in its own name, on its own behalf and for the benefit of all other members of DX Group. DX may recover all costs, expenses, damages, losses and liabilities which may be sustained by any member of DX Group and which arise out of or in connection with the Contract as if the same were incurred by DX. Each member of DX's Group shall be entitled to enforce the terms of the Contract in its own right.

### 3. SUPPLY OF GOODS

3.1 The Supplier shall ensure that the Goods shall:

(a) correspond with their description, any applicable sample and any applicable 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 Supplier or made known to the Supplier by DX, expressly or by implication, and in this respect DX relies on the Supplier's skill and judgement;  
(c) where applicable, be free from defects in design, materials and workmanship and remain so for 12 months (or such longer warranty period specified in the Purchase Order) 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.

3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

3.3 DX may test and inspect the Goods, whether or not they have already been supplied and including during manufacture. If tests are carried out by the Supplier, DX shall be deemed to rely on Supplier's skill and judgement in assessing compliance with the Contract. If the Goods fail to pass any inspection or testing and are found not to comply with the Contract (including but not limited to the provisions of Clause 3.1) DX may by notice in writing to the Supplier either:  
(a) affirm the Contract, requiring the Supplier to take remedial actions, and extend the period for testing and/or inspection to a date specified in the notice; or  
(b) accept the Goods subject to a reasonable reduction of the price payable for those Goods.

3.4 No inspection or testing shall reduce or otherwise affect the Supplier's obligations under the Contract. DX may conduct further inspections and tests after the Supplier has carried out any remedial actions.

### 4. DELIVERY OF GOODS

4.1 The Supplier shall ensure that:

(a) the Goods are properly packed and secured to enable them to reach their destination in good condition;  
(b) each delivery of the Goods is accompanied by a delivery note which shows the date and number (if any) of the Purchase Order, the type and quantity of the Goods, including the code number of the Goods (if any), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods to be delivered.

4.2 DX is not obliged to return any packaging material to the Supplier.

4.3 The Supplier shall deliver the Goods:  
(a) on the date specified in the Purchase Order or, if none is specified, within 14 days of the date of the Purchase Order;  
(b) to the Delivery Location.  
(c) during DX's normal hours of business on a Business Day, or as instructed by DX.

4.4 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

4.5 If the Supplier:

(a) delivers less than the quantity of Goods ordered, DX may reject the Goods; or

(b) delivers more than 105 per cent of the quantity of Goods ordered, DX may reject all of the Goods or may reject the excess Goods.

4.6 If DX accepts more or less than the quantity of Goods ordered, a pro rata adjustment shall be made to the invoice for the Goods.

4.7 Any rejected Goods shall be returnable at the Supplier's risk and expense.

4.8 The Supplier shall not deliver the Goods in instalments without DX's prior written consent. Instalments may be invoiced and paid for separately.

Failure by the Supplier to deliver any instalment on time or any defect in an instalment shall entitle DX to the remedies set out in Clause 6.1 in relation to the entirety of the Goods.

4.9 Without affecting DX's right to reject the Goods in accordance with Clause 6.2(a), risk in and title to the Goods shall pass to DX on delivery of the Goods. If Goods are rejected by DX after payment for them, title will revert to the Supplier when DX receives a full refund of the sum paid.

### 5. SUPPLY OF SERVICES

5.1 The Supplier shall provide the Services from the date set out in the Purchase Order.

5.2 The Supplier shall meet any dates for performance of the Services specified in the Purchase Order or notified to the Supplier by DX.

5.3 In providing the Services, the Supplier shall:

(a) co-operate with DX in all matters relating to the Services, and comply with all reasonable instructions of DX;  
(b) perform the Services with due care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;  
(c) use personnel who are suitably skilled and experienced to perform tasks assigned to them;  
(d) ensure that the Services and Deliverables will conform with the Specification, and shall be fit for any purpose expressly or impliedly made known to the Supplier by DX;  
(e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;  
(f) ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to DX, will be free from defects in workmanship, installation and design;  
(g) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;  
(h) observe all health and safety rules and regulations and any security requirements that apply at DX's premises;

(i) hold all materials, equipment and tools, drawings, specifications and data supplied by DX to the Supplier (**Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to DX, and not dispose or use the Customer Materials other than in accordance with DX's written instructions or authorisation; and  
(j) not do or omit to do anything which may cause DX to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business.

5.4 The Supplier acknowledges that DX may rely and/or act on the Services.

### 6. CUSTOMER REMEDIES

6.1 If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, DX may, without limiting its other rights or remedies:

(a) terminate the Contract by written notice with immediate effect;  
(b) refuse to accept any subsequent attempted performance of the Services and/or delivery of the Goods;  
(c) recover from the Supplier any additional costs incurred by DX in obtaining substitute goods and/or services from a third party;  
(d) where DX has paid in advance for the Services and/or Goods, have such sums refunded by the Supplier; and/or

(e) claim damages for any additional costs, loss or expenses incurred by DX due to the Supplier's failure.

6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in Clause 3.1, then DX may, whether or not it has accepted the Goods:

(a) reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;  
(b) terminate the Contract by written notice with immediate effect;  
(c) refuse to accept any subsequent attempted delivery of the Goods;  
(d) recover from the Supplier any additional costs incurred by DX in obtaining substitute goods from a third party; and/or  
(e) claim damages for any additional costs, loss or expenses incurred by DX due to the Supplier's failure.

6.3 These Conditions shall extend to any substituted or remedial Services and/or repaired or replacement Goods supplied by the Supplier.

### 7. DX'S OBLIGATIONS

7.1 DX shall:

(a) provide the Supplier with reasonable access at reasonable times and upon prior notice in writing to DX's premises for the purpose of providing the Services or delivering the Goods; and  
(b) provide such information as the Supplier may reasonably request for the provision of the Services.

7.2 DX gives no warranty as to the volume of supplies that may be required pursuant to the Contract. Any estimates given are for forecast purposes only.

7.3 DX shall:

8. CHARGES AND PAYMENT

8.1 The price for the Goods and/or Services shall:

(a) be the price set out in the Purchase Order, or as agreed in writing;  
(b) not be varied unless agreed in writing in advance by DX; and  
(c) include the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by DX; and  
(d) be deemed to include every cost and expense of the Supplier in connection with the performance of the Services, and no additional amounts shall be payable unless otherwise agreed in writing by DX.

8.2 The Supplier shall invoice DX on or within 30 days after delivery of Goods or completion of the Services. Each invoice shall include such supporting information as may be required by DX to verify its accuracy, including the relevant Purchase Order number.

8.3 In consideration of the supply of Goods and/or Services by the Supplier in accordance with the Contract, DX shall pay each invoice which complies with Clause 8.2 and which is not disputed within 30 days after receipt. In the event of any dispute, DX will pay any undisputed portion of the invoice pending resolution of the dispute.

8.4 DX will pay sums due by transfer to the Supplier's nominated bank account.  
8.5 All amounts payable by DX under the Contract are unless otherwise stated exclusive of VAT, which DX shall pay (subject to receipt of a valid VAT invoice) at the same time as payment is due for the supply of the Goods and/or Services.  
8.6 If DX fails to pay any undisputed amount by the due date, the Supplier may charge interest on the overdue amount at the rate of 2 per cent per annum above the base rate of Barclays Bank plc accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

8.7 DX may, without limiting its other rights or remedies, set off any amount owing to it by the Supplier against any amount due to the Supplier.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 Subject to Clause 9.3, the Supplier hereby assigns and agrees to assign to DX, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the Deliverables.

9.2 The Supplier shall obtain waivers of all moral rights in the Deliverables to

which any individual is now or may be at any future time entitled under the Copyright Designs and Patents Act 1988 or any law in any jurisdiction.

9.3 If the Deliverables contain any materials, data, content or other works in which the Intellectual Property Rights were owned by or licensed to the Supplier prior to commencing the Services, and which have been expressly identified to DX in advance (**Background**), the Supplier shall not assign such Background to DX under Clause 9.1, and instead hereby grants (to DX, for the benefit of DX and all companies within DX Group) a perpetual, non-exclusive, royalty-free licence to use, adapt, maintain, copy, and support such Background, which licence shall be capable of sub-licence to any person providing services to DX or the DX Group, for the purposes of and to the extent necessary to receive and obtain the full benefit of the Services and Deliverables.

9.4 The Supplier shall, promptly at DX's request, conduct (or procure) all further acts and the execution of all such other documents as DX may require for the purpose of securing for DX all right, title and interest in and to the Intellectual Property Rights assigned to DX under Clause 9.2.

#### 10. INDEMNITY

10.1 The Supplier shall keep DX indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by DX as a result of or in connection with: (a) any claim made against DX for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defect in the Goods is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; (b) any claim made against DX arising out of, or in connection with, the supply of the Goods or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier; and (c) any claim made against DX for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services or Deliverables.

10.2 For the duration of the Contract and for a period of 12 months thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on DX's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

10.3 This Clause 10 shall survive termination of the Contract.

#### 11. CONFIDENTIALITY

11.1 **Confidential Information** is any confidential or proprietary information concerning DX's or any member of the DX Group's business or affairs disclosed directly or indirectly to the Supplier at any time.

11.2 The Supplier shall:

(a) keep the Confidential Information secret and confidential and take all reasonable precautions to prevent its unauthorised use or disclosure; (b) not use or exploit the Confidential Information in any way, except for or in connection with, the performance of its obligations under the Contract; and (c) not disclose the Confidential Information except as necessary to its employees or sub-contractors for the purposes of the Contract, ensuring that

such employees or subcontractors are subject to obligations equivalent to those in this Clause 11.

11.3 This Clause 11 shall survive termination of the Contract.

11.4 The Supplier shall not, without DX's prior written consent, advertise or publicly announce or indicate in any way that it supplies or has supplied Goods or Services to DX.

#### 12. TERMINATION

12.1 Without limiting its other rights or remedies, DX may terminate the Contract by written notice with immediate effect if the Supplier:

(a) commits a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 Business Days after receiving notice of the breach in writing; (b) becomes insolvent, resolves to wind up, make an arrangement with its creditors, goes into administration or receivership, or suffers or takes any similar occurrence or action, or is subject to any petition, application or order for any such occurrence or action, or any person becomes entitled to make any such application or petition or to appoint a receiver; or (c) suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business; or (d) (being an individual) becomes bankrupt, dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

12.2 Without limiting its other rights or remedies, DX may terminate the Contract for convenience by giving written notice to the Supplier with immediate effect, in which case DX shall pay the Supplier:

(a) for any Goods or Services provided in accordance with this Agreement prior to such notice; and (b) fair and reasonable compensation for the Supplier's costs of work in progress on the Goods, or resources allocated to the Services, at the date of termination (but such compensation shall not include loss of anticipated profits or consequential loss, and the Supplier shall use its best endeavours to mitigate any such costs).

12.4 In any of the circumstances in these Conditions in which DX may terminate the Contract, where both Goods and Services are supplied, DX may instead terminate part of the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.

#### 13. CONSEQUENCES OF TERMINATION

On termination of the Contract or any part of it for any reason:

(a) the Supplier shall assist and cooperate with DX to ensure an orderly and efficient transition from provision of the Goods or Services by the Supplier to the provision of such or similar goods or services by a third party supplier or by DX in-house; (b) where the Services are terminated, the Supplier shall immediately deliver to DX (or any third party supplier as may be directed by DX) all Deliverables, whether or not then complete. If the Supplier fails to do so, then DX may without limiting its other rights or remedies enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safekeeping and will not use them for any purpose not connected with this Contract; (c) the Supplier shall, as directed by DX, return all Customer Materials or destroy them in accordance with DX's security requirements as notified by DX to the Supplier; (d) the accrued rights and remedies of the parties as at termination shall not

be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and (e) Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

#### 14. GENERAL

14.1 Neither party shall be liable for any delay or failure to perform its obligations under the Contract if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party, provided that the affected party gives the other party prompt written notice of the delay and takes all commercially reasonable measures to mitigate the delay. If such event or circumstances prevent the Supplier from supplying the Goods and/or Services for more than 30 days, DX may, without limiting its other rights or remedies, terminate the Contract by written notice with immediate effect.

14.2 The Supplier shall use all reasonable endeavours not to introduce into DX's systems any malicious code (such as viruses, worms, logic bombs or Trojan horses), which may infect or cause any damage, change or loss to DX's systems or data.

14.3 The Supplier shall maintain full, accurate records in relation to Goods provided and Services undertaken under the Contract, including time spent where charges are on a time-and-materials basis. The Supplier shall allow DX and/or its internal and external auditors reasonable access to inspect and take copies of such records for the purpose of auditing, inspecting and reviewing the performance by the Supplier of its obligations under the Contract.

14.4 The Supplier may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of DX. DX may at any time assign its rights under the Contract, and shall notify the Supplier of any such assignment.

14.5 Any notice given by either party to the other in connection with the Contract must be in writing (including email) and be sent using the contact information for that party in the Purchase Order or agreed by that party, or otherwise delivered to that party's registered office address by hand, courier or recorded post.

14.6 A waiver of any right or remedy under the Contract is only effective if in writing and shall not affect any other right or remedy.

14.7 If any provision or part-provision of the Contract is invalid, illegal or unenforceable it shall be severed and the other provisions and part-provisions shall remain in effect.

14.8 Nothing in the Contract shall constitute a partnership or joint venture between the parties, nor constitute either party the agent of the other. Neither party shall have authority to act as agent for, or to bind, the other.

14.9 The DX Group companies shall have the benefit of and may enforce the Contract. Otherwise no third party shall be entitled to enforce any term of the Contract. The parties shall not require any third party's consent to vary the Contract.

14.10 Except as otherwise provided in the Contract, the Contract may only be varied by the parties' written agreement.

14.11 The Contract, and any dispute or claim 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 the exclusive jurisdiction of the courts of England and Wales.

#### 15. ANTI-BRIBERY AND ANTI-SLAVERY

15.1 The Supplier shall during the term of the Contract:

(a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**); (b) comply with DX's anti-bribery policies as provided by DX from time to time; (c) have and maintain in place throughout the term of the Contract its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate; and (d) promptly report to DX any request or demand for any undue financial or other advantage of any kind given or received in connection with the Contract.

15.2 The Supplier warrants that it shall, and that it shall procure that persons associated with it shall: (a) comply with the Modern Slavery Act 2015 (the **Modern Slavery Act**) and the DX Supplier Code of Conduct (available on [www.dxdelivery.com](http://www.dxdelivery.com) as updated from time to time);

(b) not take or knowingly permit any action to be taken that would or might cause or lead DX any of its related persons to be in violation of the Modern Slavery Act; (c) at DX's request, provide DX with any reasonable assistance to enable it to perform any activity required by any government or agency or any regulatory authority in any relevant jurisdiction for the purpose of complying with the Modern Slavery Act and shall undertake any risk assessments and/or review its policies relating to the Modern Slavery Act; and (d) have and shall maintain in place throughout the term of this agreement its own policies and procedures to ensure compliance with the Modern Slavery Act and will enforce them where appropriate.

15.3 The Supplier shall ensure that any person associated with the Supplier who is performing Services and/or providing Goods in connection with the Contract 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 Supplier in this agreement (the **Relevant Terms**). The Supplier shall be directly liable to DX for any breach by such persons of any of the Relevant Terms.

15.4 Breach of this Clause 15 shall be deemed an irredeemable material breach of this agreement.

#### 16. DATA PROTECTION

16.1 If and to the extent that the performance of the Contract involves the Supplier processing any personal data provided by DX or any person connected with DX:

(a) the Supplier shall in its processing of the personal data comply with its obligations under the Data Protection Act (until 25 May 2018), the General Data Protection Regulation (after 25 May 2018), and any successor legislation concerned with data protection (the **Data Protection Legislation**); and

(b) to the extent that the Supplier processes as DX's data processor, or as a joint controller with DX, personal data of which DX is data controller (in each case having the meaning given in the Data Protection Legislation) the Supplier will if requested by DX enter into a separate data processing agreement sufficient to ensure that DX's obligations as data controller under the Data Protection Legislation (and in particular Article 28 GDPR) are met.