



K.T.C. (Edibles) Limited

Standard Terms and Conditions of Purchase

THESE CONDITIONS SHALL APPLY TO ALL ORDERS FOR THE PURCHASE OF GOODS AND/OR SERVICES BY KTC FROM THE SUPPLIER TO THE EXCLUSION OF ALL OTHER TERMS AND CONDITIONS INCLUDING, BUT NOT LIMITED TO, ANY TERMS OR CONDITIONS WHICH THE SUPPLIER MAY PURPORT TO APPLY UNDER ANY SALES OFFER OR SIMILAR DOCUMENT. DESPATCH OR DELIVERY OF GOODS AND/OR SERVICES BY THE SUPPLIER TO KTC SHALL BE DEEMED CONCLUSIVE EVIDENCE OF THE SUPPLIER'S ACCEPTANCE OF THESE CONDITIONS.

1 DEFINITIONS

1.1 In these Conditions the following words shall have the following meanings:

Agreement means the contract between KTC and the Supplier for the supply of the Goods and/or Services in accordance with the Order, these Conditions, and any Specification;

Applicable Laws means the Data Protection Legislation and any and all other applicable legislation, codes, regulations and rules, including: (i) any registration and authorisation requirements; (ii) any applicable voluntary rules and regulations, whether or not the same have force of law; and (iii) judgments, orders, directives or any determination by or requirements of any judicial or national or local governmental or regulatory authority acting within its powers and having jurisdiction over the subject matter of this Agreement or one or both of the parties;

Best Industry Practice means that high degree of skill, diligence, prudence and foresight which, as at the relevant time, would reasonably and ordinarily be expected from a skilled experienced and reputable provider of goods and/or services which are the same as or similar to the relevant Goods and/or Services required under this Agreement under the same or similar circumstances, using the best techniques and practices for any given process, seeking in good faith to comply with its contractual obligations, and complying with all Applicable Laws;

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

Commencement Date has the meaning given to it in clause 2.2;

Competent Authority means any supranational, statutory national, local or municipal government body, agency, court, department, official or public or statutory person, police, or other authority in any jurisdiction having authority over the parties (or any one of them) or having responsibility for the regulation or governance of any aspect of the performance of this Agreement;

Conditions means these Standard Terms and Conditions of Purchase as may be amended from time to time by KTC in accordance with clause 2.7;

Control has the meaning given in section 1124 of the Corporation Tax Act 2010;

Confidential Information means all information disclosed or obtained under or in connection with this Agreement on, before or after the Commencement Date (whether in writing, visual, oral, electronic or by other means and whether directly or indirectly) relating to the business or prospective business, current or projected plans or internal affairs of any of the parties, including (without limitation): all know-how, trade secrets, products, operations, processes, product information, designs, concepts and unpublished information relating to any of the parties' Intellectual Property Rights, any Order, the existence of a relationship between KTC and the Supplier, these Conditions, any applicable Specification and any other commercial, financial or technical information relating to the business or prospective business of KTC;

Data Protection Legislation means all applicable laws and regulations relating to personal data, the processing of personal data and/or privacy, including but not limited to the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Data Protection Act 2018, the Data Protection (Charges and Information) Regulations 2018 and the UK GDPR, as each of the foregoing may be amended,

replaced or re-enacted from time to time and including, but not limited to the applicable guidance and codes of practice issued by the ICO (whether mandatory or not) or such other relevant supervisory authority from time to time;

Deliverables means any outputs of the Services and any other documents, products and materials provided by the Supplier to KTC in any form (including but not limited to those as specified in a Specification) and any other documents, products and materials provided by the Supplier to KTC in relation to the Services;

Fees means the fees payable to the Supplier in consideration of the Supplier providing the Goods and/or Services in accordance with the terms and conditions of this Agreement, as set out in an Order;

Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics, pandemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors;

Goods means the Goods (or any part of them) set out in the Order;

Group means, in relation to a party, any subsidiary or holding company of a party or any subsidiary of such holding company from time to time and **subsidiary** and **holding company** shall have the meanings set out in Section 1159 of the Companies Act 2006 as amended from time to time;

KTC means K.T.C. (Edibles) Limited, a company registered in England and Wales with company number 01433723;

KTC Group Supplier Code of Conduct means KTC's Group code of conduct applicable to its suppliers, as updated by KTC and/or KTC's Group from time to time;

KTC Materials means all materials, equipment and tools, drawings, specifications and data supplied by KTC to the Supplier;

Insolvency Event occurs when: (i) a party becomes unable to pay its debts as they fall due or the value of its assets is less than the amount of its liabilities taking into account its contingent and prospective liabilities; (ii) in relation to a party, a statutory demand is served, a receiver is appointed or any insolvency procedure under the Insolvency Act 1986 is instituted or occurs or notice of intention to institute such a procedure is given; (iii) any order is made for or there occur proceedings constituting main proceedings in any member state of the European Union; or (iv) any analogous demand, appointment or procedure is instituted or occurs in relation to a party elsewhere than in England and Wales;

Intellectual Property Rights means any and all intellectual property rights protected under the law anywhere in the world, including without limitation, patents, designs, copyright, trade marks, know-how, technical information, rights in data and database rights (whether registered or unregistered or any applications for registration) whether now known or arising in the future;

Material Adverse Change means any event or circumstances occurring after the date of this Agreement, which has, or is likely to have, a material adverse effect on KTC's ability to perform any of its obligations under this Agreement or to receive the Goods and/or Services to be provided by the Supplier hereunder (whether or not such event or circumstances were reasonably foreseeable to either party) and shall include (without limitation): (i) any guidance, advice, instruction or directive issued by the UK government or any Competent Authority which affects KTC's ability to receive the Goods and/or Services and/or perform any or all of its obligations under this Agreement; or (ii) a cancellation or non-renewal of, or change in, the conditions applicable to any legal approval, permit or licence held by KTC otherwise than as a direct result of any negligent act or omission of KTC;

Order means any order made by KTC for Goods and/or Services from the Supplier;

Sanctions means any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by any of: (i) the Security Council of the United Nations; (ii) the United States of America; (iii) the European Union; (iv) the United Kingdom; and (v) the governments and official institutions or agencies of any of (i) to (iv) inclusive, including without limitation, the Office of Foreign Assets Control of the US Department of the Treasury; the US Department of State and Her Majesty's Treasury;

Services means the services to be supplied to KTC by the Supplier, as set out in an Order and any applicable Specification;

Specification means the applicable specifications for the Goods and/or Services to be provided by the Supplier as notified to the Supplier by KTC from time to time;

Supplier means the named counterparty in an Order who has agreed to provide the Goods and/or Services to KTC; and

UK GDPR has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

1.2 In these Conditions: (i) the masculine includes the feminine and vice versa; (ii) the singular includes the plural and vice versa; (iii) a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof; (iv) headings are for ease of reference only and shall not affect the interpretation or construction of these Conditions; (v) any lists or examples following the word including shall be interpreted without limitation to the generality of the preceding words; and (vi) references to clauses are, unless otherwise provided, references to clauses of these Conditions.

2 BASIS OF CONTRACT AND APPLICATION OF CONDITIONS

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

2.2 The Order shall be deemed to be accepted on the earlier of: (i) the Supplier issuing written acceptance of an Order; or (ii) any act by the Supplier consistent with fulfilling the Order, at which point and on which date the Agreement shall come into existence ("**Commencement Date**").



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- 2.3 These Conditions shall apply in respect of all Goods and/or Services provided to KTC by the Supplier and to any Order made by KTC, to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing, and are the only Conditions upon which KTC is prepared to deal with the Supplier.
- 2.4 The Supplier acknowledges and agrees that: (i) any act to fulfil an Order for the Goods and/or Services by the Supplier will be deemed as conclusive evidence of the Supplier's acceptance of these Conditions; and (ii) any other provisions which the Supplier applies or purports to apply, including (without limitation) provisions included on quotations, estimates, confirmations, delivery notes or similar documents ("**Supplier Provisions**") will **NOT** be the terms and conditions concerning the supply of the Goods and/or Services to KTC by the Supplier in respect of any Order, however such Supplier Provisions are introduced.
- 2.5 The Supplier acknowledges and agrees that KTC will not be bound by any of the Supplier's Provisions. In accordance with clause 2.6 below, any variation of these Conditions or any Order (including, but not limited to, any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in accordance with clause 2.6 below.
- 2.6 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.
- 2.7 No changes or variations to these Conditions or any Order shall be effective unless agreed in writing by the parties and signed by a director or other authorised representative of KTC, save for such changes or variations made by KTC to these Conditions from time to time. KTC reserves the right to amend, vary, or change these Conditions at any time and without notice.

3 SUPPLIER'S OBLIGATIONS

- 3.1 The Supplier shall ensure that the Goods: (i) correspond with their description and any applicable Specification; (ii) are 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 KTC, expressly or by implication, and in this respect KTC relies on the Supplier's skill and judgement; (iii) where they are manufactured products, are free from defects in design, material and workmanship and shall remain so at all times after delivery; and (iv) 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 provide the Services to KTC in accordance with this Agreement.
- 3.3 The Supplier undertakes to KTC that it shall:
- 3.3.1 promptly observe and comply with all Applicable Laws. For the avoidance of doubt, any approval given by or on behalf of KTC pursuant to this Agreement shall not be construed as any representation, warranty or assurance regarding the Supplier's compliance with Applicable Laws, it being the sole responsibility of the Supplier to satisfy itself that that is the case;
- 3.3.2 observe and comply with the reasonable guidelines, instructions, terms and directions of KTC from time to time in respect of the provision of the Goods and/or Services, including (without limitation) the KTC Group Supplier Code of Conduct;

- 3.3.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Agreement;
- 3.3.4 ensure that the Goods shall be delivered by the Supplier to the location notified to the Supplier by KTC and/or the Services shall be performed by the Supplier at the location notified to the Supplier by KTC;
- 3.3.5 ensure that the Goods are properly packed and secured in such manner as to enable them to reach their destination in excellent condition;
- 3.3.6 ensure that the Goods delivered conform to the volumes as set out in an Order and any applicable Specification;
- 3.3.7 ensure that the Services and/or any Deliverables performed and/or delivered to KTC conform to any Order and any applicable Specification;
- 3.3.8 meet the dates and times of delivery of the Goods and/or any performance dates and times for the Services notified to the Supplier by KTC and time is of the essence in relation to any of those performance dates in respect of the Services and/or the dates of delivery of the Goods;
- 3.3.9 ensure that each delivery of the Goods shall be accompanied by a delivery note stating: (i) the date of the Order; (ii) the relevant KTC and Supplier details; (iii) the product numbers and type and quantity of Goods in the delivery; (iv) any special instructions, handling and other requests; (v) whether any packaging material is to be returned, in which case KTC shall, after the Goods are unpacked, make them available for collection by the Supplier at the Supplier's expense for a period not exceeding 48 hours; and (vi) any additional information requested by KTC as set out in the Order and any applicable Specification;
- 3.3.10 not deliver the Goods and/or perform the Services in instalments unless otherwise specified in an Order or agreed in writing by KTC;
- 3.3.11 promptly report to KTC any request or demand for any undue financial or other advantage of any kind it receives in connection with the performance of this Agreement;
- 3.3.12 hold and maintain in force for the Term all applicable licences, permissions, authorisations, consents, and permits required to perform any and all of its obligations under this Agreement;
- 3.3.13 ensure that it complies with all industry, technical and other standards as would be reasonably expected for a supplier to comply with when providing the Goods and/or Services in accordance with Best Industry Practice;
- 3.3.14 comply with all terms and conditions which have been imposed on the parties by any Competent Authority and which are notified to the Supplier in advance and in writing and which KTC requires the Supplier to comply with including but not limited to, health and safety directions, regulations and/or reasonable policies of KTC as issued or notified to the Supplier by KTC from time to time in advance and in writing;
- 3.3.15 not by itself, its employees, servants or agents (and shall procure that no member of its Group nor any of their agents or servants) do

or say anything, nor provide the Goods and/or perform the Services in any way or manner which in the reasonable opinion of KTC is prejudicial to KTC (including any of KTC's staff, directors or officers);

3.3.16 ensure that none of its directors or officers make any statement that is defamatory or disparaging of or derogatory to KTC, its directors or officers; and

3.3.17 not by itself or as by its servants or agents hold itself out to any third party as representing or having any authority to bind KTC.

3.4 The Supplier: (i) warrants that the receipt, use and onward supply of the Goods, Services and the Deliverables by KTC shall not infringe the rights, including any Intellectual Property Rights, of any third party; (ii) warrants that it has the necessary expertise to comply with this Agreement and confirms the accuracy of all statements and representations made in respect of the Goods and/or Services prior to and during this Agreement; and (iii) shall indemnify and keep indemnified KTC in full and on demand against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties, legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by KTC arising out of, or in connection with, the receipt, use or supply of the Goods and/or Services (including, but not limited to, the Deliverables).

3.5 The Supplier further warrants, represents and undertakes that it shall: (i) provide the Goods and/or perform the Services with the best care, skill and diligence in accordance with Best Industry Practice; (ii) in providing the Goods and/or performing the Services, comply with all Applicable Laws; (iii) ensure that the Goods and/or Services (including, but not limited to, the Deliverables) will conform in all respects with a Specification (if applicable) and that the Goods and/or Deliverables shall be fit for any purpose expressly or implicitly made known to the Supplier by KTC; (iv) ensure that the Goods and/or Deliverables, and all goods, materials, standards and techniques used in providing the Goods and/or Services are of the best quality and are free from defects in workmanship, installation and design; and (v) co-operate with KTC in all matters relating to the provision of the Goods and/or Services and comply with KTC's instructions.

3.6 The Supplier shall, and shall procure that its employees, sub-contractors and agents shall, take all reasonable steps to safeguard their own safety and the safety of any other person who may be affected by their actions, and the Supplier agrees to indemnify and keep indemnified KTC against any and all losses, damage, penalties, charges, costs and expenses (including legal expenses) and any other liabilities incurred by KTC as a result of or in connection with the Supplier's breach of this clause 3.6.

3.7 The Supplier shall not, and shall draw to the attention of its employees that it shall not, without the prior written approval of KTC in each case: (i) represent, directly or indirectly, that any Goods and/or Services provided have been endorsed or approved by or is in any way associated with KTC or any of its directors or employees; (ii) display, exhibit or otherwise use at any time for any purpose including but not limited to, for any marketing, promotional or advertising purpose any trade marks, trade names, logos, designs or images of KTC, the name of any of KTC's directors or employees or any other item belonging to, referring to or which may suggest any association whatsoever with KTC or any of its directors or employees; or (iii) publish or issue any statement (factual or otherwise) about the



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Supplier's provision of Goods and/or Services in relation to KTC, save that the Supplier shall be entitled to make such statements about the Supplier's provision of Goods and/or Services to KTC as may be required by law.

4 DELIVERY, ACCEPTANCE, REJECTION, AND INSPECTION

- 4.1 The Supplier acknowledges and agrees that: (i) the delivery of the Goods (or part thereof, as applicable) shall be deemed completed on the completion of the unloading of the Goods (or part thereof, as applicable) at the location notified to the Supplier by KTC; and/or (ii) the Services shall be deemed performed on completion of the performance of the Services as specified in an Order and any applicable Specification.
- 4.2 If KTC is unable or opts not to accept delivery of the Goods on the date or within the period set out in the Order and any applicable Specification, the Supplier shall store and insure the Goods pending delivery at the Supplier's sole cost and expense until KTC opts to accept delivery of the Goods.
- 4.3 KTC may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Agreement.
- 4.4 KTC shall be entitled to reject any Goods and/or Deliverables which are not in full compliance with the terms and conditions of the Agreement. Any acceptance of defective, late or incomplete Goods and/or Deliverables or any payment made in respect thereof, shall not constitute a waiver of any of KTC's rights and remedies, including (without limitation) its right to reject.
- 4.5 If following such inspection or testing KTC considers in its sole discretion that the Goods and/or Deliverables do not comply or are unlikely to comply with the Supplier's undertakings, KTC shall at its sole discretion inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 4.6 KTC may conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 4.7 Any inspection or testing of the Goods and/or Deliverables shall not be deemed to be acceptance of the Goods and/or Deliverables or a waiver of any of KTC's other rights and remedies, including (without limitation) its right to reject.
- 4.8 If the Goods are rejected due to the volume of the Goods not conforming to the tolerances and/or volumes (if any) specified in an Order, the Supplier shall promptly and at its own cost arrange for redelivery of the correct volume and/or tolerances.
- 4.9 Any rejected Goods and/or Deliverables may be returned to the Supplier by KTC at the Supplier's cost and risk. The Supplier shall pay to KTC a reasonable charge for storing and returning any of the Goods and/or Deliverables over-delivered or rejected.
- 4.10 The rights of KTC in this clause 4 are without prejudice to KTC's other rights and remedies under the Agreement.

5 TITLE AND RISK

- 5.1 Risk in the Goods and/or Deliverables shall pass to KTC on the later of: (i) delivery of the Goods and/or Deliverables to KTC; or (ii) KTC's acceptance of the Goods and/or Deliverables.
- 5.2 The Supplier shall unload the Goods and/or Deliverables in accordance with KTC's directions and at the Supplier's risk.

- 5.3 Title to the Goods and/or Deliverables shall pass to KTC on the sooner of: (i) payment by KTC for the Goods and/or Deliverables; or (ii) delivery of the Goods and/or Deliverables to KTC.
- 5.4 The passing of title shall not prejudice any other of KTC's rights and remedies, including (without limitation) its right to reject.
- 5.5 Neither the Supplier, or any other person, shall have a lien on, right of stoppage in transit, or other rights in or to any Goods and/or Deliverables title to which have vested in KTC, or any specifications or materials of KTC (including, but not limited to, the KTC Materials), and the Supplier shall ensure that relevant third parties accept the exclusion of such lien and rights.
- 5.6 The Supplier warrants and represents that it: (i) has at the time the Agreement is made full, clear and unencumbered title to the Goods and/or Deliverables, and the full, clear and unencumbered right to sell and deliver them to KTC; and (ii) shall hold such title and right to enable it to ensure that KTC shall acquire a valid, unqualified title to the Goods and/or Deliverables and shall enjoy quiet possession of them.

6 KTC OBLIGATIONS

- 6.1 Notwithstanding anything to the contrary in this Agreement, KTC shall not be in breach of any of its obligations under this Agreement in respect of any act taken by it, or any matter omitted to be undertaken by it, if KTC, acting reasonably and in good faith, considers that it had to take such action, or omit to undertake that particular matter, in order to: (i) comply with Applicable Laws; (ii) (in the case of any of the Supplier's marks or logos) comply with or avoid infringing the Intellectual Property Rights of any third party; or (iii) avoid any risk of prejudice, embarrassment or damage to the image or reputation of KTC or of any negative PR or media stories relating to KTC, and the Supplier may not require KTC to act in any way that would be contrary to any of (i), (ii) or (iii) above.
- 6.2 KTC shall not by itself, its servants or agents hold itself out to any third party as representing or having any authority to bind the Supplier.

7 FEES AND PAYMENT

- 7.1 Unless otherwise agreed by KTC in writing the Fees shall be: (i) as specified in an Order and will be inclusive of all taxes (except value added tax) applicable duties, levies, insurance, carriage, parts, crated or packaging materials, labour costs, expenses and any other associated costs; and (ii) the full and exclusive remuneration of the Supplier in respect of the performance of the Services and/or the provision of the Goods. Unless otherwise agreed in writing by KTC, the Fees shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services and/or the provision of the Goods.
- 7.2 KTC shall not be responsible for any expenses, charges or price other than those set out in an Order and no extra charges shall be effective unless agreed in writing with KTC.
- 7.3 Each invoice shall include such supporting information as may be required by KTC to verify the accuracy of the invoice, including the relevant purchase order number.
- 7.4 The Supplier shall invoice KTC on completion of the Services and/or delivery of the Goods unless otherwise agreed by the parties. All invoices submitted for payment to KTC must include: (i) such supporting information as may be required by KTC to verify the accuracy of the invoice; (ii) the relevant purchase order number as stated on any relevant written purchase

order issued by KTC; (iii) the invoice number; (iv) the Supplier's VAT registration number; and (v) any other supporting documents that KTC may reasonably require. For the avoidance of doubt, KTC shall have the right to withhold payment of any invoices that do not meet the requirements set out in this clause 7.4.

- 7.5 Unless agreed otherwise in writing, KTC shall pay each correctly rendered, undisputed and approved invoice on its next weekly payment run following sixty (60) days after the date of the invoice. KTC makes a payment run each Wednesday for payment on Friday, for all approved invoices due to the previous Monday. The invoice must be dated on or after the date of delivery of the Goods or completion of the Services (as applicable).
- 7.6 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Goods and/or Services, and shall allow KTC to inspect such records at all reasonable times on request.
- 7.7 Without prejudice to any other right or remedy to which it may be entitled, KTC has the right to withhold or deduct or otherwise set off any monies owing at any time to the Supplier against any monies due to KTC from the Supplier or for the Supplier's breach of any Agreement, in each case whether either liability is present or future, liquidated or unliquidated.
- 7.8 If there is any invoice which is in dispute (whether in whole or part), KTC shall be entitled to withhold payment of the relevant invoice in full pending resolution. The parties shall enter into good faith discussions to resolve such dispute.
- 7.9 If KTC fails to make payment to the Supplier of any sums owed in accordance with clause 7.5, the Supplier may charge interest to KTC on such sums at a rate of 2% (two per cent) above the base lending rate from time to time of Bank of England until such payment has been made. Interest shall not be payable on any unpaid sums under clauses 7.7 or 7.8 above.
- 7.10 Payment of the Fees for the Goods and/or Services shall not constitute acceptance by KTC of the Goods and/or Services (including, but not limited to, any applicable Deliverables).

8 LIABILITY AND INSURANCE

- 8.1 Nothing in these Conditions excludes or limits the liability of either party for: (i) death or personal injury caused by its negligence; (ii) fraud or fraudulent misrepresentation; or (iii) any other liability that cannot be excluded or limited as a matter of law.
- 8.2 Subject to clause 8.1 above, KTC shall under no circumstances whatsoever be liable to the Supplier, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit; loss of revenue; loss of goodwill; loss of opportunity; loss of contract; loss of anticipated savings; loss of reputation; wasted expenditure; loss of data; or any special, indirect or consequential loss, and such liability is excluded whether it is foreseeable, known, foreseen or otherwise. For the avoidance of doubt, such exclusions of loss in this clause 8.2 apply whether such damage or loss is direct, indirect, consequential or otherwise.
- 8.3 Subject to clauses 8.1 and 8.2 above, KTC's total liability to the Supplier in respect of all other losses arising under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the lower of: (i) the total amount of Fees paid to the Supplier by KTC in respect of the six (6) month period prior to the relevant claim arising; or (ii) £100,000.



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8.4 The Supplier shall obtain and maintain in force during this Agreement and for a period of six (6) years thereafter, adequate and suitable insurance with a reputable insurance company to cover its potential liabilities under, and in connection with, this Agreement (including, without limitation, product liability, public liability insurance and employer's liability insurance cover) and shall supply to KTC on its reasonable request, certificates to prove that the Supplier has such appropriate and valid insurance policies in place. For the avoidance of doubt, the Supplier shall remain liable under all provisions of these Conditions and this Agreement whether or not it complies with this clause 8.4.

8.5 The Supplier shall indemnify and keep indemnified KTC in full and on demand against any and all losses, damage, penalties, charges, costs and expenses (including legal expenses) and any other liabilities incurred by KTC arising out of or in connection with: (i) the Supplier's negligence or breach of any of its obligations under an Agreement; (ii) any acts and/or omissions of the Supplier and/or its employees, sub-contractors or agents; (iii) any actual or alleged breach by the Supplier of any Applicable Laws; (iv) any fines and/or sanctions imposed on KTC by any Competent Authority due to an act or omission of the Supplier; and (v) any and all third party claims for infringement of Intellectual Property Rights relating to the Goods and/or Services and/or the Deliverables supplied by the Supplier.

8.6 This clause 8 shall survive termination of this Agreement.

9 CANCELLATION AND TERMINATION

9.1 KTC shall have the right to cancel an Order for the Goods and/or Deliverables or for any part of the Goods and/or Deliverables which have not yet been, in the case of Goods delivered to, and in the case of Services performed for, KTC.

9.2 In relation to any Order cancelled or part-cancelled under clause 9.1, on receipt of validly issued and properly documented evidence, KTC shall pay for in respect of any Goods, that part of the price which relates to the Goods which at the time of cancellation have been actually delivered to KTC.

9.3 To the maximum extent possible, the Supplier shall mitigate all costs relating to an Order immediately upon receipt of cancellation under this clause 9.

9.4 Without affecting any other right or remedy available to it, KTC may terminate this Agreement at any time for convenience by providing thirty (30) days' prior written notice to the Supplier.

9.5 Without affecting any other right or remedy available to it, KTC may terminate this Agreement with immediate effect from the date of written notice to the Supplier if the Supplier: (i) commits a material and/or persistent breach of any of their obligations under this Agreement and (if the breach is capable of remedy) the Supplier fails to remedy it within the time reasonably permitted as stated in any notice in writing provided by KTC; (ii) commits any act which brings, or is likely to bring, KTC into disrepute or which damages, or is likely to damage, KTC's reputation or commercial interests; (iii) undergoes a change of Control; or (iv) is subject to an Insolvency Event.

9.6 Termination of this Agreement shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Agreement that existed at or before the date of termination.

9.7 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

10 INTELLECTUAL PROPERTY RIGHTS

10.1 The Supplier grants to KTC, or shall procure the direct grant to KTC of, a fully paid-up, worldwide, non-exclusive, royalty-free, licence to use, copy and modify any and all of the Supplier's pre-existing Intellectual Property Rights to the extent required by KTC for the purpose of receiving and using the Goods and/or Services (including, but not limited to, the Deliverables) during the Term and for the duration of any exit assistance services provided pursuant to this Agreement.

10.2 KTC grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify KTC Materials for the Term solely for the purpose of providing the Goods and/or Services to KTC in accordance with this Agreement.

10.3 All Intellectual Property Rights created either during the course of providing the Goods and/or Services, in circumstances incidental to providing the Goods and/or Services or by using materials, tools or knowledge made available through the Supplier's engagement with KTC shall vest in and be the exclusive property of KTC, and the Supplier hereby assigns absolutely with full title guarantee all such Intellectual Property Rights to KTC.

10.4 The Supplier undertakes, at any time either during or after the term of this Agreement, to execute all documents, make all applications, give all assistance and do all acts and things as may, in the opinion of KTC, be necessary or desirable to vest the Intellectual Property Rights in, and to register them in, the name of KTC.

10.5 The provisions of this clause 10 shall continue to apply notwithstanding the expiry or termination of this Agreement (howsoever determined).

11 CONFIDENTIALITY

11.1 Each party undertakes that it shall not at any time disclose to any person any Confidential Information. No party will use the Confidential Information for any purpose other than to perform its obligations or enjoy its rights under this Agreement.

11.2 Notwithstanding clause 11.1, either party may disclose Confidential Information if and to the extent: (i) required by law or by regulation, including, for the avoidance of doubt, the rules of the London Stock Exchange (in the event such rules are applicable to the relevant party); (ii) required by a court of competent jurisdiction or any Competent Authority with relevant powers to which either party, or their respective holding companies, is subject or submits; (iii) required by its professional advisers, officers, employees, consultants, sub-contractors or agents to provide their services (and subject always to similar duties of confidentiality); (iv) that information is in or has come into the public domain through no fault of that party; or (v) that the other party has given prior written consent to the disclosure.

11.3 Without prejudice to any other rights or remedies that any party may have, each party acknowledges and agrees that damages alone may not be an adequate remedy for any breach of this clause 11 by the other party. Accordingly, the non-defaulting party shall be entitled to seek, without proof of special damage, the remedies of injunction, specific performance or any other equitable relief for any threatened or actual breach of this clause 11.

11.4 The restrictions in this clause 11 shall survive any termination or expiry of this Agreement.

12 DATA PROTECTION

12.1 In this clause 12, the following definitions and rules of interpretation shall apply: "process", "processor", "controller" and "personal data" shall have the meaning set out in the UK GDPR.

12.2 The parties acknowledge and agree that: (i) nothing in this Agreement shall require either party to process any personal data on behalf of the other party; and (ii) any processing of personal data which a party undertakes in connection with this Agreement will be carried out as an independent data controller.

12.3 Each party shall be responsible for its own compliance with the Data Protection Legislation at its own cost and shall not do anything to cause the other party to breach any of its obligations under the Data Protection Legislation.

12.4 Each party shall provide reasonable assistance to the other (at the requesting party's reasonable request and cost) in complying with the requirements of the Data Protection Legislation in connection with this Agreement.

12.5 If any circumstances arise which require either party to process personal data on behalf of the other party as a data processor, the parties agree that before any personal data is shared they will first enter into a data processing agreement, which complies with the requirements of the Data Protection Legislation and the terms of the data processing agreement shall govern any such processing on behalf of the other party.

13 ETHICS AND WORKING PRACTICES

13.1 The Supplier shall: (i) notwithstanding clause 3.3.1, comply with all applicable laws, codes, regulations and standards relating to anti-bribery, anti-corruption (including, but not limited to, the prevention of money laundering and tax evasion) and modern slavery from time to time including but not limited to the Bribery Act 2010, the Criminal Finances Act 2017 and the Modern Slavery Act 2015 (the "Relevant Requirements"); (ii) at all times comply with KTC's ethics, anti-bribery, anti-corruption and modern slavery policies (in place and updated from time to time); (iii) have and maintain in place throughout the term of the Agreement its own policies and procedures to ensure compliance with the Relevant Requirements and this clause 13; (iv) not purchase any goods or services that have been sourced from suppliers, producers or manufacturers: (a) using forced or compulsory labour or other similar methods; or (b) which are under any Sanctions; (v) provide healthy and safe working conditions, where; (a) the Supplier's personnel are afforded the right to respectful treatment; and (b) discrimination, harassment (including, but not limited to, sexual harassment) or victimisation in the workplace is not tolerated; (vi) have in place governance and processes to monitor adherence to these standards and have a comprehensive whistleblowing policy which allows personnel to report any incidents or concerns anonymously, safely and without repercussion; (vii) not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; (viii) represent and warrant that neither it nor any of its officers, employees or other persons associated with it: (a) have been convicted of any offence involving slavery and human trafficking; (b) have been or are the subject of any investigation, inquiry or enforcement proceedings by any



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governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking; and (c) has not committed nor is it liable for, and no claim has been or, shall be made that it has committed or is liable for, any criminal, illegal, unlawful or unauthorised act or breach of any obligation or duty whether imposed by or pursuant to statute, contract or otherwise, including without limitation, Sanctions; (ix) not do or omit to do any act that will cause KTC to be in breach of any Relevant Requirements; (x) immediately report to KTC any request or demand: (a) for any undue financial or other advantage of any kind received by the Supplier in connection with the Agreement; (b) from a third party for it to engage in money laundering activity; or (c) from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017; (xi) immediately report to KTC any actual or suspected slavery or human trafficking in a supply chain which has a connection with the Agreement; (xii) ensure that any person howsoever associated with the Supplier who is howsoever involved in the activities of the Supplier under or in connection with the Agreement (including, but not limited to, the Supplier's personnel) 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 pursuant to this clause 13; and (xiii) when in attendance at KTC's premises observe and comply with any and all health and safety, security and other policies and procedures in place at such premises together with any and all further instructions or warnings given by KTC from time to time.

13.2 KTC shall be entitled (without payment of compensation or other damages) to terminate or suspend this Agreement immediately upon written notice to the Supplier in the event of any of the following: (i) the Supplier or any individual entity or organisation holding any material ownership interest in the Supplier, or any officer or director of the Supplier, is determined at any time to be an individual, entity, or organisation: (a) with whom KTC or its Group is/are prohibited from dealing by any law, regulation or executive order, or (b) that is listed in one or more databases of high risk parties maintained by a Competent Authority or Applicable laws; or (ii) the Goods and/or Services provided under this Agreement cause, or the payment for such causes KTC or its Group to be in violation of Applicable Law, or violate the rules and regulations of a Competent Authority.

13.3 Where KTC is entitled to exercise any right under clause 13.2, then it shall not be required to make any payment to the Supplier for as long as such payment would, if made, place KTC in violation of Applicable Laws or violation of the rules and regulations of a government body with appropriate jurisdiction.

14 MATERIAL ADVERSE CHANGE

14.1 Without prejudice to clause 15, if there is, or either Party becomes aware that there will be, a Material Adverse Change on or after the date of this Agreement which has or would render KTC's receipt of the Goods and/or Services (including, but not limited to, the Deliverables), or the performance of any of KTC's obligations hereunder, as impossible or unlawful or would otherwise cause KTC to breach any rules, guidance, directive or instructions issued by the UK government or any Competent Authority, then upon the written request of either party, the parties shall promptly meet to discuss and, acting in good faith, agree upon any amendments that may be required to the terms of this Agreement in order to maintain, so far as is practicable, the overall balance of risks, rights, rewards and obligations between the parties that existed prior to such change.

14.2 If the parties are unable to reach an agreement on any such necessary amendments within thirty (30) days of the later of the date of initial request and the date of the Material Adverse Change actually coming into force, then KTC may terminate this Agreement immediately upon providing written notice to the other party and no payment shall be due on termination.

14.3 Without prejudice to clauses 14.1 and 14.2 or any relief which may be granted under clause 15 below, neither party shall be liable to the other party for a failure to perform any obligation under this Agreement which becomes prohibited or impossible to perform by reason of a Material Adverse Change.

15 FORCE MAJEURE

15.1 If a party is prevented, hindered or delayed from performing all, or substantially all, of its obligations under this Agreement as a direct result of a Force Majeure Event ("Affected Party"), the Affected Party shall as soon as reasonably possible serve notice in writing on the other party specifying the nature and extent of the circumstances giving rise to the Force Majeure Event. Subject to service of such notice, the Affected Party shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations and the date for performance of any affected obligations will be suspended for a period equal to the delay caused by the Force Majeure Event, to the extent that the delay or non-performance is due to a Force Majeure Event and provided that the Affected Party has taken all steps as are necessary (without being obliged to incur any material expenditure or cost) to mitigate the effects of the Force Majeure Event and to carry out its obligations under this Agreement in any other way that is reasonably practicable.

15.2 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than twenty (20) Business Days, the party not affected by the Force Majeure Event may terminate this Agreement by giving written notice to the Affected Party.

16 GENERAL

16.1 Any notice to be given under this Agreement by either party to the other shall be in writing and may be served personally by hand or by post to the address (or if by email, to the email address) specified in an Order.

16.2 Any such notice shall be deemed to have been served: (i) if delivered by hand, at the time of delivery; (ii) if posted, at the expiration of forty-eight (48) hours after the envelope containing the same shall have been put in the post; or (iii) if sent by email, on receipt of an automated delivery receipt or confirmation of receipt from the relevant server if before 5pm on a Business Day. If any such notice arrives on any day which is not a Business Day, it shall be deemed to have been delivered on the next following Business Day. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

16.3 Subject to clause 16.4, any entity which is not expressly a party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement and the provisions of such act shall be expressly excluded from this Agreement.

16.4 Any of the companies in KTC's Group may obtain the benefit of and enforce any term of this Agreement.

16.5 The Supplier is engaged as an independent contractor. Nothing in this Agreement shall be construed as establishing or implying any agency,

partnership or corporate relationship between the parties, or to authorise either party to act as the agent of the other, and neither party shall have the authority to act in the same of or otherwise to bind the other party in any way.

16.6 The Supplier shall not be entitled to assign, sub-contract, dispose of or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of KTC.

16.7 This Agreement sets out the entire agreement between the parties in relation to the subject matter hereof and supersedes any previous agreement relating to the subject matter of this Agreement, whether written or oral. Each party acknowledges and agrees that in entering into this Agreement it places no reliance on any representation or warranty in relation to the subject matter of this Agreement, nor shall it have any remedy in relation to the subject matter of the same, save as expressly set out in this Agreement. The only remedy available to either party for breach of such warranties or representations shall be for breach of contract under the terms of this Agreement. Nothing in this clause 16.7 or in this Agreement shall operate so as to exclude or restrict any remedy or liability for fraud or fraudulent misrepresentation.

16.8 Neither party shall be in breach of this Agreement nor liable for any delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, provided that, the parties shall only be entitled to rely on such circumstances if they could not have been avoided by way of reasonable precautions which would be expected of a reasonable and prudent business. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for four weeks, the party not affected may terminate this Agreement immediately upon written notice to the affected party.

16.9 If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed, and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

16.10 No failure or delay by either party in exercising or enforcing any of its rights or remedies under this Agreement shall constitute a waiver thereof and no single or partial exercise or enforcement of any of its rights or remedies under this Agreement shall preclude or restrict the further exercise or enforcement of any such right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

16.11 This Agreement (and all matters, including any non-contractual obligations, arising under or in connection with it) shall be governed by and construed in accordance with the laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.

