

## PurpleSector Limited - Purchasing Terms & Conditions

These terms and conditions, as amended from time to time (the “**Terms**”) set out the basis on which we, PurpleSector Limited (Company No. 12324701) (“**PurpleSector**”) agrees to purchase goods (“**Goods**”) and/or services (“**Services**”), as set out in an Order or Specification (as defined below) from you, the person or firm who supplies such Goods and/or Services to us (the “**Supplier**”).

### 1. Basis of Contract

- 1.1 These Terms apply to all agreements between PurpleSector and the Supplier for the supply of Goods and/or Services (each a “**Contract**”) to the exclusion of any other terms.
- 1.2 Each order from PurpleSector for Goods and/or Services provided to PurpleSector in writing (each an “**Order**”) constitutes an offer by PurpleSector to purchase the Goods and/or Services from the Supplier in accordance with these Terms. The Order shall be as set out in PurpleSector’s purchase order for the Goods and/or Services, unless PurpleSector expressly confirms otherwise in writing.
- 1.3 The Order will be deemed to be accepted on the earlier of the Supplier issuing a written acceptance of the Order and the Supplier doing any act consistent with fulfilling the Order, at which point and on which date the Contract shall come into existence (“**Commencement Date**”).
- 1.4 These Terms shall all apply to the supply of both Goods and Services except where they only refer to one or the other.

### 2. Supply of Goods

- 2.1 The Supplier must ensure that the Goods:
  - 2.1.1 correspond with their description in the Order and any specification for the Goods, including any related plans and drawings agreed in writing by PurpleSector and the Supplier (“**Goods Specification**”);
  - 2.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by PurpleSector;
  - 2.1.3 where they are manufactured products, be free from defects in design, material and workmanship and remain so at least for 12 months after delivery (or longer if specified in the Goods Specification); and
  - 2.1.4 comply with all applicable statutory and regulatory requirements.
- 2.2 PurpleSector may inspect and test the Goods at any time before delivery. The Supplier will 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 Contract.
- 2.3 If following such inspection or testing PurpleSector considers that the Goods do not conform or are unlikely to comply with the Supplier’s undertakings at clause 2.1 PurpleSector will inform the Supplier and the Supplier must immediately take any remedial action necessary to ensure compliance.

### 3. Delivery

- 3.1 The Supplier must ensure that:
  - 3.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
  - 3.1.2 each delivery of Goods is accompanied by a delivery note which shows the order number, the type and quantity of Goods, special storage instructions (if any) and, if PurpleSector has agreed for delivery by instalments for that Order the outstanding balance of Goods remaining to be delivered; and
  - 3.1.3 if the Supplier requires PurpleSector to return any packaging material to the Supplier (at the Supplier’s cost), this is clearly stated on the delivery note.
- 3.2 The Supplier must deliver the Goods:
  - 3.2.1 on the date specified in the Order or, if no date is specified, then within 14 days of the date of the Order;

- 3.2.2 to the location set out in the Order or as instructed by PurpleSector before delivery; and
  - 3.2.3 during PurpleSector's normal hours of business on a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business ("**Business Day**"), or as instructed by PurpleSector.
- 3.3 If the Supplier:
- 3.3.1 delivers less than 100% of the quantity of Goods ordered, PurpleSector may reject the Goods; or
  - 3.3.2 delivers more than 100% of the quantity of Goods ordered, PurpleSector may at its sole discretion reject the Goods or the excess Goods, and any rejected Goods shall be returnable at the Supplier's risk and expense.
- 3.4 The Supplier must not deliver the Goods in instalments without PurpleSector's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately.
- 3.5 Title and risk in the Goods shall pass to PurpleSector on completion of delivery.

#### **4. Supply of Services**

- 4.1 The Supplier will, from the Commencement Date and for the duration of the Contract, supply the Services to PurpleSector in accordance with the terms of the Contract.
- 4.2 The Supplier must meet any performance dates for the Services specified in the Order or that PurpleSector notifies to the Supplier.
- 4.3 In providing the Services, the Supplier must:
- 4.3.1 co-operate with PurpleSector in all matters relating to the Services, and comply with all instructions of PurpleSector;
  - 4.3.2 perform the Services with all reasonable care, skill and diligence in accordance with good practice in the Supplier's industry, profession or trade;
  - 4.3.3 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 the Contract;
  - 4.3.4 ensure that the Services will conform with all descriptions, standards and specifications set out in the description or specification for Services set out in the Order or otherwise agreed in writing by PurpleSector ("**Service Specification**");
  - 4.3.5 ensure that all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts) ("**Deliverables**") shall be fit for any purpose that PurpleSector expressly or impliedly makes known to the Supplier;
  - 4.3.6 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
  - 4.3.7 use the high-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 PurpleSector, will be free from defects in workmanship, installation and design;
  - 4.3.8 obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
  - 4.3.9 observe all health and safety rules and regulations and any other security requirements that apply at any of PurpleSector's premises;

- 4.3.10 hold all materials, equipment and tools, drawings, specifications and data supplied by PurpleSector to the Supplier ("**PurpleSector Materials**") in safe custody at its own risk, maintain the PurpleSector Materials in good condition until returned to PurpleSector, and not dispose of or use the PurpleSector Materials other than in accordance with PurpleSector's written instructions;
- 4.3.11 not do or omit to do anything which may cause PurpleSector to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that PurpleSector may rely or act on the Services; and
- 4.3.12 comply with any additional obligations as set out in the Service Specification.

## **5. Remedies**

- 5.1 If the Supplier fails to deliver the Goods and/or to perform the Services in accordance with the Contract, PurpleSector will have any one or more of the following rights and remedies:
  - 5.1.1 to terminate the Contract with immediate effect;
  - 5.1.2 to refuse to accept any subsequent performance of the Services and/or delivery of the Goods and return any Goods or Deliverables at the Supplier's risk and expense;
  - 5.1.3 to recover from the Supplier any costs incurred by PurpleSector in obtaining substitute goods and/or services from a third party;
  - 5.1.4 require repeat performance or delivery of the Goods and/or Services at the Supplier's cost;
  - 5.1.5 to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
  - 5.1.6 to claim damages for any additional costs, loss or expenses incurred by PurpleSector which are attributable to the Supplier's failure.
- 5.2 These Terms shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 5.3 PurpleSector's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

## **6. Price and Payment**

- 6.1 The price of the Goods shall be the price set out in the Order or otherwise agreed in writing by PurpleSector or, if no price is quoted or agreed, the price set out in the Supplier's published price list in force as at the date the Contract came into existence.
- 6.2 The Price:
  - 6.2.1 excludes amounts in respect of VAT, which PurpleSector will additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
  - 6.2.2 includes the costs of packaging, insurance and carriage of the Goods.
- 6.3 No extra charges will be effective unless expressly agreed in writing by PurpleSector.
- 6.4 In respect of the Goods, the Supplier shall invoice PurpleSector on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice PurpleSector on completion of the Services. Each invoice shall include such supporting information required by PurpleSector to verify the accuracy of the invoice.
- 6.5 In consideration of the supply of Goods and/or Services by the Supplier, PurpleSector will pay correctly rendered invoices within 30 days of receipt of the invoice.
- 6.6 PurpleSector is not liable for late payment interest unless Supplier has issued a notice of default and PurpleSector is in default. Late payment interest will be accrued daily at 2% a year above the Bank of England base rate from time to time on any undisputed debts after the issue of any such notice of default.

6.7 PurpleSector may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to PurpleSector against any liability of PurpleSector to the Supplier.

## 7. Indemnity

7.1 The Supplier will indemnify by PurpleSector against all liabilities, costs, expenses, damages and losses suffered or incurred by PurpleSector arising out of or in connection with:

7.1.1 any claim made against PurpleSector for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the supply or use of the Goods or the Deliverables;

7.1.2 any claim made against PurpleSector by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods, except where such defects are caused by PurpleSector after delivery;

7.1.3 any claim made against PurpleSector by a third party relating to the supply of the Goods or the 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, its employees, agents or subcontractors; and

7.1.4 any breach of the Data Protection Legislation by the Supplier in respect of the supply of any Services under this Agreement.

## 8. Insurance and Compliance

8.1 During the term of the Contract and for a period of six years thereafter, the Supplier will maintain in force, with a reputable insurance company product liability insurance (where supply Goods), professional indemnity insurance (where providing Services), public liability insurance and employer's liability insurance to cover the liabilities that may arise under or in connection with the Contract, and will on PurpleSector'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. Where no insurance limit has been stated in the Order or any Specification, the Supplier's insurances must provide at least £5m per claim of cover per year.

8.2 In performing its obligations under the Contract, the Supplier will comply with all applicable laws, statutes, and regulations from time to time in force, as well as any supplier policies notified to them by PurpleSector in writing from time to time.

8.3 In performing its obligations under the Contract, the Supplier shall:

8.3.1 comply with all applicable laws, statutes, regulations and codes from time to time in force relating to (a) anti-slavery and human trafficking laws, (b) anti-bribery and anti-corruption and (c) the facilitation of tax evasion (collectively the "**Compliance Requirements**");

8.3.2 not engage in any activity, practice or conduct that would constitute an offence under any of the Modern Slavery Act 2015, the Bribery Act 2010, the Criminal Finances Act 2017 or any other Compliance Requirements;

8.3.3 have and shall maintain in place throughout the term of the Contract its own policies and procedures to ensure compliance with the Compliance Requirements and this clause 8 and will enforce them where appropriate;

8.3.4 notify PurpleSector (in writing) immediately if it becomes aware of any breach of this clause 8 or the Compliance Requirements;

8.3.5 at all times maintain a complete set of records to trace the supply chain of all Goods and Services provided to PurpleSector in connection with the Contract;

8.3.6 permit PurpleSector and its appointed representatives to inspect the Supplier's premises, records, and to meet the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause 8;

- 8.3.7 provide and procure that its employees, agents, officers, consultants and advisers all reasonable assistance to PurpleSector and its appointed representatives in responding to any questions they may have in respect of the Supplier's compliance with its obligations under this clause 8.2, including providing any information PurpleSector (or its third party representatives) may reasonable request; and
- 8.3.8 ensure that any person associated with the Supplier (as defined in the Bribery Act 2010) who is performing services in connection with the Contract or is otherwise a direct subcontractor or supplier of the Supplier does so only on the basis of a written contract which imposes on and secures from such person obligations equivalent to those in this clause 8.2 (the "**Compliance Terms**"). The Supplier shall be responsible for the observance and performance by such persons of the Compliance Terms and shall be directly liable to PurpleSector for any breach by such persons of any of the Compliance Terms.

8.4 PurpleSector may immediately terminate the Contract for any breach of clause 8 by the Supplier.

## 9. Intellectual Property Rights

9.1 In these Terms, "**Intellectual Property Rights**" means patents, utility models, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, Confidential Information (including know-how and trade secrets) and all other intellectual property rights.

9.2 The Supplier:

9.2.1 assigns to PurpleSector, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the Deliverables, other than any PurpleSector Materials or any pre-existing Intellectual Property Rights of the Supplier which has not been specifically developed or created on the instructions or for the benefit of PurpleSector or in the course providing Services to PurpleSector ("**Background IP**");

9.2.2 grants to PurpleSector a non-exclusive, perpetual, irrevocable, royalty-free, transferable, sub-licensable licence to use and copy any Background IP contained in the Deliverables in order to receive the full benefit of the Deliverables in its business;

9.2.3 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 Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction; and

9.2.4 shall, promptly at PurpleSector's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as PurpleSector may from time to time require for the purpose of securing for PurpleSector all right, title and interest in and to the Intellectual Property Rights assigned to PurpleSector in accordance with this clause 9.2).

9.3 The Supplier acknowledges that all rights in the PurpleSector Materials are and shall remain the exclusive property of PurpleSector. PurpleSector grants the Supplier a non-exclusive, royalty-free, non-transferable, non sub-licensable licence to use the PurpleSector Materials solely to the extent necessary for provision of the Goods and/or Services during the term of the Contract.

## 10. Confidentiality

10.1 Each party undertakes that it shall not any time during the Contract and for a period of five years after termination or expiry of the Contract, disclose to any person any Confidential Information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 10.2.

10.2 Each party may disclose the other party's Confidential Information:

- 10.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with this clause 10; and
- 10.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 10.3 Neither party shall use the other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 10.4 The Supplier will not, without PurpleSector's express prior written consent, (i) use the name, trademarks, logo or other identifying marks of PurpleSector in any sales, marketing or publicity activities or materials, or (ii) issue a press release or other kind of public statement regarding PurpleSector or any Goods or Services supplied to it.
- 10.5 For the purposes of these Terms, "**Confidential Information**" means all information of a confidential nature which one party directly or indirectly discloses or makes available to the other party (or its personnel) during the course of the Contract, including the arrangements between the parties, the Goods and/or Services being procured by PurpleSector under the Contract, all confidential or proprietary information relating to a party's business, assets, affairs, products, operations, or processes including drawings, data, designs, software, trade secrets and any information, data or analysis derived from such information and anything else identified as being of a confidential or proprietary nature.

## 11. Data Protection

- 11.1 In this clause 11, the following definitions will apply:

**Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.

**Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.

- 11.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 11.3 The parties acknowledge that for the purposes of the Data Protection Legislation and unless otherwise agreed in writing with suitable alternative data processing terms, PurpleSector is the Controller and the Supplier is the Processor.
- 11.4 The Supplier must, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:
- 11.4.1 process that Personal Data only on the documented written instructions of PurpleSector which are set out in the Order or the Services Specification (as applicable) unless the Supplier is required by the Data Protection Legislation;
- 11.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by PurpleSector, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data;
- 11.4.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 11.4.4 not transfer any Personal Data outside of the UK unless the prior written consent of PurpleSector has been obtained and the following conditions are fulfilled:

- (i) PurpleSector or the Supplier has provided appropriate safeguards in relation to the transfer;
  - (ii) the Data Subject has enforceable rights and effective legal remedies;
  - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - (iv) the Supplier complies with reasonable instructions notified to it in advance by PurpleSector with respect to the processing of the Personal Data;
- 11.4.5 assist PurpleSector, at PurpleSector's cost (except where due to the Supplier's default), in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 11.4.6 notify PurpleSector without undue delay on becoming aware of a Personal Data Breach;
- 11.4.7 at the written direction of PurpleSector, delete or return Personal Data and copies thereof to PurpleSector on termination of the Contract unless required by the Data Protection Legislation to store the Personal Data; and
- 11.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 11 and allow for audits PurpleSector or its designated auditor and immediately inform PurpleSector if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.
- 11.5 PurpleSector does not consent to the Supplier appointing any third-party processor of Personal Data under the Contract.
- 11.6 Either party may, at any time on not less than 30 days' notice, revise this clause 11 by replacing it with any applicable standard data processing or sharing clauses or similar terms adopted under the Data Protection Legislation or forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

## **12. Termination**

- 12.1 Without affecting any other right or remedy available to it, PurpleSector may terminate the Contract for convenience by giving the Supplier one month's written notice.
- 12.2 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 12.2.1 the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
  - 12.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
  - 12.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
  - 12.2.4 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Contract is in jeopardy.
- 12.3 Termination of the Contract will 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 Contract which existed at or before the date of termination.

**13. Notices**

13.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered and deemed received as follows:

Method of Delivery	Address	Date of Receipt
By hand	The recipient's registered office address (if a company) or its principal place of business (in any other case).	At the time the notice is left at the address
By pre-paid post	The recipient's registered office address (if a company) or its principal place of business (in any other case).	At 9.00am on the second Business Day after posting.
By Email	To the email address specified in the Order or, in the absence of any email address, to the main email address used for the purposes of the Contract.	At 9.00am on the Business Day following transmission.

13.2 The provisions of this clause will not apply to the service of any proceedings or other documents in any legal action.

**14. General**

14.1 **Force majeure.** Neither party will be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this 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 this Contract by giving 28 days' written notice to the affected party.

14.2 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under this Contract without the prior written consent of PurpleSector. If PurpleSector consents to any subcontracting by the Supplier, the Supplier will remain responsible for all acts and omissions of its subcontractors as if they were its own.

14.3 **Entire agreement.** This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

14.4 **Variation.** No variation of this Contract will be effective unless it is in writing and signed by the parties (or their authorised representatives).

14.5 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

14.6 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it will be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision will be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause will not affect the validity and enforceability of the rest of the Contract.

14.7 **Third party rights.** No one other than a party to the Contract will have any right to enforce any of its terms.

14.8 **Governing law & jurisdiction.** The Contract, and any dispute or claim arising out of or in connection with it, will be governed by, and construed in accordance with English law and the English courts will be subject to the exclusive jurisdiction of the English courts.