Ekspan Limited CONDITIONS OF PURCHASE *v1 June 2024*

1. DEFINITIONS

1.1 In this Agreement the following expressions have the following meanings, and the Agreement shall be interpreted according to the following provisions, unless the context requires a different meaning: "**Affiliate**" means: in relation to Ekspan Limited, a Ekspan Limited Affiliate and in relation to the
Supplier, a Supplier Affiliate;
"**Agreement**" means these Conditions together with the Purchase Order;
"**Anti-Slavery Policy**" means Ekspan Limited, Ethnical and Responsible Sourcing Policy and Modern Slavery and Human Trafficking Policies at www.ekspan.com
"**Applicable Law**" means any United Kingdom (UK) law;
"**Ekspan Limited"** has the meaning given to it on the Purchase Order;
"**Ekspan Limited Affiliate**" means Ekspan Limited or any person which is from time to time controlled by Ekspan Limited and for this purpose a person is controlled or operated by Ekspan Limited if Ekspan Limited, either directly or through one or more intermediaries, beneficially owns shares (or their equivalent) carrying the majority of votes at a general meeting of shareholders (or its equivalent) of the person;
"**Ekspan Limited Data**" means all data (including Ekspan Limited Personal Data), information, text, visual or graphic representations and other materials in any medium or format whether electronic, tangible or otherwise) howsoever created or stored and which are provided to or accessed by the Supplier or its subcontractors by or at the direction of Ekspan Limited; or which the Supplier or its subcontractors create, collect, process, store, generate, or transmit in connection with this Agreement;
"**Ekspan Limited Materials**" means any material owned by Ekspan Limited and used by the Supplier pursuant to this Agreement (howsoever created or stored), internal guidelines, technical documentation and operating manuals, correspondence, application forms, literature, and policy statements;
"**Ekspan Limited Personal Data**" means Personal Data Processed by either party pursuant to this Agreement set out in the Data Protection Particulars;
"Ekspan Limited Policies" means the policies, procedures, and standards in place from time to time within Ekspan Limited or the relevant Ekspan Limited Affiliate and at each of the Ekspan Limited Premises in relation to security, health and safety and including but not limited to Sustainability Policies, Ekspan Code of Ethics, Supplier Conditions, Handbooks.
"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are normally open for general business; "**Charges**" means the charges payable by Ekspan Limited in consideration for the provision of the Goods and/or Services as set out on the Purchase Order; "**Conditions**" means the standard terms and conditions set out in this document;
"**Confidential Information**" means all information obtained from the other party which by its nature should be treated as confidential information or is marked as such which may come into its possession or into the possession of its employees, agents or subcontractors as a result of or in connection with this Agreement and any and all information which may be derived from such information;
"**Customer**" means any person which is an actual or intended customer, client, or employer of Ekspan Limited's, or in relation to whose project or other work Ekspan Limited has engaged, or is contemplating engaging any third party; "**Data Protection Laws**" any Applicable Law which applies to each Party in any territory in which they Process Personal Data and which relates to the protection of individuals with regards to the Processing of Personal Data and privacy rights, including without limitation the EU GDPR and the e-Privacy Directive and relevant member state laws in the European Economic Area ("EEA") and in relation to the United Kingdom ("UK") the Data Protection Act 2018 ("DPA") and the Privacy and Electronic Communications Regulations 2003 (amended by SI 2011 no. 6) and the EU GDPR (as incorporated into UK law under the UK European Union (Withdrawal) Act 2018) as the same are amended in accordance with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 (as amended by SI 2020 no. 1586), as amended to be referred to as "PECR" and the "UK GDPR" respectively, any binding code of practice or guidance published by a Supervisory Authority from time to time; and/or any binding pronouncements (including findings, orders, decisions and/or judgements) issued by a Supervisory Authority or a court;"**Data Protection Particulars**" has the meaning given in Clause 12.3
"**Data Subject Request**" means any Data Subject access request, notice or complaint exercising rights under the Data Protection Laws;
"**Data Transfer**" means transferring, accessing or Processing the Ekspan Limited Personal Data, from or to a jurisdiction or territory that is a Restricted Country;
"**Data Transfer Agreement**" means the UK ICO edited version of the Standard Contractual Clauses for Controllers to Processors ((based on EC Decision (EU) 2021/914 4 June 2021) as issued by the ICO until replaced or superseded by any UK Standard Contractual Clauses issued by the UK Secretary of State from time to time;
"Delivery" means successful delivery of the Goods to Ekspan Limited, nominated delivery destination in accordance with Clauses 4 and 7; "**Disclosing Party**" has the meaning set out in Clause 13.1;
"**Effective Date**" means the order date as set out on the Purchase Order;
"**Goods**" means those goods to be supplied to Ekspan Limited by the Supplier pursuant to this Agreement including the goods as set out in the Purchase Order;
"**EU GDPR**" means Regulation (EU) 2016/679 of the European Parliament and Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data (General Data Protection Regulation) OJ L 119/1, 4.5.2016;
"**Good Industry Practice**" means, in relation to any undertaking and any circumstances, the exercise of the degree of skill, care, prudence and foresight which would be expected from a skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances;
"ICO" means the Information Commissioner's Office or the UK regulator for Data Protection Laws and privacy (as renamed or reconstituted from time to time); "**ICO Correspondence**" means correspondence or written or verbal communication from the ICO in relation Ekspan Limited Personal Data;
"**Intellectual Property Rights**" means patents, trademarks, services marks, copyrights, topography rights, database rights, design rights, trade secrets and rights of confidence and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world, whether or not any of them are registered and including applications for registration of any of them;
"**Losses**" means all losses, liabilities, costs (including legal costs), charges, expenses, actions, procedures, claims, demands, damages (including damages awarded by a competent court or paid pursuant to a settlement), penalties or regulatory fines, investigative, corrective or compensatory action costs required by a regulator or costs of defending enforcement action;
"**Personal Data Incident**" means any actual or suspected Personal Data Breach or any 'near miss' Personal Data incident which shall be defined as an incident involving Personal Data which has the potential to have led to a Personal Data Breach; "**Personal Data Breach**" has the meaning set out in the DPA;
"**Permitted Purpose**" means the purpose of the Processing set out in the Data Protection Particulars;
"**Principal**" means: (any owner, officer, or director; or (ii) any employee or other representative who has authority to make or influence decisions or recommendations regarding the relationship with Ekspan Limited "**Processing**" has the meaning set out in the DPA ("**Process**" and "**Processed**" shall be construed accordingly);
"**Public Officials**" include: i) Officers and employees of any national, regional, local or other governmental entity, including elected officials; (ii) any private person acting temporarily in an official capacity for or on behalf of any such governmental entity (such as a consultant retained by a government agency); (iii) Officers and employees of companies in which a government owns an interest; (iv) Candidates for political office at any level; (v) Political parties and their officials; and (vi) Officers, employees or official representatives of public (quasi-governmental) international organisations, such as the World Bank, United Nations, International Monetary Fund, etc.
"**Recipient**" has the meaning set out in Clause 13.1;
"**Relevant Person**" means any Customer, or any Principal of any Customer.
"**Restricted Country**" means a country, territory or jurisdiction outside of: (i) the European Economic Area which the EU Commission has not deemed to provide adequate protection in relation to Data Protection Laws and/or ii) the United Kingdom which the UK Secretary of State has not deemed to provide adequate protection in relation to Data Protection Laws;
"Security Requirements" means the requirements regarding the security of the Personal Data, as set out in the Data Protection Laws as applicable;
"Sensitive Personal Data" means Personal Data that reveals such categories of data as are listed in the DPA;
"**Services**" means those services to be provided to Ekspan Limited by the Supplier pursuant to this Agreement including the services set out on the Purchase Order;
"Supervisory Authority" means the ICO or any relevant national authority for data protection or privacy matters for the relevant territory or country as renamed or reconstituted from time to time; "**Supplier**" means the supplier specified on the Purchase Order;
"**Supplier Affiliate**" means any person which is from time to time directly controlled by the Supplier and for this purpose a person is directly controlled by the Supplier if the Supplier beneficially owns shares (or their equivalent) carrying the majority of votes at a general meeting of shareholders (or their equivalent) of the person;
"**Supplier Materials**" means any material owned by the Supplier and used by Ekspan Limited pursuant to this Agreement (howsoever created or stored) including internal guidelines, technical documentation and operating manuals, correspondence, application forms, literature, and policy statements;
"**Term**" has the meaning as set out in the Purchase Order or as deemed by Clause 3.
1.2 Words importing persons shall, where the context so requires or admits, include individuals, firms, partnerships, trusts, corporations, governments, governmental bodies, authorities, agencies, unincorporated bodies of persons or associations and any organisations having legal capacity.
1.3 Reference to "parties" means the parties to this Agreement and references to "a party" mean one of the parties to this Agreement.
1.4 In the event and only to the extent of any conflict between the Conditions and the Purchase Order, the Conditions shall prevail.
1.5 References to the words "include(s)" or "including" shall be construed without limitation to the generality of the preceding words.
1.6 The rights and remedies of Ekspan Limited described in this Agreement shall be in addition and without prejudice to its other rights and remedies under this Agreement and at law.

2. BASIS OF PURCHASE

2.1 The Agreement represents the entire agreement between the Supplier and Ekspan Limited as to the terms upon which the Goods and/or Services shall be supplied and delivered. No variation to the Purchase
2.2 Order or to these Conditions shall be binding unless agreed in writing between the duly authorized representatives of Ekspan Limited and the Supplier. Notwithstanding anything to the contrary in any quotation, tender, delivery note, invoice, order acknowledgement, correspondence or other document issued by the Supplier, these Conditions shall apply to all Purchase Orders issued by Ekspan Limited and all other terms or conditions are excluded.

3. TERM

3.1 This Agreement shall take effect on the Effective Date for the Term, unless and until terminated earlier in accordance with the terms of this Agreement.
3.2 If a Purchase Order does not specify a Term, the Term shall be deemed to expire when the Supplier has complied with all of its obligations under this Agreement.

4. THE GOODS AND SERVICES

4.1 The Supplier shall provide the Goods and/or Services to and shall perform its other obligations under this Agreement for the benefit of Ekspan Limited.
4.2 The Goods and/or Services shall be fit for the intended purpose specified in or reasonably inferred from the Agreement.
4.3 In performing its obligations (including the provision of the Goods and/or Services) under this Agreement, the Supplier shall notify Ekspan Limited as soon as it is aware of any potential or actual delays or obstacles to the performance of any of the Supplier's obligations.
4.4 Ekspan Limited shall not be in breach of this Agreement, nor shall it be liable to the Supplier, for failure to perform its obligations under this Agreement if, and to the extent that, such failure directly or indirectly results from the Supplier failing to perform any of its obligations under this Agreement or is caused by any negligent, tortuous or unlawful act or omission of the Supplier, its agents or subcontractors.
4.5 Ekspan Limited reserves the right to reject incomplete deliveries and to return excess quantities at the Supplier's expense.
4.6 The Goods shall be at risk of the Supplier until Delivery to Ekspan Limited at the place of delivery specified in the Purchase Order, or as otherwise specified by Ekspan Limited.
4.7 Ownership of the Goods shall pass to Ekspan Limited on completion of Delivery (including off-loading) in accordance with the Purchase Order, except that if the Goods are paid for before delivery ownership shall pass to Ekspan Limited once payment has been made. The Parties acknowledge and agree that Ekspan Limited is the intended owner of the Imported Items (defined in Clause 7.2) for Value Added Tax ("VAT") purposes.
4.8 Goods found to be defective or of inferior quality will be rejected and returned for rectification or replacement at the expense of the Supplier. Any additional expenditure reasonably incurred by Ekspan Limited in obtaining other Goods in replacement shall be paid by the Supplier to Ekspan Limited. All Goods shall be new, unless Ekspan Limited has otherwise agreed in writing.

5. CHARGES AND PAYMENT

5.1 Ekspan Limited shall pay all undisputed Charges validly due under this Agreement relating to the Goods and/or Services in accordance with this Clause 5 and the Purchase Order.
5.2 Unless otherwise stated in the Purchase Order and/or agreed in writing between the Parties, payment of invoices shall be made within a period of thirty (30) days from receipt of a valid invoice for the Goods and/or Services provided in accordance with the Purchase Order.
5.3 and the Supplier shall at no additional cost to Ekspan Limited submit all invoices electronically to accounts@ekspan.com
5.4 The Supplier acknowledges that where the Supplier fails to submit invoices in accordance with Clause 5.3, any invoices submitted by other means shall not be valid and Ekspan Limited reserves the right to reject such invoices and to require the Supplier to re-submit invoices in accordance with Clause 5.3 in such circumstances.
5.5 Ekspan Limited reserves the right to set off any amount at any time owing to it by the Supplier against any amount payable by it to the Supplier under this Agreement (and/or any other Agreement between Ekspan Limited and the Supplier).
5.6 Except where otherwise stated, the Charges are exclusive of value added tax.
5.7 If the Ekspan Limited fails to make payment in accordance with this Clause 5, then the Supplier shall be entitled to charge simple interest on the overdue amount at a rate of 2% above the base rate of the Bank of England from time to time in force from the date on which such amount fell due until payment. If any dispute is due to the Supplier's inaccuracy within the invoice, the Supplier shall not be entitled to apply interest upon any overdue invoice.

6. VARIATION TO CHARGES

6.1 Charges shall be fixed unless otherwise agreed in writing by the parties.
6.2 The price stated on the Purchase Order shall be inclusive of all delivery costs unless otherwise stated in writing.

7. DELIVERY REQUIREMENTS

7.1 Subject to Clause 7.2, the Delivery of the Goods and/or Services shall be commenced, carried out and completed in accordance with the requirements stated in the Purchase Order. Where such requirements are not so stated, delivery/supply shall be in accordance with any programme agreed between Ekspan Limited and the Supplier or, in the absence of such programme, in accordance with the reasonable directions of Ekspan Limited. Time is of the essence in relation to the date and rate of supply of the Goods and/or Services.
7.2 Unless otherwise agreed in writing between the Parties in the relevant Purchase Order, in relation to any Goods and materials to be imported into the United Kingdom ("**Imported Items**"), the Supplier shall be responsible for clearance of the Imported Items for export and import; pay any applicable import duty, taxes (including VAT), levies and any other costs related to export, transport and import clearance on the Imported Items; take all other measures as are required for the lawful import of such Imported Items into the United Kingdom and be responsible for unloading of the Imported Items to Ekspan Limited, named Delivery destination and nothing in this contract relating to sums being
exclusive of VAT shall, in relation to the Imported Items, be construed as providing otherwise.

8. RETURNABLE ITEMS

8.1 Any items upon which the Supplier charges a deposit shall be collected by the Supplier at the Supplier's cost, within fourteen (14) days of written notification by Ekspan Limited that such items are ready for collection. Should the Supplier fail to collect such items or credit Ekspan Limited with such deposit Ekspan Limited may set off in accordance with clause 5.3 any deposit previously paid and dispose of the items as Ekspan Limited may see fit.

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9. COMPLIANCE WITH LAW AND REGULATION

9.1 The Supplier shall comply with the Ekspan Limited Policies that are notified to it by Ekspan Limited from time to time.

9.2 The Supplier shall comply with all applicable laws and regulations in performing its respective obligations under this Agreement, and the Supplier shall always ensure that the Goods and/or Services comply with all applicable laws and regulations. Any alleged or suspected violation of the Ekspan Limited Policies by the Supplier or its personnel in the performance of this Agreement shall be promptly reported to Ekspan Limited.

9.3 The Supplier shall permit Ekspan Limited and/or the Ekspan Limited Affiliates to investigate the matter, co-operate with any such investigation and take whatever corrective action Ekspan Limited deems to be appropriate with respect to any such violation by the Supplier or its personnel. Any breach of the above Policies by the Supplier shall constitute a material breach of the Agreement and shall entitle Ekspan Limited to terminate this Agreement and any other agreement between the parties, with immediate effect without liability.

9.4 The Supplier represents, warrants, and undertakes to Ekspan Limited that: (i) in carrying out its responsibilities under this Agreement, it shall always comply with all applicable local and international laws. In particular, neither it nor any of its officers, employees, directors or agents shall, directly or indirectly offer, promise, pay or give, or authorise any offer, promise, payment or gift of, money or anything else of value to any person, including any Public Official or other Relevant Person, either as an improper inducement to make, or as an improper reward for making, any decision favourable to the interests of

9.5 Ekspan Limited or the Supplier; (ii) none of its Principals is a Public Official or Relevant Person; (iii) neither it nor any of its Principals has any connection with a Public Official or Relevant Person that has not been disclosed to Ekspan Limited; and (iv) the information provided to Ekspan Limited in response to Ekspan Limited, third party supplier questionnaire if applicable is complete, accurate and not misleading.

9.6 Notwithstanding any other provision of this Agreement, if Ekspan Limited becomes aware of what it determines in good faith to be a breach of the above representations and warranties, Ekspan Limited is entitled to terminate this Agreement, and any other agreement between the parties, with immediate effect. In the event of such termination, Ekspan Limited shall have no liability to the Supplier under this Agreement for any fees, reimbursements, or other compensation or for any other loss, cost, claim, or damage resulting, directly or indirectly, from such termination.

10. INTELLECTUAL PROPERTY

10.1 All Intellectual Property Rights belonging to Ekspan Limited prior to the Effective Date will remain vested in Ekspan Limited. For the avoidance of doubt any Intellectual Property Rights belonging to a Ekspan Limited Affiliate shall remain vested in that Ekspan Limited Affiliate and Ekspan Limited shall be entitled to enforce any rights under this clause 10 on behalf of and for the benefit of the Ekspan Limited.

10.2 All Intellectual Property Rights in any reproductions, enhancements, replacements, amendments and/or modifications to all or any part of the Ekspan Limited Materials will vest in Ekspan Limited on their creation.

10.3 All Intellectual Property Rights belonging to the Supplier prior to the Effective Date will remain vested in the Supplier.

10.4 The Supplier hereby grants to Ekspan Limited a non-exclusive, non-transferable, royalty-free licence to use and reproduce the Supplier Materials to receive the Services.

10.5 The Supplier warrants and represents that there are no rights in addition to those granted under this Agreement that are required for Ekspan Limited to have quiet enjoyment of the Goods.

10.6 The Supplier shall procure for Ekspan Limited a non-exclusive, non-transferable, royalty-free licence to use, reproduce, enhance, replace, amend, or modify any Intellectual Property Rights which are created by any subcontractor of the Supplier in the performance of its obligations under the respective sub-contract.

10.7 All Intellectual Property Rights arising because of or as part of the provision of the Services (including any Intellectual Property Rights embodied in the deliverables delivered as part of the Services) will vest in Ekspan Limited upon their creation. The Supplier hereby assigns to Ekspan Limited all existing and future Intellectual Property Rights in the deliverables and all materials embodying such rights to the fullest extent permitted by law.

11. INDEMNITIES

11.1.1The Supplier will indemnify and keep fully and effectively indemnified Ekspan Limited on demand from and against any and all claims made against Ekspan Limited as a result of or in connection with: a claim alleging that the use of the Goods and/or Services permitted under this Agreement infringes the Intellectual Property Rights of a third party; or

11.1.2 defective workmanship, quality, or materials in or in relation to the Goods; or

11.1.3 any liability, loss, damage, injury, cost or expense to the extent caused by, relating to or arising from the Goods or Services or because of a direct or indirect breach, negligent performance or failure or delay in performance of the Agreement by the Supplier or the Supplier's personnel, and such indemnities will include all losses of any nature incurred by Ekspan Limited

11.1.4 directly or indirectly to the extent arising because of or in connection with such claim. The indemnities in this clause shall remain in full force and effect notwithstanding the termination or expiry of this Agreement.

12. DATA SECURITY AND DATA PROTECTION

12.1 The Supplier shall ensure that any system on which the Supplier holds Ekspan Limited Data is secure and ensures complete data integrity in accordance with Good Industry Practice.

12.2 The terms "Controller," "Data Subject," "Personal Data" and "Processor" in this Clause 12 shall have the meanings set out in the DPA.

12.3 Ekspan Limited shall be Controller of Personal Data Processed by the Supplier and the Supplier shall be Processor where Processing the Personal Data in accordance with the Data Protection Particulars. The Supplier shall confirm in writing to Ekspan Limited the subject matter, duration, nature and purpose of the Processing, the type of Personal Data and categories of Data Subjects in relation to the Processing (" **Data Protection Particulars**") prior to commencement of any Goods and/or Services.

12.4 Where acting as a Processor for the Permitted Purpose, the Supplier shall:

12.4.1 Process Ekspan Limited Personal Data for the purposes of performing its obligations, strictly in accordance with this Agreement and Ekspan Limited, instructions and comply with the obligations of a Processor under the Data Protection Laws;

12.4.2 unless prohibited by law, notify Ekspan Limited immediately and within twenty-four (24) hours if it considers (acting reasonably) that it is required by Applicable Law to act other than in accordance with Ekspan Limited instructions;

12.4.3 deal promptly and properly with all enquiries relating to Processing of Ekspan Limited Personal Data;

12.4.4 implement and maintain appropriate technical and organisational security measures sufficient to comply with at least the obligations imposed on Ekspan Limited and/or any Ekspan Limited Affiliates by the Security Requirements;

12.4.5 not make nor permit a third party to make a Data Transfer unless it has: (i) obtained Ekspan Limited, prior written consent; (ii) provided, in advance, a risk assessment to Ekspan Limited of the Personal Data to be transferred and the Restricted Country or Countries to which Personal Data will be transferred; and (iii) put in place measures to ensure compliance with Data Protection Laws including safeguards for such Personal Data and entering into a Data Transfer Agreement with Ekspan Limited, Ekspan Limited Affiliate and/or the Supplier's sub-processors

12.4.7 or ensuring an alternative legal mechanism for such transfer is in place in accordance with the Data Protection Laws;

12.4.8 notify Ekspan Limited promptly and within forty-eight (48) hours of receipt of any Data Subject Request or ICO Correspondence and shall: (i) not disclose Ekspan Limited Personal Data in response to any Data Subject Request or ICO Correspondence without Ekspan Limited, prior written consent; (ii) provide Ekspan Limited with all reasonable co- operation and assistance required;

12.4.9 notify Ekspan Limited promptly and within twenty-four (24) hours of becoming aware of any Personal Data Incident, and: (i) inform and keep informed on an on-going basis Ekspan Limited with the known facts; (ii) implement any measures necessary to restore security of Ekspan Limited Personal Data; and (iii) subject to Clause 12.4.8, assist Ekspan Limited in any notifications Ekspan Limited is required to make to the ICO and affected Data Subjects. Such obligations to notify and keep Ekspan Limited informed shall continue until such Personal Data Incident is fully rectified, any actual or perceived harm to the Data Subjects is mitigated and/or is no longer threatened;

12.4.10not disclose Ekspan Limited Personal Data to any third parties (including subcontractors) in any circumstances without Ekspan Limited, prior written consent; and

12.4.11use all reasonable endeavours to assist Ekspan Limited to comply with the obligations imposed on Ekspan Limited by the Data Protection Laws.

12.5 Save as required by Applicable Law, upon termination or expiry of this Agreement and/or the date on which the Ekspan Limited Personal Data is no longer relevant to, or necessary for, the Permitted Purpose, the Supplier shall cease Processing all Ekspan Limited Personal Data and (as directed in writing by Ekspan Limited) return or permanently and securely destroy all Ekspan Limited Personal Data and all copies in its possession or control.

12.6 The Supplier shall only disclose Ekspan Limited Personal Data to personnel or sub-processors, vetted by the Supplier for reliability and integrity and required to access such Ekspan Limited Personal Data to assist the Supplier in meeting contractually binding this Agreement and whom the Supplier has ensured that it has contractually-binding confidentiality undertakings with and, in the case of sub-processors, a contract with obligations equivalent to those imposed on the Supplier in Clause 12.

12.7 Within thirty (30) calendar days of request, the Supplier will allow Ekspan Limited, its representatives and auditors to audit the Supplier's data processing facilities, procedures, and records to ascertain compliance with this Clause 12 and shall provide reasonable information, assistance, and co-operation to Ekspan Limited in relation to such audit.

12.8 The Supplier shall indemnify Ekspan Limited on demand and shall keep Ekspan Limited indemnified from and against all Losses arising out of or in connection with any breach by the Supplier of its obligations under this Clause 12.

12.9 Ekspan Limited may notify the Supplier in writing from time to time of any variations to this Clause 12(Data Security and Data Protection), including within the EU Model Clauses as set out in the Data Transfer Agreement, which are required as a result of a change in Data Protection Laws including without limitation to the generality of the foregoing, any variations which are:

12.9.1. required because of any changes to the Data Protection Laws following any exit of the United Kingdom from the European Union; or;

12.9.2. required to take account of any new data transfer mechanisms arising from variations to the EU Model Clauses as set out in the Data Transfer Agreement; and

12.9.3. any such variations shall take effect on the date falling thirty (30) calendar days after the date such written notice is sent by Ekspan Limited to the Supplier.

12.10. Parties agree to take account of any guidance issued by the ICO. Ekspan Limited may on not less than thirty (30) calendar days' notice to the Supplier amend this Clause 12 (Data Security and Data Protection), to ensure that it complies with any guidance issued by the ICO.

12.11. The Supplier shall procure that where necessary the terms in each subcontract or sub-processor agreement between the Supplier and each subcontractor or sub-processor acting as a sub-processor are amended to incorporate the above variations.

13. CONFIDENTIALITY

13.1 All Confidential Information given by one party (the "Disclosing Party") to the other party (the "Recipient") or otherwise obtained, developed or created by the Recipient relating to the Disclosing Party will be treated by the Recipient, as confidential and will not, other than as necessary for the performance of this Agreement be used or disclosed without the prior written consent of the Disclosing Party.

13.2 The contents of this Agreement shall be treated by the parties as Confidential Information.

13.3 The provisions of this Clause 13 and the Supplier's rights to protect its Confidential Information will not limit or restrict Ekspan Limited, right to use and permit the use of any information contained in any operational or procedural documentation relating to the Goods or Services both before and after termination of this Agreement.

14. REPRESENTATIONS AND WARRANTIES

14.1 Each party warrants and represents that, as at the date of this Agreement:

14.1.1 it has full capacity and authority to enter into and perform this Agreement and that this Agreement is executed by a duly authorised representative of that party;

14.1.2 there are no actions, suits or proceedings or regulatory investigations pending or, to that party's knowledge, threatened against or affecting that party before any court or administrative body or arbitration tribunal that might affect the ability of that party to meet and carry out its obligations under this Agreement; and

14.1.3 once duly executed this Agreement will constitute its legal, valid, and binding obligations.

14.2 The Supplier warrants, undertakes and represents on an ongoing basis that:

14.2.1 its obligations under this Agreement as far as it relates to design will be performed promptly and diligently and with due skill and care, and in accordance with Good Industry Practice;

14.2.2 the Supplier Materials are owned by or validly licensed to the Supplier and that the Supplier is entitled to grant all of the rights in respect of Intellectual Property Rights granted hereunder;

14.2.3 the Goods will be of satisfactory quality and fit for any intended uses expressly or impliedly made known to the Supplier, and will be free from all defects in materials, workmanship and installation and are not subject to any liens or any other encumbrances. Where standard or quality is not specified, the Goods shall be of merchantable quality complying with relevant British Standard Specifications and Eurocodes;

14.2.4 it will not, by any act or omission, breach any licence granted by Ekspan Limited to the Supplier or cause

14.2.5 Ekspan Limited to be in breach of any licence or other agreement with any third party;

14.2.6 the performance of its obligations under this Agreement will not infringe any Intellectual Property Rights of any third party; and

14.2.7 all information provided by or at the direction of the Supplier to Ekspan Limited is true, accurate and complete.

15. REMEDIES

15.1If any Goods and/or Services are not supplied in accordance with, or the Supplier fails to comply with, any terms of the Agreement, Ekspan Limited may exercise any one or more of the following rights or remedies, whether or not any part of the Goods and/or Services have been accepted Ekspan Limited:

15.1.1 rescind the Agreement; or

15.1.2 reject the Goods and/or Services (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods and/or Services returned shall be paid immediately by the Supplier; or

15.1.3 require the Supplier, at the Supplier's expense, either (at Ekspan Limited, option) to remedy any defect in the Goods or Services and carry out such other work as is necessary to ensure that the Goods are in all respects in accordance with the Purchase Order or to supply replacement goods or services; or

15.1.4 in any case, to claim such damages as it may have sustained in connection with the Supplier's breach of the Agreement not otherwise covered by this Clause 15.

16. LIMITATIONS OF LIABILITY

16.1 Neither party limits its liability:

16.1.1 for fraud or fraudulent misrepresentation;

16.1.2 where there has been unauthorised access to Ekspan Limited Systems;

16.1.3 for death or personal injury caused by its negligence or that of its employees, agents, or subcontractors (as applicable);

16.1.4 under Clause 11 or Clause 12;

16.1.5 for deliberate repudiatory breach or willful default; and

16.1.6 or any regulatory fines or penalty, or damages, expenses or other losses arising from a breach by a party of any law, statute, or regulation.

16.2 Subject to Clause 16.1, the total aggregate liability of Ekspan Limited and its Affiliates under or in relation to this Agreement for all claims and Losses whether arising under tort (including negligence) breach of contract, or otherwise shall not exceed the total charges paid or payable by Ekspan Limited to the Supplier for Goods or Services under this Agreement.

16.3 Subject to Clause 16.1, neither party (nor its Affiliates) shall be liable to the other party (or its Affiliates) for any loss of profit, any loss of business, any loss of opportunity, any loss of revenue or any indirect or consequential loss or damage, in each case whether arising under tort (including negligence), breach of contract or otherwise.

17. INSURANCE

17.1 The Supplier shall, throughout the term of the Agreement and for a period of 6(six) years after expiry or termination of the Agreement, maintain in place insurance arrangements covering its assets, risks and liabilities that are, in the reasonable opinion of Ekspan Limited:

17.1.1 appropriate in their amount of cover, scope and conditions to the nature and scale of the Supplier's activities and the commitments it has undertaken; and

17.1.2 in the protection they offer the insured, comparable to, or more beneficial than, the insurance arrangements maintained by competitors offering similar services to customers of a comparable nature and size and shall provide from time to time provide such evidence of those insurance
arrangements as Ekspan Limited shall reasonably require.

18. TERMINATION

18.1 Each of Ekspan Limited and the Supplier shall, to the extent permitted by law, be entitled to terminate this Agreement immediately by written notice to the other party if that other party
18.1.1 is unable to pay its debts or becomes insolvent;
18.1.2 is the subject of an order made or a resolution passed for the administration, winding-up or dissolution (otherwise than for the purpose of a solvent amalgamation or reconstruction);
18.1.3 has an administrative or other receiver, manager, trustee, liquidator, administrator, or similar officer appointed over all or any substantial part of its assets; or
18.1.4 enters into or proposes any composition or arrangement with its creditors generally.
18.2 The Supplier may terminate this Agreement only:
18.2.1 in accordance with Clause 18.1; or
18.2.2 by written notice to Ekspan Limited if Ekspan Limited is in material breach of this Agreement and either such breach is not capable of remedy or, if the breach is capable of remedy, Ekspan Limited has failed to remedy the breach within twenty (20) Business Days of receiving written notice requiring it to do so.
18.3 Ekspan Limited may terminate this Agreement immediately by written notice to the Supplier:
18.3.1 if the Supplier is in material breach of this Agreement (which shall include a single event or a series of persistent minor events which together have a material adverse impact on the Services or the
rights and benefits of Ekspan Limited under this Agreement) and either such breach is not capable of remedy or, if the breach is capable of remedy, the Supplier has failed to remedy the breach within twenty (20) Business Days of receiving written notice requiring it to do so; and
18.3.2 by giving written notice to the Supplier at any time before delivery of Goods, without liability to the Supplier; and
18.3.3 if there is a breach of the Ekspan Limited Policies; and
18.3.4 for convenience, at any time by giving the Supplier not less than twenty (20) Business Days' notice.
18.4 The Supplier undertakes, within ten (10) days of receipt of a written request from Ekspan Limited, to18.5 return all Ekspan Limited Materials, Ekspan Limited Data and other property in its possession or under its control that belongs to or has been provided by Ekspan Limited and in relation to Ekspan Limited Confidential Information in its custody or control, at Ekspan Limited, option, to return such Ekspan Limited Confidential Information or destroy such Ekspan Limited Confidential Information and/or irretrievably delete the same if stored on electronic or magnetic media and certify to Ekspan Limited that this has been done.
18.6 Ekspan Limited may, without prejudice to its other rights and remedies at law or under this Agreement, terminate this Agreement for convenience at any time by giving the Supplier twenty (20) Business Days prior written notice of such termination.

18.A SUSPENSION

Ekspan Limited may at any time for any reason, with or without cause and/or for convenience,
instruct the Supplier by written notice to suspend delivery or performance of the Goods and/or Services without liability. During any such suspension, the Supplier shall, at no additional cost, to Ekspan Limited protect, secure, and insure any Goods affected by the suspension at the Supplier's premises or elsewhere, as the case may be, against any deterioration, loss, or damage. The Supplier shall not resume delivery and/or performance of the Goods and/or Services until receipt of written instructions from Ekspan Limited to do so.

18B. REVERSE CHARGE ORDER

18B.1 The Parties acknowledge that Ekspan Limited is not the 'end user' for the purposes of the Reverse Charge Order.
1.18B.2. Unless otherwise exempt the Reverse Charge Order will apply and the Parties acknowledge that:
2 Ekspan Limited will be required to account for VAT to HM Revenue & Customs in respect of such supplies from the Supplier under section 55A of VATA and the Supplier will deliver an invoice to Ekspan Limited stating that the Reverse Charge Order applies or any other appropriate language as suggested by HM Revenue & Customs in their relevant guidance; and
(ii) In the event that the Supplier fails to correctly apply the Reverse Charge Order, the Supplier will pay to Ekspan Limited on demand any amounts paid by Ekspan Limited in respect of VAT in error plus interest, penalties, surcharges imposed by HMRC arising from late payment of VAT and shall indemnify Ekspan Limited on a continuing basis from and against any losses incurred by Ekspan Limited as a result of such failure by the Supplier.

19. PROMOTIONAL, COMMUNICATION & MARKETING

Neither party shall, and each party shall procure that its Affiliates, employees, agents, contractors and subcontractors shall not: (i) make or authorise any public or private announcement or communication including but not limited to promotional communications including , media relations, social media and marketing activity such as sponsorship, advertising, digital communications, case studies or corporate presentations ("Promotional Communications") concerning this Agreement, the Services or their relationship with the other party; or (ii) refer to or use any business name, logo or trademarks (whether registered or not) of the other party or its
Affiliates in any Promotional Communications; without the prior written approval of the other party and in the case of the Supplier, without the prior written approval of the Ekspan Limited located at Unit 3, Arundel Business Park, Clay
Wheels Lane, Sheffield, S6 1LZ and without complying with the written instructions of the Ekspan Limited , except in each case as required by law.

20. ASSIGNMENT, SUBCONTRACTING AND RE-STRUCTURING

Ekspan Limited may assign all of its rights under this Agreement without the Supplier's consent to any person.
The Supplier may not assign, novate, subcontract, or otherwise dispose of this Agreement or any part of it without the prior consent in writing of Ekspan Limited.

21. ENTIRE AGREEMENT

Subject to Clause 16.1.1, this Agreement together with all documents specifically referred to herein as governing the relationship between the parties constitutes the entire understanding between the parties with respect to the subject
matter hereof and supersedes all prior agreements in relation thereto.

22. INDEPENDENT CONTRACTOR

Nothing in this Agreement and no action taken by the parties under it will be deemed to constitute a partnership, joint venture, or other co-operative entity between the parties, nor constitute either party the agent of the other party for any purpose.

23. WAIVER

No forbearance or delay by either party in enforcing its rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

24. VARIATION

No variation of this Agreement will be valid unless recorded in writing and signed by or on behalf of each of the parties to this Agreement.

25. SEVERABILITY

If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, unenforceable, or illegal, the other provisions shall remain unaffected and in force.

26 FURTHER ASSURANCE

Each party shall, at the request and cost of the other party, sign all documents and do all other acts, which may be necessary to give full effect to this Agreement.

27. COSTS

Except as otherwise agreed or specifically provided in this Agreement each party will pay the legal and other costs and expenses incurred by it in connection with the negotiation, preparation and entering into of this Agreement.

28. THIRD PARTY RIGHTS

Subject to Clause 4.1, no term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person other than Ekspan Limited and the Supplier

29. SURVIVORSHIP

Clauses 1, 5, 11, 12, 14, 15, 16, 17, 18, 19, 22, 23, 25, 26, 27, 28, 29, 30, 31 and 32 shall survive
termination or expiry of this Agreement.

30. MODERN SLAVERY COMPLIANCE

30.1 The Supplier represents, warrants and undertakes that: (i) neither it nor any of its officers, employees or other persons associated with it has: (a) been convicted of any offence involving slavery or human trafficking; (b) been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery or human trafficking; (ii) in performing its obligations under the agreement, the Supplier shall and shall ensure that each of its subcontractors shall comply with:
(a) all applicable laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and (b) Ekspan Limited, Anti-Slavery Policy and shall implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.
30.2 The Supplier shall maintain a complete set of records to trace the supply chain of all Goods provided to Ekspan Limited in connection with this Agreement; and implement annual supplier and subcontractor audits, either directly or through a third party auditor to monitor compliance with the
Anti-slavery Policy, the first of which shall be completed by within 3(three) months of the anniversary of this
Agreement. The Supplier shall represent the results of such audits to Ekspan Limited and its nominated representatives on request by Ekspan Limited and shall co-operate with requests from Ekspan Limited to carry out its own audit on compliance with the provisions set out under this Clause 30 on reasonable prior written notice.
30.3 Notwithstanding any other provision of this Agreement, if Ekspan Limited becomes aware of what it determines in good faith to be a breach of this Clause 30, Ekspan Limited is entitled to terminate this Agreement, and any other agreement between the parties, with immediate effect. In the event of such termination, Ekspan Limited shall have no liability to the Supplier under this Agreement for any fees, reimbursements, or other compensation or for any other loss, cost, claim, or damage resulting, directly or indirectly, from such termination.

31 DISPUTE RESOLUTION

31.1 This Clause 31 shall only apply where the Services are "construction operations" as defined in Section 105 of the Housing Grants, Construction and Regeneration Act 1998 (as amended from time to time) ("the Act"). In that event, should any dispute or difference arise under this Agreement between the parties hereto, either party shall have the right at any time to refer that dispute or difference to adjudication in accordance with the Scheme for Construction Contracts Regulations (Scotland) or (England and Wales) 1998. The Adjudicator Nominating Body shall be The Royal Institute of Chartered Surveyors. In the event of a dispute in relation to any other matter arising under this Agreement (not "construction operations"), the terms of Clauses 32.2 and 32.3 prevail.2 GOVERNING LAW AND JURISDICTION
32.1 Where the entity named as Ekspan Limited in the Purchase Order has its corporate registered office or place of business in Scotland Clause 32.2 shall apply in relation to governing law and jurisdiction. In all other circumstances, Clause 32.3 shall apply in relation to governing law and jurisdiction.
32.2 Subject to and where applicable pursuant to Clause 32.1, this Agreement (and any non-contractual obligations arising in connection with it) shall be governed by and interpreted in accordance with Scots law and the courts of Scotland shall have exclusive jurisdiction to settle any disputes (including disputes in relation to non-contractual obligations) arising out of or in connection with this Agreement and the parties hereby submit to the exclusive jurisdiction of the Scottish courts.
32.3 Subject to and where applicable pursuant to Clause 32.1, this Agreement (and any non-contractual obligations arising in connection with it) shall be governed by and interpreted in accordance with English law. The courts of England shall have exclusive jurisdiction to settle any disputes (including disputes in relation to non-contractual obligations) arising out of or in connection with this Agreement and the parties hereby submit to the exclusive jurisdiction of the English courts.