

1 DEFINITIONS

Unless the context otherwise requires capitalised terms and expressions used in these Terms and Conditions shall have the meanings set out below.

Board means the Board of the Pension Protection Fund of Renaissance, 12 Dingwall Road, Croydon CR0 2NA or such other address as the Board may notify to the Supplier;

Board Confidential Information means all data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Board, including all IPR, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential;

Bribery Laws means all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010;

Contract means the contract between the Board and the Supplier for the sale and purchase of Goods and/or the supply and acquisition of Services which comprises the Purchase Order, these Terms and Conditions and any Special Conditions;

Contracting Authority means any contracting authority as defined in Regulation 5(2) of the Public Contracts (Works Services and Supply) (Amendment) Regulations 2000, other than the Board;

Control means a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares or otherwise);

Crown Body means any department, office or agency of the Crown;

Data Protection Legislation means all applicable laws, rules and regulations applicable from time to time relating to data protection, privacy and/or the processing of data relating to identified or identifiable individuals, including the General Data Protection Regulation (EU) 2016/679 ("GDPR") and any laws and regulations that implement, supplement or amend the GDPR as applicable in the EU and as applicable in the United Kingdom, including where applicable the guidance and codes of practice issued by the Information Commissioner.

EIR means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations;

FOIA means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;

Goods means the goods, including any instalment, component, part of, or raw materials used in, such goods, (if any) described in the Specification;

IPR means intellectual property rights including, but not limited to, copyright, rights in inventions, patents, know-how, trade secrets, trademarks and trade names, service marks, design rights, rights in get-up, database rights and rights in data, rights in software, domain names and all similar rights and, in each case:

- whether registered or not;
- including any applications to protect or register such rights;
- including all renewals and extensions of such rights or applications;
- whether vested, contingent or future; and
- wherever existing;

Parties means the Board and the Supplier, and each shall be a "Party";

Price means the price of the Goods and/or Services as specified in the Purchase Order;

Purchase Order means the Board's purchase order (identified by a purchase order number issued by the Board to the Supplier) in relation to the Goods and/or Services;

Services means the services (if any) described in the Specification;

Special Conditions means any special conditions specified in the Purchase Order and/or otherwise agreed in writing between the Parties in respect of the sale and purchase of the Goods and/or the supply and acquisition of the Services (as applicable);

Specification means the specification of Goods and/or Services agreed between the Board and the Supplier and set out in the Purchase Order (or as otherwise agreed between the Board and the Supplier);

Sub-Contract means a contract between two or more suppliers, at any stage of remoteness from the Board in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Contract;

Supplier means the supplier of the Goods and/or the Services;

Supplier Confidential Information means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Supplier, including IPR, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought

reasonably to be considered to be confidential, including the information classified as commercially sensitive for the purposes of Clause 14 (Freedom of Information);

Terms and Conditions means the terms and conditions of purchase contained in this document.

2 TERMS AND CONDITIONS

2.1 Subject to Clause 2.2, the Purchase Order constitutes an offer by the Board to purchase the Goods and/or acquire the Services subject to these Terms and Conditions (and any Special Conditions, as applicable).

2.2 Unless and to the extent the sale and purchase of the Goods and/or the supply and acquisition of the Services is governed by another agreement between the parties, in accepting the Purchase Order, or delivering the Goods and/or performing the Services (as the case may be), the Supplier accepts the Contract and agrees to be bound by the Terms and Conditions and any Special Conditions.

2.3 The Supplier acknowledges that the Board will not agree to any terms and conditions provided by the Supplier and that, if the Supplier provides the Board with any terms and conditions, these Terms and Conditions and any Special Conditions shall prevail.

3 QUALITY AND DELIVERY**Goods**

3.1 The quantity, quality, description, packaging and labelling of the Goods shall be as specified in the Purchase Order, or as otherwise agreed by the Board.

3.2 The Board shall, within a reasonable period of delivery, inspect and/or test the Goods to confirm that they conform with the Contract. Any inspection or testing of the Goods shall not be deemed to be acceptance of the Goods or a waiver of any of the Board's rights and remedies, including its right to reject the Goods.

3.3 The Board shall be entitled to reject all or any part of the Goods delivered which are not in accordance with the Contract, including a right to reject defective Goods where the defect is minor.

3.4 If the Goods are rejected, the Supplier must remove them at its own expense within five (5) working days of being advised of the rejection. If the Supplier is required to remedy any defect in the Goods it must remedy such defect at its own expense within five (5) working days of being required to do so.

Services

3.5 The Services must be performed to the satisfaction of the Board. During the course of the Contract, the Board shall have the right to inspect and examine the Services, whether they are being performed at the Board's premises or elsewhere.

3.6 Where the Services are performed at the Board's premises, the Supplier shall ensure that its personnel comply with the Board's health and safety procedures.

3.7 If any part of the Services is found to be inadequate and/or not to conform to the Contract the Supplier shall, at its own expense, reschedule and perform the Services correctly within such reasonable time as may be specified by the Board.

General

3.8 The Goods shall be delivered to, and the Services shall be performed at, the place(s) and on the date(s) specified in the Contract, in either case during the Board's normal business hours. The Board reserves the right to amend any delivery instructions. Delivery shall be deemed to be made on receipt of the Goods and/or Services in accordance with the Contract.

3.9 The Goods and/or the Services shall not be delivered in instalments unless otherwise agreed in writing by the Board.

3.10 Where the date of delivery of the Goods or the performance of the Services is not specified on the Purchase Order, the Supplier shall give the Board reasonable notice of the date for such delivery and/or performance and all information reasonably required by the Board to enable it to accept delivery and/or performance.

3.11 The time of delivery of Goods or performance of Services is of the essence. Notwithstanding this, the Board reserves the right to delay delivery of the Goods and/or performance of the Services and the Supplier shall agree to any such delay at no extra cost to the Board. For the avoidance of doubt, the provisions of this Clause 3 shall apply to any delivery of Goods and/or performance of Services delayed in accordance with this Clause 3.10.

3.12 If the Supplier fails to deliver any of the Goods, or perform any of the Services, or otherwise fails to comply with this Clause 3, the Board shall (without prejudice to its other rights and remedies) be entitled at its sole discretion to:

3.12.1 terminate the Contract in whole or in part;

3.12.2 reject the Goods and/or Services and purchase the same or similar Goods, or procure the performance of the same or similar Services, from a supplier other than the Supplier;

3.12.3 recover from the Supplier all costs and losses resulting to the Board, including the amount by which the price payable by the Board to acquire those Goods and/or Services from another supplier exceeds the price payable under the Contract; or

3.12.4 do any or all of the foregoing.

4 TITLE AND RISK

The title and risk in any Goods shall pass to the Board upon the earlier of: (i) the date of acceptance of those Goods by the Board in accordance with Clause 3 (Quality and Delivery); and (ii) the date on which payment is made in accordance with Clause 6 (Payment).

5 WARRANTIES**Goods**

5.1 The Supplier warrants to the Board that:

5.1.1 the Goods correspond to the description and/or sample given to the Board by the Supplier;

5.1.2 title to the Goods is free from all encumbrances and the Supplier has the right to sell the same; and

5.1.3 the Goods shall be fit for any purpose held out by the Supplier or made known to the Supplier by the Board expressly or by implication, and in this respect the Board relies on the Supplier's skill and judgement.

Services

5.2 The Supplier warrants to the Board that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standards of quality as it is reasonable for the Board to expect.

General

5.3 All other warranties, conditions or terms relating to the fitness for purpose, quality or condition of the Goods and/or the Services implied by statute or common law apply in relation to this Contract and may not be excluded.

5.4 The warranties in this Clause 5 shall continue in force (notwithstanding the Board's acceptance of all or part of the Goods and/or the Services) for three (3) months from the date of first use of the Goods or completed performance of the Services.

6 PAYMENT

6.1 The price for the Goods and/or Services is as set out in the Purchase Order and, unless expressly stated otherwise, includes all incidental costs incurred by the Supplier in providing the Goods and/or the Services to the Board, including without limitation administration, collection, transport, packaging and disposal costs. For the avoidance of doubt, unless otherwise stated, all prices in the Purchase Order are exclusive of VAT.

6.2 Unless otherwise stated in the Purchase Order, the Supplier shall submit an invoice to the Board no sooner than on completion of delivery of the Goods and/or supply of the Services or, if later, acceptance of the Goods and/or Services by the Board. Invoices will not be accepted by the Board unless they quote a valid Purchase Order number. Invoices should be sent to finance@ppf.co.uk.

6.3 Where the Supplier submits an invoice to the Board in accordance with Clause 6.2, the Board will consider and verify that invoice in a timely fashion.

6.4 The Board shall pay the Supplier any sums due under such an invoice no later than a period of 30 days from the date on which the Board has determined that the invoice is valid and undisputed.

6.5 Where the Board fails to comply with Clause 6.3 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of Clause 6.4 after a reasonable time has passed.

6.6 Where the Supplier enters into a Sub-Contract, the Supplier shall include in that Sub-Contract:

6.6.1 provisions having the same effect as Clauses 6.3 to 6.5 (inclusive); and

6.6.2 a provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract into which it enters in respect of the Goods and/or the Services provisions having the same effect as Clauses 6.3 to 6.6 (inclusive).

6.6.3 The Board shall be entitled to deduct from the amount due under any invoice:

6.6.4 any amount due under the invoice which is disputed by the Board, pending resolution of such dispute; and/or

6.6.5 any amount owed by the Supplier to the Board, whether in respect of the Contract or under any other contract between the Supplier and the Board.

7 TERM AND TERMINATION

7.1 The Contract shall come into force on the date specified in the Purchase Order and, unless terminated early in accordance with this clause 7 and subject to clause 7.4, shall terminate when all amounts due under the Contract have been paid.

7.2 The Board shall have the power to terminate the contract at any time by giving seven (7) days' written notice to the Supplier.

- 7.3 The Board may terminate the Contract with immediate effect if:
- 7.3.1 the Supplier commits a material breach of the Contract and such breach (if capable of remedy) is not remedied within 14 days of notice being given requiring it to be remedied;
- 7.3.2 an order is made or a resolution is passed for the winding-up of the Supplier or an administrator is appointed by order of the court or by other means to manage the affairs, business and property of the Supplier or a receiver and/or manager or administrative receiver is validly appointed in respect of all or any of the Supplier's assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the court to make a winding-up or bankruptcy order or the Supplier takes or suffers any similar or analogous action in consequences of debt; or
- 7.3.3 there is a change of Control of the Supplier; or
- 7.3.4 the Supplier purports to assign its rights or obligations under the Contract.
- 7.4 The provisions of Clauses 8 (Indemnity and Insurance), 11 (Confidentiality), 12 (Intellectual Property), 14 (Freedom of Information), 16 (Data Processing) and 19 (Governing Law and Jurisdiction) shall survive the termination of the Contract.
- 8 INDEMNITY AND INSURANCE**
- 8.1 The Supplier shall indemnify and keep indemnified the Board from and against all costs, actions, claims, demands, liabilities, expenses, damages or losses arising out of or in connection with the Supplier's negligence, default or breach of the Contract.
- 8.2 Subject to any alternative limit specified in the Special Conditions, and notwithstanding Clauses 8.3 and 8.4, each party's total aggregate liability under the Contract shall be limited to the greater of: (i) 125% of the amount payable under the Purchase Order in respect of the Goods and/or the Services; and (ii) £500,000.
- 8.3 Neither party excludes or limits its liability for:
- 8.3.1 death or personal injury;
- 8.3.2 bribery or fraud by it or its employees;
- 8.3.3 breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or sections 2 or 11B of the Supply of Goods and Services Act 1982; or
- 8.3.4 any liability to the extent it cannot be excluded or limited by any applicable law or regulation.
- 8.4 Subject to Clause 8.2, the Supplier will be liable for the following types of loss which will be regarded as direct and will be recoverable by the Board:
- 8.4.1 the additional operational or administrative costs and expenses arising from any breach of the Contract by the Supplier; and
- 8.4.2 any wasted expenditure or charges rendered unnecessary and/or incurred by the Board arising from the Supplier's breach of the Contract; and
- 8.4.3 any regulatory losses, fines, expenses or other losses arising from a breach by the Supplier of any applicable law or regulation.
- 8.5 The Supplier shall at all times maintain in force, with a reputable insurance company, the following insurances to an appropriate level (to the extent applicable to the Contract):
- 8.5.1 third party public and products liability insurance;
- 8.5.2 employers' liability insurance;
- 8.5.3 professional indemnity insurance; and
- 8.5.4 appropriate motor vehicle insurance in respect of any motor vehicle used in connection with the delivery of the Goods and/or the performance of the Services.
- Within five (5) days of a request by the Board, the Supplier will provide the Board with a copy of any insurance policy applicable to the Contract and/or a certificate from its insurers or insurance broker confirming that the appropriate insurance is in force and that current premiums have been paid.
- 9 FORCE MAJEURE**
- 9.1 Neither the Supplier nor the Board shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods and/or the Services, if the delay or failure was beyond that Party's reasonable control.
- 9.2 For the avoidance of doubt, illness or shortage of the Supplier's staff, agents or sub-contractors, failure or delay by any of the Supplier's suppliers to supply goods, components, services or materials, and breach of the Supplier's warranties under Clause 5 (Warranties) shall not be regarded as causes beyond the Supplier's reasonable control.
- 10 CONFIDENTIALITY**
- 10.1 Except to the extent set out in this Clause 10 or where disclosure is expressly permitted elsewhere in this Agreement, each Party shall:
- 10.1.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
- 10.1.2 not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.
- 10.2 Clause 10.1 shall not apply to the extent that:
- 10.2.1 such disclosure is a requirement of any law or regulation placed upon the Party making the disclosure, including any requirements for disclosure under FOIA or the EIR pursuant to Clause 14 (Freedom of Information);
- 10.2.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- 10.2.3 such information was obtained from a third party without obligation of confidentiality;
- 10.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract;
- 10.2.5 it is independently developed without access to the other Party's Confidential Information.
- 10.3 The Supplier may only disclose Board Confidential Information to Supplier personnel who need to know the information, and shall ensure that such Supplier personnel are aware of, acknowledge the importance of, and comply with the confidentiality obligations set out in this Clause 10.
- 10.4 The Supplier shall not, and shall procure that Supplier personnel do not, use any Board Confidential Information received otherwise than for the purposes of the Contract.
- 10.5 Nothing in the Contract shall prevent the Board from disclosing any Supplier Confidential Information:
- 10.5.1 to any Crown Body or any other Contracting Authority. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Authority;
- 10.5.2 for the purpose of the examination and certification of the Board's accounts; or
- 10.5.3 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Board has used its resources.
- 10.6 The Board shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or adviser to whom Supplier Confidential Information is disclosed pursuant to Clause 10.5 is made aware of the Board's obligations of confidentiality.
- 10.7 To the extent relevant, the Supplier shall treat any Restricted Information to which it has access as Confidential Information and shall comply with the requirements of the Pensions Act 2004 in respect of such Restricted Information.
- 10.8 Nothing in this Clause 10 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of IPR.
- 11 CONFLICTS OF INTEREST**
- The Supplier undertakes to notify the Board of any conflict of interest:
- (a) that exists, or may exist, before the delivery of the Goods and/or the commencement of the Services; and
- (b) of which it becomes aware during the term of the Contract.
- 12 INTELLECTUAL PROPERTY**
- 12.1 Subject to Clause 12.2, the Board acknowledges that the Supplier will retain all copyright and other intellectual property rights in the methodologies, methods of analysis, ideas, concepts, know-how, models, tools, techniques, skills, knowledge and experience possessed by the Supplier before the date of delivery of the Goods and/or commencement of the Services or acquired by the Supplier after that date.
- 12.2 The Board shall own the copyright and other intellectual property rights in any materials produced as part of the Services and the Supplier acknowledges and agrees that the Board will want to use all materials in connection with the Services for its own business purposes.
- 12.3 The Supplier shall grant to the Board a worldwide, royalty free, non-exclusive, perpetual licence to use any other works and material supplied by the Supplier in providing the Services.
- 12.4 If the subject matter of the Contract is computer software ("Software") or if such Software forms part of any Goods delivered and/or any Services performed under the Contract:
- 12.4.1 the Supplier shall procure that the Board is named as a licensed end-user of the Software;
- 12.4.2 the Software licensor's licence agreement shall, subject to review and agreement by the Board, be a Special Condition of the Contract;
- 12.4.3 the Supplier shall indemnify the Board in respect of any loss arising in connection with a claim by a third party that the Board has breached its IPR in respect of the Software; and
- 12.4.4 the Board shall permit the Supplier to have reasonable access to records kept in connection with any software licence for the purposes of ensuring that the Board is complying with the terms of that licence, provided that the Supplier provides reasonable advance notice to the Board. For the avoidance of doubt, the Supplier shall not be entitled to inspect or have access to any premises (or to the computer equipment located there) at or on which any Software is being kept or used for the purposes of auditing compliance with any Software licence.
- 13 ANTI-BRIBERY**
- 13.1 The Supplier shall comply with applicable Bribery Laws and shall ensure that it has in place adequate procedures to prevent bribery and that:
- 13.1.1 the Supplier's personnel;
- 13.1.2 all others associated with the Supplier; and
- 13.1.3 the Supplier's sub-contractors, involved with performing the Contract comply with applicable Bribery Laws.
- 13.2 Without limitation to Clause 13.1, the Supplier shall not make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or payment are not made or received directly or indirectly on its behalf.
- 13.3 The Supplier shall notify the Board as soon as it becomes aware of a breach of any requirement of this Clause 13.
- 14 FREEDOM OF INFORMATION**
- 14.1 As a public body, the Board is subject to, and must comply with, FOIA and the EIR. The Board may therefore be required to disclose information provided to it by the Supplier in connection with the Contract.
- 14.2 In respect of any information provided to the Board by the Supplier that the Supplier considers to be confidential or commercially sensitive the Supplier should, at the time the information is provided to the Board:
- 14.2.1 clearly identify such information as confidential or commercially sensitive;
- 14.2.2 explain its reasons why disclosure of such information would be likely to prejudice or would cause actual prejudice to its commercial interests;
- 14.2.3 provide a reasoned estimate of the period of time during which the Supplier believes that such information will remain commercially sensitive; and confirm which exemption(s) are relevant under FOIA and/or the EIR.
- 14.3 The Supplier acknowledges that, while the Board will take account of the fact that information has been identified as commercially sensitive by the Supplier, it may be required to disclose such information in accordance with FOIA or the EIR, and that the Board cannot guarantee that it will withhold information marked 'confidential', 'commercially sensitive' or otherwise exempt.
- 15 STAFFING SECURITY AND COMPLIANCE WITH POLICIES**
- The Supplier shall ensure that its employees and sub-contractors engaged in the provision of the Services:
- (a) are aware of, and receive appropriate training in respect of the Supplier's obligations under Clauses 10 (Confidentiality) and 14 (Freedom of Information); and
- (b) to the extent applicable, comply with the Board's ICT Security Policy and any other policy notified to it by the Board.
- 16 DATA PROCESSING**
- 16.1 The Contract does not involve the processing of personal data (as defined in the Data Protection Legislation) unless otherwise specified in the Special Conditions. For the avoidance of doubt, the Board does not consent to the Supplier processing personal data unless otherwise agreed in the Special Conditions, such processing of personal data to be in compliance with the Board's requirements.
- 16.2 Any processing of personal data by the Supplier shall comply with the Data Protection Legislation.
- 17 AMENDMENT**
- The Contract may be amended by agreement in writing between the Board and the Supplier.
- 18 ASSIGNMENT**
- 18.1 The Supplier may not assign, sub-contract or encumber any right or obligation under the Contract, in whole or in part, without the Board's prior written consent (such consent not to be unreasonably withheld).
- 18.2 The Board reserves the right to assign, novate or otherwise transfer its rights and/or obligations under the Contract, in whole or in part.
- 19 GOVERNING LAW AND JURISDICTION**
- The Contract will be governed by and construed in accordance with the laws of England and Wales. The parties agree that the English courts are to have exclusive jurisdiction to settle any disputes or claims which may arise pursuant to or in connection with the Contract.