



TERMS AND CONDITIONS FOR THE PURCHASE OF SERVICES

BACKGROUND

IESA has agreed to facilitate the procurement of services for and on behalf of its Customers ("**Customer Services**") and the Supplier has agreed to supply Customer Services to IESA's Customers. These Conditions (as defined below) shall govern the relationship between IESA and Supplier as regards IESA's procurement of Customer Services. The terms and conditions governing the delivery and receipt of Customer Services shall be on the Customer's standard terms and conditions of purchase for services together with any tender documentation, Specifications (as defined below), agreed key performance indicators or agreed service levels ("**Documentation**") and it shall be the Suppliers obligation to obtain an up to date copy of such documentation prior to accepting the Order (as defined below). The agreement relating to the delivery and receipt of Customer Services in accordance with the Documentation shall be entered into by the Supplier and Customer only. In the event of any conflict between these Conditions and the Documentation, these Conditions shall prevail. IESA shall have no liability to the Supplier other than as set out in these Conditions governing the order and invoicing process that IESA performs on behalf of its Customer. The Supplier acknowledges that any dispute arising in relation to performance of the Customer Services shall be between the Supplier and the Customer.

IT IS HEREBY AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In these Conditions, the following definitions apply:

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

"**Commencement Date**" has the meaning set out in clause 2.1;

"**Conditions**" means these terms and conditions as amended from time to time in accordance with clause 10.7;

"**Customer**" means a customer of IESA;

"**IESA**" means IESA Limited (registered in England under company number 04188491) whose registered office is at Rutherford House, Warrington Road, Birchwood Science Park, Warrington, WA3 6ZH;

"**Order**" means the Customer's order for Customer Services placed by IESA, as set out in IESA's purchase order form;

"**Specification**" means in relation to Customer Services, any specification for the services (including any relevant plans or drawings) provided by IESA or its Customer to the Supplier; and

"**Supplier**" means the person or firm from whom IESA procures the Customer Services.

1.2 Construction

In these Conditions, the following rules apply:

- 1.2.1 a "**person**" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.2.2 a references to a party includes its personal representatives, successors or permitted assigns;
- 1.2.3 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.2.4 any phrase introduced by the terms "**including**", "**include**", "**in particular**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- 1.2.5 a reference to "**writing**" or "**written**" includes faxes and e-mails.

2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Customer to procure the Customer Services in accordance with the Customer's terms and conditions. The Order shall be deemed to be accepted on the earlier of:
 - 2.1.1 the Supplier issuing written confirmation of the terms of the Order; or
 - 2.1.2 any act by the Supplier consistent with fulfilling the Order on the same terms,at which point and on which date these Conditions shall come into existence ("**Commencement Date**").
- 2.2 Upon receipt of an Order the Supplier shall advise by email to an email address designated by IESA (such email address to be advised on IESA's purchase order), if the price for any of the Customer Services in the Order is incorrect.
- 2.3 Any change to the price of the Customer Services (including the price of any additional services) must be agreed with IESA in advance of provision of the additional services. IESA will issue an amended Order to reflect such agreement. In the event that this does not happen IESA will at its discretion only pay for the value of the original Order.
- 2.4 These Conditions apply to the order and invoicing process of the Customer Services to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. The Documentation shall be to the exclusion of any other terms that the Supplier seeks to impose or incorporate or which are implied by trade, custom, practice or course of dealing.



3. CHARGES AND PAYMENT

3.1 The price for the Customer Services:

3.1.1 shall be the price set out in the Order or if such price is incorrect (and advised to IESA in accordance with clause 2.2) then the price in accordance with applicable price list including any discounts; and

3.1.2 no extra charges shall be effective unless agreed in writing and signed by IESA.

3.2 The Supplier shall ensure that at all time the prices offered to the Customer ("**Customer Price**") are more favourable than or at least as favourable as prices for similar services offered by the Supplier to any comparable customer ("**Comparable Customer Price**"). In the event that the Supplier has not complied with this clause 3.2, the Supplier shall issue a credit note within thirty (30) days of the Supplier becoming aware of its breach of this clause 3.2. Such credit note shall be for the difference in the Customer Price paid by IESA on behalf of the Customer and the Comparable Customer Price on all relevant Customer Services ordered and invoiced by IESA.

3.3 The Supplier shall invoice IESA on the next Business Day following completion of the Customer Services. Each invoice shall include such supporting information required by IESA to verify the accuracy of the invoice, including but not limited to the relevant purchase order number. The Supplier shall use reasonable endeavours to electronically send invoices to IESA.

3.4 In consideration of the supply of the Customer Services by the Supplier, IESA shall pay the invoiced amounts within sixty three (63) days from the end of the month in which the invoice is received to a bank account nominated in writing by the Supplier but subject always to IESA receiving written confirmation from the Customer that the Customer Services have been performed in accordance with the Documentation.

3.5 All amounts payable by IESA for the provision of the Customer Services are exclusive of amounts in respect of valued added tax chargeable from time to time ("**VAT**"). Where any taxable supply for VAT purposes is made in relation to the provision of the Customer Services by the Supplier to the Customer, IESA shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Customer Services at the same time as payment is due for the supply of the Customer Services.

3.6 Either party shall be entitled to assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.

4. INDEMNITY

4.1 The Supplier shall keep IESA indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by IESA as a result of or in connection with:

4.1.1 any claim made against IESA by the Customer or a third party arising out of, or in connection with, the supply of the Customer Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Customer Services by the Supplier, its employees, agents or subcontractors.

4.2 This clause 4 shall survive termination of the Contract.



5. LIABILITY

- 5.1 IESA's total liability to the Supplier in respect of any Order placed in accordance with these Conditions and the relevant Documentation ("**Relevant Order**"), whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount stated on the Relevant Order.

6. CONFIDENTIALITY

A party ("**Receiving Party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party ("**Disclosing Party**"), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 6 shall survive termination of these Conditions.

7. TERMINATION

- 7.1 Without limiting its other rights or remedies, IESA may terminate these Conditions with immediate effect by giving written notice to the Supplier if:
- 7.1.1 the Supplier commits a material or persistent breach of these Conditions and/or the terms and conditions governing the delivery and receipt of the Customer Services and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of receipt of notice in writing of the breach;
 - 7.1.2 the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - 7.1.3 the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
 - 7.1.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
 - 7.1.5 the Supplier (being an individual) is the subject of a bankruptcy petition order;
 - 7.1.6 a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days;



- 7.1.7 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier (being a company);
 - 7.1.8 a floating charge holder over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - 7.1.9 a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
 - 7.1.10 any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 7.1.2 to clause 7.1.9 (inclusive);
 - 7.1.11 the Supplier suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business; or
 - 7.1.12 the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 7.2 Without limiting its other rights or remedies, IESA may terminate these Conditions with immediate effect by giving written notice to the Supplier, in which case IESA shall pay the Supplier fair and reasonable compensation for any work in progress in relation to the Customer Services at the date of termination but such compensation shall not include loss of anticipated profits or any consequential loss.
- 7.3 Nothing in this clause 7 shall limit any right or remedy of the Customer to terminate the Relevant Order (as defined in clause 5) for the provision of the Customer Services by the Supplier in accordance with the Documentation. In such event these Conditions shall terminate as regards the Relevant Order.

8. CONSEQUENCES OF TERMINATION

On termination of these Conditions or any part of it for any reason:

- 8.1.1 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of these Conditions which existed at or before the date of termination; and
- 8.1.2 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

9. ANTI-BRIBERY

9.1 The Supplier shall:

- 9.1.1 comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Requirements**");
- 9.1.2 have and shall maintain in place its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010 to ensure compliance with the Relevant Requirements;



9.1.3 promptly report to IESA any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Customer Services.

9.2 Breach of this clause 9 shall be deemed a material breach under clause 7.1.1.

10. GENERAL

10.1 Assignment and subcontracting

10.1.1 The Supplier shall not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under these Conditions without the prior written consent of IESA.

10.1.2 IESA may at any time assign, transfer, charge, subcontract, or deal in any other manner with all or any of its rights under these Conditions and may subcontract or delegate in any manner any or all of its obligations under these Conditions to any third party or agent.

10.2 Notices

10.2.1 Any notice or other communication required to be given to a party under or in connection with these Conditions shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

10.2.2 Any notice or communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.

10.2.3 This clause 10.2 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under these Conditions shall not be validly served if sent by e-mail.

10.3 Waiver and cumulative remedies

10.3.1 A waiver of any right under these Conditions is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under these Conditions or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

10.3.2 Unless specifically provided otherwise, rights arising under these Conditions are cumulative and do not exclude rights provided by law.

10.4 Severance

10.4.1 If a court or any other competent authority finds that any provision (or part of any provision) of these Conditions is invalid, illegal or unenforceable, that provision or part-provision shall,

to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of these Conditions shall not be affected.

- 10.4.2 If any invalid, unenforceable or illegal provision of these Conditions would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

10.5 No partnership

Nothing in these Conditions is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

10.6 Third parties

A person who is not a party to these Conditions shall not have any rights under or in connection with it.

10.7 Variation

Any variation, including any additional terms and conditions, to these Conditions shall only be binding when agreed in writing and signed by IESA.

10.8 Governing law and jurisdiction

These Conditions, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.