

**TERMS & CONDITIONS FOR THE  
SUPPLY OF GOODS &/OR SERVICES****I INTERPRETATION**

The following definitions and rules of interpretation apply in these Conditions.

**1.1 Definitions:**

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

**Commencement Date:** has the meaning given in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 20.9.

**Contract:** the contract between John Lewis and the Supplier for the supply of Goods and/or Services in accordance with these Conditions.

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

**Data Protection Legislation:** shall mean all applicable laws and regulations relating to the processing of personal data and privacy including the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003), the the General Data Protection Regulations (Regulation (EU) 2016/679) ("**GDPR**");

**Deliverables:** all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

**John Lewis:** John Lewis Plc a company incorporated in England and Wales with company number 233462, whose registered office is situated at 171 Victoria Street, London SW1E 5NN

**John Lewis Materials:** has the meaning set out in clause 5.3.10.

**Goods:** the goods (or any part of them) set out in the Order.

**Goods Specification:** any specification for the Goods, including any related plans and drawings, that is agreed in writing by John Lewis and the Supplier.

**Group Company:** means with respect to a company, that company, any subsidiary or holding company from time to time of that company and any subsidiary from time to time of a holding company of that company. A **holding company** or a **subsidiary** shall be interpreted in line with the definitions under s.1159 Companies Act 2006

**Intellectual Property Rights:** all intellectual property rights whether or not registered or registrable and including all extensions, renewals and applications thereof and including, without limitation, all patents, rights to inventions, copyright and related rights, trade marks, trade names, business names and domain names, design rights, goodwill, database rights, Confidential Information, trade secrets and know-how) existing at or prior to the Effective Date (the "**Pre-Existing IPR**"). Neither party may assert ownership of the other party's Pre-Existing IPR.

**Mandatory Policies:** the policies John Lewis expects the Supplier to have in place as a minimum, in order to provide the Goods or Services under the Contract.

**Order:** John Lewis' order for the supply of Goods and/or Services, as set out in John Lewis' purchase order form, or in John Lewis' written acceptance of the Supplier's quotation, or overleaf, as the case may be.

**Services:** the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

**Service Specification:** the description or specification for Services agreed in writing by John Lewis and the Supplier.

**Supplier:** the person or firm from whom John Lewis purchases the Goods and/or Services.

**TUPE:** means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**1.2 Interpretation:**

1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

- 1.2.2 A reference to a party includes its personal representatives, successors and permitted assigns.
- 1.2.3 A reference to a statute or statutory provision is a reference to it as amended or re-enacted and includes all subordinate legislation made under that statute or statutory provision.
- 1.2.4 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.2.5 A reference to **writing** or **written** includes emails but not faxes.

## 2 BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by John Lewis to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted on the earlier of:
- 2.2.1 the Supplier issuing written acceptance of the Order; or
- 2.2.2 any act by the Supplier consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence ("**Commencement Date**").

- 2.3 Unless the parties sign a separate written agreement which shall take precedence over these Conditions, these Conditions shall apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate.
- 2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

## 3 SUPPLY OF GOODS

- 3.1 The Supplier shall ensure that the Goods shall:
- 3.1.1 correspond with their description and any applicable Goods Specification;

- 3.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by John Lewis, expressly or by implication;
- 3.1.3 where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 12 months after delivery (unless agreed otherwise with John Lewis); and
- 3.1.4 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

3.2 The Supplier shall ensure that at all times it has and maintains all licences, permissions, authorisations, consents and permits needed to carry out its obligations under the Contract in respect of the Goods.

3.3 John Lewis may inspect and test the Goods at any time before delivery (on providing the Supplier with reasonable notice). The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

3.4 If following such inspection or testing John Lewis considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, John Lewis shall inform the Supplier and the Supplier shall promptly take such remedial action as is necessary to ensure compliance.

3.5 John Lewis may conduct further inspections and tests after the Supplier has carried out its remedial actions.

## 4 DELIVERY OF GOODS

- 4.1 The Supplier shall ensure that:
- 4.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;

4.1.2 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

4.1.3 it states clearly on the delivery note any requirement for John Lewis to return any packaging material for the Goods to the Supplier. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.

**4.2** The Supplier shall deliver the Goods:

4.2.1 on the date specified in the Order or, if no such date is specified, then within 7 days of the date of the Order or such other period agreed with John Lewis in writing;

4.2.2 to the location set out in the Order or as instructed by John Lewis before delivery ("**Delivery Location**"); and

4.2.3 during John Lewis' normal hours of business on a Business Day, or as instructed by John Lewis.

4.2.4 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

4.2.5 John Lewis shall not be deemed to have accepted any Goods until John Lewis has issued a notice in writing confirming its acceptance of such Goods.

4.2.6 If the Supplier:

4.2.6.1 delivers less than 95% of the quantity of Goods ordered, John Lewis may reject the Goods; or

4.2.6.2 delivers more than 105% of the quantity of Goods ordered, John Lewis may reject the Goods or the excess Goods,

any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and John Lewis accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.

**4.3** The Supplier shall not deliver the Goods in instalments without John Lewis' prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver an instalment on time or at all or any defect in an instalment shall entitle John Lewis to the remedies set out in clause 6.1.

**4.4** Title and risk in the Goods shall pass to John Lewis on completion of delivery.

## **5 SUPPLY OF SERVICES**

**5.1** From the Commencement Date and for the duration of the Contract, the Supplier shall supply the Services to John Lewis in accordance with the terms of the Contract including these Conditions.

**5.2** The Supplier shall meet any performance dates for the Services that are either specified in the Order or agreed in writing with John Lewis and time is of the essence in relation to any of those performance dates.

**5.3** In providing the Services, the Supplier shall:

5.3.1 co-operate with John Lewis in all matters relating to the Services, and comply with all instructions of John Lewis;

5.3.2 perform the Services with reasonable care, skill and diligence in accordance with good practice in the Supplier's industry, profession or trade;

5.3.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;

5.3.4 ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification (or as agreed separately in writing with John Lewis), and that the Deliverables shall be fit for any purpose that John Lewis expressly or impliedly makes known to the Supplier;

5.3.5 provide all equipment, tools and vehicles and such other items as are required to provide the Services;

- 5.3.6 use good quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to John Lewis, will be free from defects in workmanship, installation and design;
- 5.3.7 obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- 5.3.8 comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply to the provision of the Services, and have robust policies in place that are in line with good industry practice and cover all aspects of the Mandatory Policies outlined in Schedule I;
- 5.3.9 observe all health and safety rules and regulations and any other security requirements that apply at any of John Lewis' premises;
- 5.3.10 hold all materials, equipment and tools, drawings, specifications and data supplied by John Lewis to the Supplier (**John Lewis Materials**) in safe custody at its own risk, maintain John Lewis Materials in good condition until returned to John Lewis, and not dispose or use John Lewis Materials other than in accordance with John Lewis' written instructions or authorisation;
- 5.3.11 not do or omit to do anything which may cause John Lewis to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that John Lewis may rely or act on the Services;
- 5.3.12 comply with any additional obligations as set out in the Service Specification or as agreed with John Lewis in writing; and
- 5.3.13 not do anything in the performance of the Services which could bring John Lewis or any of its Group Companies into disrepute or which could damage their brand and/or reputation.

## 6 CUSTOMER REMEDIES

- 6.1 If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, or both, John Lewis shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights:
- 6.1.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
- 6.1.2 to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
- 6.1.3 to recover from the Supplier any reasonable direct costs incurred by John Lewis in obtaining substitute goods and/or services from a third party;
- 6.1.4 to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
- 6.1.5 to claim damages for any additional reasonable, direct costs, loss or expenses incurred by John Lewis which are attributable to the Supplier's failure to meet such dates.
- 6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting or affecting other rights or remedies available to it, John Lewis shall have one or more of the following rights, whether or not it has accepted the Goods:
- 6.2.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
- 6.2.2 to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- 6.2.3 to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- 6.2.4 to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;

- 6.2.5 to recover from the Supplier any reasonable direct costs incurred by John Lewis in obtaining substitute goods from a third party; and
- 6.2.6 to claim damages for any additional reasonable direct costs, loss or expenses incurred by John Lewis arising from the Supplier's failure to supply Goods in accordance with clause 3.1.

**6.3** If the Supplier has supplied Services that do not comply with the requirements of clause 5.3.4 then, without limiting or affecting other rights or remedies available to it, John Lewis shall have one or more of the following rights:

- 6.3.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
- 6.3.2 to return the Deliverables to the Supplier at the Supplier's own risk and expense;
- 6.3.3 to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
- 6.3.4 to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
- 6.3.5 to recover from the Supplier any reasonable direct costs incurred by John Lewis in obtaining substitute services or deliverables from a third party; and
- 6.3.6 to claim damages for any reasonable direct additional costs, loss or expenses incurred by John Lewis arising from the Supplier's failure to comply with clause 5.3.4.

**6.4** These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

**6.5** John Lewis' rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

## **7 CUSTOMER'S OBLIGATIONS**

**7.1** John Lewis shall:

- 7.1.1 provide the Supplier with reasonable access at reasonable times to John Lewis' premises for the purpose of providing the Services;
- 7.1.2 provide such necessary information for the provision of the Services as the Supplier may reasonably request; and
- 7.1.3 pay the Supplier for the Goods and Services delivered in accordance with clause 8.

## **8 CHARGES AND PAYMENT**

**8.1** The price for the Goods:

- 8.1.1 shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date; and
- 8.1.2 shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by John Lewis.

**8.2** The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by John Lewis, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

**8.3** In respect of the Goods, the Supplier shall invoice John Lewis on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice John Lewis on completion of the Services or at such milestones as are agreed in writing with John Lewis. Each invoice shall include such supporting information required by John Lewis to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

**8.4** In consideration of the supply of Goods and/or Services by the Supplier, John Lewis shall pay the invoiced amounts within 60 days of receipt of a correctly rendered invoice, to a bank account nominated in writing by the Supplier.

- 8.5** All amounts payable by John Lewis under the Contract 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 under the Contract by the Supplier to John Lewis, John Lewis 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 Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 8.6** If John Lewis fails to make a payment due to the Supplier under the Contract by the due date, then John Lewis shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 8.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 8.7** The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow John Lewis to inspect such records at all reasonable times on request.
- 8.8** Each party may at any time, without notice to the other party, set off any liability of the other party to it against any liability it has to the other party, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. Any exercise by a party of its rights under this Clause 8.8 shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

## **9 INTELLECTUAL PROPERTY RIGHTS**

- 9.1** John Lewis hereby authorises the Supplier to use any Intellectual Property Rights in materials provided to it by John Lewis for the purposes only of performing its obligations under the Contract during its duration.

- 9.2** Title, right and interest in the Deliverables supplied or prepared by the Supplier or on behalf of the Supplier for the purposes of the Contract (together with the Intellectual Property Rights therein) shall be the exclusive property of John Lewis and shall be vested in John Lewis as soon as they become identifiable as being supplied to John Lewis, or upon payment by John Lewis for the same, whichever is sooner. The Supplier undertakes to sign such documentation and take such action (if any) as may be reasonably requested by John Lewis to vest any such Intellectual Property Rights in John Lewis and/or any Group Company.
- 9.3** The Supplier grants to John Lewis a worldwide, perpetual, non-exclusive, sub-licensable, fully assignable, royalty-free licence for John Lewis to use, copy, adapt and update any materials or information which is the Intellectual Property Rights of the Supplier and which are necessary for John Lewis to use in order to receive the benefit of the Contract and either: exist at the Commencement Date; or are created after the Commencement Date but are not to be owned by John Lewis as described in clause 9.2.

## **10 INDEMNITY**

- 10.1** The Supplier shall indemnify John Lewis against all reasonable and direct liabilities, costs, expenses, damages and losses (including but not limited to loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by John Lewis arising out of or in connection with:
- 10.1.1** any claim made against John Lewis for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding John Lewis Materials);
- 10.1.2** any claim made against John Lewis by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables;

- 10.1.3 any claim made against John Lewis by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services; and
- 10.1.4 any claim arising out of or in connection with a TUPE transfer of Supplier personnel (or an allegation that such supplier personal should transfer under TUPE) to John Lewis or a replacement supplier. This indemnity shall extend to cover any costs and claims incurred by each Group Company or a replacement supplier in connection with dismissing any Supplier personnel). For the avoidance of doubt, it is not intended for TUPE to apply in connection with the Contract.

10.2 This clause 10 shall survive termination of the Contract.

## 11 LIABILITY

- 11.1 Neither party excludes or limits its liability to the other:
- 11.1.1 for any matter for which, at law, a party cannot exclude or limit or attempt to exclude or limit its liability
- 11.1.2 for personal injury or death caused by its negligence;
- 11.1.3 for breach of a third party's IPR;
- 11.1.4 for breach of clause 14 (Confidentiality);
- 11.1.5 for breach of clause 13 (Data Protection); or
- 11.1.6 for fraud or fraudulent misrepresentation,
- 11.1.7 and the Supplier does not exclude or limit its liability for:
- 11.1.7.1 wilful default or gross negligence; or
- 11.1.7.2 for the indemnities contained in clause 10.

11.2 Subject to clause 11.1 each party's maximum aggregate liability under the Contract for loss which arises in any Year shall be limited to a sum equivalent to 150% of the annual fees paid or payable under the Contract (for the Goods or Services) in the previous 12 months (taken from when the event giving rise to a claim took place), and if that event occurs within the first year of the Contract, then the maximum aggregate liability shall be calculated as a sum equivalent to the fees payable over the first year starting from the Commencement Date.

## 12 INSURANCE

During the term of the Contract the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on John Lewis' request, produce the insurance certificate giving details of cover for the current year.

## 13 DATA PROTECTION

- 13.1 In this clause 13, "Personal Data", "Personal Data Breach", "Data Subject" and "Processing" "Processor" and "Sub-Processor" shall have the same meaning as those terms are defined in the GDPR.
- 13.2 Whilst it is not expected that any Processing of Personal Data will take place in connection with the Contract, to the extent that any Processing does take place, John Lewis shall be the Data Controller and the Supplier the Data Processor. To that end, the Supplier undertakes that it shall ensure that it and any sub-contractors:
- 13.2.1 process Personal Data under the Contract in accordance with the Data Protection Legislation (including Articles 28-32 of the GDPR), will safeguard the Personal Data with appropriate technical and organisational measures relevant to the nature of the Processing taking place and will not do anything that would put John Lewis or any of its Group Companies in breach of the Data Protection Legislation;
- 13.2.2 do not engage another Processor or Sub-Processor without John Lewis' written consent;

- 13.2.3 only Process Personal Data in accordance with John Lewis' written instructions and treat any such Personal Data as Confidential Information (subject to the obligations under clause 14);
- 13.2.4 do not transfer the Personal Data to a third party, international organisation or outside of the EEA without John Lewis' written consent and only then if standard contractual clauses or a reasonable legal equivalent have been entered into to ensure such transfer is legally compliant;
- 13.2.5 immediately notify John Lewis in the event of a Data Breach concerning any Processing taking place in connection with the Contract or which might affect the Personal Data that the Supplier is holding as a result of the Contract;
- 13.2.6 provide John Lewis with prompt assistance and cooperation (taking into account the applicable statutory deadlines) to respond in good time to a request from a Data Subject wishing to exercise their rights; in relation to reporting and/or investigating a Data Breach to the Information Commissioner's Office; or to enable John Lewis to comply with any other aspect of Articles 32-36 of the GDPR;
- 13.2.7 make promptly available all information necessary to demonstrate compliance with the Data Protection Legislation (with respect Data Processing under the Contract) and will allow for and contribute to audits, including inspections conducted by John Lewis or a third party auditor that it appoints.

## 14 AUDIT AND INSPECTION

- 14.1 The Supplier shall maintain complete and accurate records and supporting documentation relating to the performance of its obligations under the Contract for its duration and for 2 years following the termination or expiry of the Contract.

14.2 The Supplier shall permit John Lewis or its appointed auditors to conduct audits of the Supplier and its subcontractors during the term of the Contract (and for twelve months after its expiry or termination). The right of audit includes a right to enter any of the Supplier Premises to inspect and take copies of such books and records and to interview members of the Supplier Personnel as is required for the purposes referred to in clause 14.3.

14.3 The purpose of any audit carried out under this clause 14 shall be to: provide John Lewis with assurance as to the Supplier's compliance with the terms of the Contract; to enable John Lewis to investigate any complaints or queries of or provide information required by a regulatory authority or any customers of a Group Company relating to the Services or the conduct of the Supplier, the Supplier's personnel or its subcontractors and to investigate any suspicion of fraud or wrongful practice on the part of the Supplier or the Supplier personnel.

14.4 The Supplier shall cooperate with John Lewis and will provide or procure such access and assistance as John Lewis requires in order to fully exercise the rights set out in clause 14.1. Except where the audit is undertaken in respect of suspected fraud or breach or by a regulatory authority which stipulates that no notice should be given, the Company shall provide at least five Business Days' written notice of the audit; shall conduct the audit (or procure it is conducted) within normal business hours; and shall use reasonable endeavours to avoid any disruption to the business of the Supplier or its subcontractors.

## 15 CONFIDENTIALITY

15.1 Each party undertakes that it shall not at any time during the Contract and for a period of three years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 15.2.

15.2 Each party may disclose the other party's confidential information:



15.2.1 to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information must comply with this clause 15; and

15.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

15.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

## 16 PUBLICITY

16.1 The Supplier shall not:

16.1.1 make any public announcement or issue any public circular (including a media or press release) relating to the Contract or its subject matter without the prior written approval of John Lewis; or

16.1.2 use the name or logos of John Lewis, or of any other Group Company without John Lewis' prior written consent (on every occasion), which may be withdrawn at any time if given.

## 17 TERMINATION

17.1 Without affecting any other right or remedy available to it, John Lewis may terminate the Contract:

17.1.1 with immediate effect by giving written notice to the Supplier if:

17.1.1.1 there is a change of control of the Supplier; or

17.1.1.2 the Supplier's financial position deteriorates to such an extent that in John Lewis' opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

17.1.1.3 the Supplier commits a breach of clause 5.3.4,

17.1.2 for convenience by giving the Supplier 3 months' written notice.

17.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

17.2.1 the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified to do so (such notice not having to be in writing);

17.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

17.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

## 18 CONSEQUENCES OF TERMINATION

18.1 On termination of the Contract, the Supplier shall immediately deliver to John Lewis all Deliverables whether or not then complete, and return all John Lewis Materials. If the Supplier fails to do so, then John Lewis may enter the Supplier's premises and take possession of them with the reasonable cooperation of the Supplier. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

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

**18.3** Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

## **19 FORCE MAJEURE**

Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure results from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 1 month, the party not affected may terminate the Contract by giving written notice to the affected party.

## **20 GENERAL**

**20.1 Assignment and other dealings.** Neither party may at any time assign, mortgage, charge, subcontract (subject always to clauses 13.2.2 and 20.2), delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract without the prior written consent of the other party (not to be unreasonably withheld or delayed), save that:

20.1.1 John Lewis may make any such assignment (or similar delegation as listed above) to a Group Company; and

20.1.2 Any John Lewis Group Company shall have the benefit of all rights, benefits, indemnities and limitations provided for in the Contract and accordingly shall be entitled to enforce the Contract subject to and in accordance with its terms; and

20.1.3 Unless explicitly agreed in writing otherwise, any John Lewis Group Company may receive, benefit from and pay for the Goods or Services under the Contract.

**20.2** If John Lewis does consent to the Supplier appointing a sub-contractor, any such subcontracting shall not relieve the Supplier from and the Supplier shall remain liable for all its liabilities, obligations and responsibilities under the Contract

### **20.3 Notices.**

20.3.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by e-mail to the address of each party's primary business contact who deals with the other party on matters concerning the Contract.

20.3.2 A notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first-class post or other next working day delivery service, at 09:00 (UK time) on the second Business Day after posting; if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 20.3.2, business hours means 09:00 - 17:00 (UK time) Monday to Friday on a day that is not a public holiday in the place of receipt.

20.3.3 This clause 20.3 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

**20.4 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable and to give effect to the parties' original intention behind that provision or part-provision. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 20.4 shall not affect the validity and enforceability of the rest of the Contract.

**20.5 Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

**20.6 No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

**20.7 Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. For the avoidance of doubt, this clause shall not exclude any addendums that the parties agree upon in writing and which explicitly state should supplement and form part of this Contract.

**20.8 Third party rights.** Subject to clause 20.1, unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

**20.9 Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.

**20.10 Governing law & Jurisdiction.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction over the same.

#### SCHEDULE I - MANDATORY POLICIES

The Supplier warrants that it has robust internal policies in place to ensure its legal and regulatory compliance in delivering the Goods or Services under the Contract, in relation to the following areas:

- Modern Slavery and Human Trafficking – taking into account the requirements under the Modern Slavery Act 2015
- Anti-Bribery and Anti-Corruption – taking into account the requirements under the Bribery Act 2010
- Fraud – taking into account the requirements under the Fraud Act 2006, the Theft Act 1968 and the Criminal Finance Act 2017
- Data Protection & Information Security – taking into account the requirements under the Data Protection Legislation

The supplier also warrants that it will comply with all material aspects of the following John Lewis policies in relation to the Contract and the provision of Goods and Services:

- If a Supplier's personnel will be visiting or providing any Services on a John Lewis site: any John Lewis policies (or lawful instructions from on-site staff) that apply to individual conduct on site including those which relate to health and safety, security, confidentiality and treatment of others.
- Responsible Sourcing
- Corporate and Social Responsibility.