

ZOTEOFAMS U.K. LIMITED STANDARD TERMS AND CONDITIONS OF PURCHASE

1 Definitions and interpretation

1.1 The following definitions apply in these Terms:

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

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Charges: the sums payable by Zotefoams as set out in the Order.

Contract: the contract between Zotefoams and the Supplier for the supply of Products and/or Services in accordance with the Order and these Terms.

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

Deliverables: all documents, products, software, goods and materials developed by the Supplier or its personnel as part of, or in relation to, the Services in any form or media, including drawings, designs, pictures, computer programs, data, specifications and reports (including drafts) and any other items specified in the Order.

Delivery Date: the date for delivery of Products as specified in the Order.

Delivery Location: Zotefoams' premises or such other location for delivery of Products as specified in the Order or as instructed by Zotefoams prior to delivery.

Intellectual Property Rights: all patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: Zotefoams' order for the supply of Products and/or Services, as set out in Zotefoams' purchase order form.

personnel: any directors, officers, employees, agents, contractors or sub-contractors of a party.

Products: the products (or any part of them) to be supplied by the Supplier under the Contract as set out in the Order.

Products Specification: any specification for the Products, including any related plans or drawings, set out in the Order or otherwise agreed in writing between Zotefoams and the Supplier.

Services: the works and services, including any Deliverables and any supply, installation or commissioning of any Products, to be provided by the Supplier under the Contract as set out in the Order.

Service Specification: any specification for the Services set out in the Order or otherwise agreed in writing between Zotefoams and the Supplier.

Supplier: the person, firm or other entity from whom Zotefoams purchases the Products and/or Services.

Terms: the terms and conditions set out in this document, as amended from time to time in accordance with clause 18.4.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

Zotefoams: Zotefoams U.K. Limited, registered in England and Wales with company number 08725935.

Zotefoams Equipment: any equipment, including tools, systems, cabling or facilities, provided by Zotefoams or any of its personnel to the Supplier and used directly or indirectly in the provision of the Services.

Zotefoams Materials: all documents, information, items and materials in any form (whether owned by Zotefoams or a third party) provided by Zotefoams or any of its personnel to the Supplier in connection with the Services.

1.2 Unless the context otherwise requires, references in these Terms to:

- (a) a **person** shall be construed as a reference to any individual, firm, company (including a limited liability company), corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (b) any statute or statutory provision shall be construed as a reference to such statute or statutory provision (including all instruments, orders or regulations made thereunder or deriving validity therefrom) as in force as at the date of the Order and as subsequently amended, modified, consolidated, re-enacted or replaced from time to time;
- (c) 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
- (d) **writing** or **written** includes emails.

2 Basis of contract

2.1 The Order constitutes an offer by Zotefoams to purchase Products and/or Services from the Supplier in accordance with these Terms.

2.2 The Order shall be deemed to be accepted on the earlier of:

- (a) the Supplier issuing written acceptance of the Order; or
- (b) any act by the Supplier consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence.

2.3 These Terms apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate (including those in quotations, acknowledgements or invoices) or which are implied by trade, custom, practice or course of dealing.

2.4 All of these Terms shall apply to the supply of both Products and Services except where the application to one or the other is specified.

2.5 If there is an inconsistency between any of the provisions of these Terms and the provisions of the Order, the provisions of the Order shall prevail.

3 Supply of Products

3.1 The Supplier shall supply, and Zotefoams shall purchase, such quantities of Products as Zotefoams may order in accordance with these Terms.

3.2 The Supplier shall ensure that the Products shall:

- (a) correspond with their description and any applicable Products Specification;
- (b) 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 Zotefoams, expressly or by implication, and in this respect Zotefoams relies on the Supplier's skill and judgement;
- (c) where they are manufactured products, be free from defects in design, materials and workmanship and remain so for not less than 12 months after delivery; and
- (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Products.

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

- 3.4 Zotefoams may inspect and test the Products at any time before delivery. The Supplier shall remain fully responsible for the Products 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.
- 3.5 If, following such inspection or testing, Zotefoams considers that the Products do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.2, Zotefoams shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.6 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Products and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract and Zotefoams shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 3.7 Zotefoams may, at any time prior to despatch of the Products, amend or cancel the Order by written notice to the Supplier. If Zotefoams amends or cancels the Order, its liability to the Supplier shall be limited to payment to the Supplier of all costs reasonably incurred by the Supplier in fulfilling the Order up until the date of receipt of the notice of amendment or cancellation, except that Zotefoams shall have no liability to the Supplier where the amendment or cancellation results from the Supplier's failure to comply with its obligations under the Contract.

4 Delivery of Products

4.1 The Supplier shall ensure that:

- (a) the Products are properly packed and secured in such manner as to enable them to reach their destination in good condition and in accordance with Zotefoams' instructions;
- (b) each delivery of the Products is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Products (including the code number of the Products (where applicable)), special storage instructions (if any) and, if the Products are being delivered in instalments, the outstanding balance of Products remaining to be delivered; and
- (c) if the Supplier requires Zotefoams to return any packaging material for the Products to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the Supplier's cost.

4.2 The Supplier shall deliver the Products:

- (a) on the Delivery Date specified in the Order or, if no such date is specified, then as soon as reasonably practicable after the date of the Order;
- (b) to the Delivery Location; and
- (c) during Business Hours or as otherwise instructed by Zotefoams.

4.3 Unless otherwise specified in the Order, the Supplier shall deliver the Products 'Delivered Duty Paid' (or DDP) (Incoterms 2020) to the Delivery Location. Delivery of the Products shall be completed once the Products have been satisfactorily unloaded at the Delivery Location.

4.4 If the Supplier:

- (a) delivers less than the quantity of Products ordered, Zotefoams may reject the Products; or
- (b) delivers more than the quantity of Products ordered, Zotefoams may at its sole discretion reject the Products or the excess Products and any rejected Products shall be returnable at the Supplier's own risk and expense. If the Supplier delivers more or less than the quantity of Products ordered and Zotefoams accepts the delivery, a pro rata adjustment shall be made to the invoice for the Products.

4.5 Zotefoams shall not be deemed to have accepted any Products until it has had a reasonable time to inspect them following delivery or, in the case of a latent defect in the Products, until a reasonable time after the latent defect has become apparent.

4.6 The Supplier shall not deliver the Products in instalments without Zotefoams' prior written consent. Where it is agreed that the Products are to be delivered in instalments, they may be invoiced and paid for separately.

However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle Zotefoams to the remedies set out in clause 6.

4.7 Title and risk in the Products shall pass to Zotefoams on completion of delivery.

5 Provision of Services

5.1 The Supplier shall provide the Services to Zotefoams in accordance with the terms of the Contract.

5.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by Zotefoams.

5.3 In providing the Services, the Supplier shall:

- (a) ensure that the Services and/or the Deliverables conform with the Order and the Service Specification and are fit for any purpose expressly or impliedly made known to the Supplier by Zotefoams;
- (b) perform the Services with reasonable skill and care in accordance with best industry practice;
- (c) use the best 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 Zotefoams, shall be free from defects in design, workmanship and installation;
- (d) 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;
- (e) co-operate with Zotefoams in all matters relating to the Services and comply with all reasonable instructions of Zotefoams;
- (f) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (g) obtain and maintain all necessary licences and consents;
- (h) to the extent that the Services are provided at Zotefoams' premises, ensure that the Supplier's personnel comply at all times with Zotefoams' health and safety, security and other policies and procedures applicable to those working at such premises;
- (i) safeguard Zotefoams Equipment and use it only as authorised;
- (j) not do or omit to do anything which may cause Zotefoams to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that Zotefoams may rely or act on the Services; and
- (k) promptly notify Zotefoams of any change of Control of the Supplier.

6 Zotefoams' remedies

6.1 If the Supplier fails to deliver the Products by the Delivery Date and/or perform the Services by the applicable due date, then, without limiting any other right or remedy it may have, Zotefoams may:

- (a) terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) refuse to accept any subsequent performance of the Services and/or delivery of the Products which the Supplier attempts to make;
- (c) obtain substitute products and/or services from another supplier and recover from the Supplier any costs and expenses reasonably incurred by Zotefoams in obtaining such substitute products and/or services;
- (d) where Zotefoams has paid in advance for Products which have not been delivered by the Supplier and/or Services that have not been provided by the Supplier, to have such sums refunded by the Supplier; and
- (e) claim damages for any other costs, expenses or losses incurred by Zotefoams resulting from the Supplier's failure to deliver the Products by the Delivery Date and/or perform the Services by the applicable due date.

- 6.2 If any Products delivered by the Supplier to Zotefoams fail to comply with clause 3.2, or are otherwise not in conformity with the Contract, then, without limiting any other right or remedy it may have, Zotefoams may (whether or not it has accepted the Products):
- (a) reject the Products (in whole or in part) whether or not title has passed and return them to the Supplier at the Supplier's own risk and expense;
 - (b) terminate the Contract with immediate effect by giving written notice to the Supplier;
 - (c) require the Supplier promptly to repair or replace the rejected Products, failing which Zotefoams may obtain substitute products from a third party or have the rejected Products repaired by a third party, and the Supplier shall reimburse Zotefoams for any expenditure incurred by Zotefoams in doing so;
 - (d) require the Supplier to provide a full refund of the price of the rejected Products (if paid);
 - (e) refuse to accept any subsequent delivery of the Products which the Supplier attempts to make; and
 - (f) claim damages for any other costs, expenses or losses incurred by Zotefoams resulting from the Supplier's failure to supply Products that do not comply with clause 3.2 or are otherwise not in conformity with the Contract.
- 6.3 If any Services provided by the Supplier to Zotefoams fail to comply with clause 5.3, or are otherwise not in conformity with the Contract, then, without limiting any other right or remedy it may have, Zotefoams may:
- (a) reject the Deliverables (in whole or in part);
 - (b) terminate the Contract with immediate effect by giving written notice to the Supplier;
 - (c) require repeat performance by the Supplier of the relevant Services, failing which Zotefoams may obtain substitute services from a third party and the Supplier shall reimburse Zotefoams for any expenditure incurred by Zotefoams in doing so;
 - (d) require the Supplier to provide a full refund of the price of the relevant Services (if paid);
 - (e) refuse to accept further performance of the Services; and
 - (f) claim damages for any other costs, expenses or losses incurred by Zotefoams resulting from the Supplier's failure to provide Services that comply with clause 5.3 or are otherwise not in conformity with the Contract.
- 6.4 These Terms shall apply to any substituted or remedial services and/or repaired or replacement products supplied by the Supplier.
- 6.5 Zotefoams' rights and remedies under these Terms are in addition to any rights and remedies implied by statute and/or common law.
- 7 Zotefoams' obligations**
- Zotefoams shall:
- (a) provide the Supplier with reasonable access at reasonable times to Zotefoams' premises if and as required for the purpose of providing the Services; and
 - (b) provide such information for the provision of the Services as the Supplier may reasonably request and Zotefoams considers reasonably necessary.
- 8 Charges and payment**
- 8.1 The Charges are exclusive of amounts in respect of VAT which shall, on receipt of a valid VAT invoice from the Supplier, be payable by Zotefoams at the appropriate rate on the same date as the payment to which such VAT relates.

- 8.2 The Charges for the Products shall be inclusive of the costs of packaging, insurance and carriage of the Products, unless otherwise agreed in writing by Zotefoams, and no extra charges shall be effective unless agreed in writing by Zotefoams.
- 8.3 The Charges for the Services shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services and, unless otherwise agreed in writing by Zotefoams, shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 8.4 Where the Charges are calculated on a time and materials basis: (i) the Supplier's daily fee rates for each individual person as set out in the Order are calculated on the basis of an eight-hour day, worked during Business Hours; (ii) the Supplier shall not be entitled to charge on a pro rata basis for part days worked by the Supplier's team during Business Hours, unless it has Zotefoams' prior written consent to do so; and (iii) the Supplier shall ensure that every individual whom it engages on the Services completes time sheets to record time spent on the Services, and the Supplier shall indicate the time spent per individual in its invoices.
- 8.5 Unless otherwise agreed, the Supplier shall invoice Zotefoams:
- (a) in respect of Products, on or at any time after completion of delivery; and
 - (b) in respect of Services, on completion of the Services,
- and each invoice shall include such supporting information required by Zotefoams to verify the accuracy of the invoice, including the Order number.
- 8.6 In consideration of the supply of Products and/or Services by the Supplier, Zotefoams shall pay each undisputed invoice submitted to it by the Supplier within 60 days of the date of receipt by Zotefoams of a correctly rendered invoice to the bank account nominated in writing by the Supplier.
- 8.7 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the other party reserves the right to charge interest on the overdue sum calculated on a daily basis from the due date to the date of actual payment at the rate of 3% per annum above the Bank of England's base rate from time to time. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved on sums found or agreed to be due, from the due date until payment.
- 8.8 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 Zotefoams to inspect such records at all reasonable times on request.
- 8.9 Zotefoams may at any time, without notice to the Supplier, set off any liability of the Supplier to Zotefoams against any liability of Zotefoams to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, Zotefoams may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by Zotefoams of its rights under this clause 8.9 shall not limit or affect any other rights or remedies available to it under these Terms or otherwise.

9 Intellectual Property Rights

- 9.1 In relation to Zotefoams Materials:
- (a) Zotefoams and its licensors shall retain ownership of all Intellectual Property Rights in Zotefoams Materials; and
 - (b) Zotefoams grants to the Supplier a non-exclusive, royalty-free, non-transferable licence to use Zotefoams Materials for the term of the Contract solely for the purpose of providing the Services to Zotefoams.
- 9.2 The Supplier assigns to Zotefoams, with full title guarantee and free from all third party rights, all Intellectual Property Rights arising from the Services, including all Intellectual Property Rights in the Deliverables.
- 9.3 The Supplier shall obtain waivers of all moral rights in relation to the Deliverables to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

- 9.4 The Supplier shall, promptly at Zotefoams' request, do (or procure to be done) all such further acts and things, including the execution of all such other documents, as Zotefoams may from time to time require for the purpose of securing for Zotefoams the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to Zotefoams in accordance with clause 9.2.
- 9.5 The Supplier warrants that the receipt, use and onward supply of the Services and the Deliverables by Zotefoams shall not infringe the rights, including any Intellectual Property Rights, of any third party.

10 Indemnity and liability

- 10.1 The Supplier shall indemnify, keep indemnified and hold harmless Zotefoams from and against any and all damages, loss, costs, claims or expenses of any kind (including any interest, fines, legal and other professional fees and expenses awarded against or paid or incurred by Zotefoams) arising out of, or in connection with:
- (a) any claim made against Zotefoams for death, personal injury or damage to property arising out of, or in connection with, defects in Products or Deliverables, to the extent that such defects are attributable to the acts or omissions of the Supplier or any of its personnel;
 - (b) any claim made against Zotefoams arising out of, or in connection with, the supply of the Products or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier or any of its personnel;
 - (c) any claim made against Zotefoams 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 Products or the receipt, use or supply of the Services or Deliverables; and/or
 - (d) any acts or omissions or breaches of the Contract by the Supplier or any of its personnel.
- 10.2 Subject to clause 10.3:
- (a) Zotefoams' total liability under, or in connection with, the Contract, whether such liability arises in contract, tort (including negligence) or otherwise, shall not exceed an amount equal to the Charges payable under the Order; and
 - (b) Zotefoams shall not be liable to the Supplier for any loss of profit or revenue, loss of business, loss of use, loss of production, loss of or damage to data, loss of anticipated savings or interest, loss of or damage to reputation or goodwill or any indirect, special or consequential damages, loss, costs, claims or expenses of any kind.
- 10.3 Nothing in these Terms is intended to limit or exclude any liability for:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
 - (d) any other liability which cannot be limited or excluded by applicable law.

11 Representations and warranties

The Supplier represents and warrants that:

- (a) it has the power and authority to enter into the Contract;
- (b) the execution and performance of the Contract do not constitute a breach of any contract the Supplier is party to;
- (c) it shall comply with all applicable laws and regulations in relation to its activities under the Contract;
- (d) in respect of the Products and any products that are transferred to Zotefoams as part of the Services, including the Deliverables or any part of them, it has full clear and unencumbered title to all such items,

and that, at the date of delivery of such items to Zotefoams, it will have full and unrestricted rights to sell and transfer all such items to Zotefoams;

- (e) it shall hold all Zotefoams Materials and Zotefoams Equipment in safe custody at its own risk, maintain Zotefoams Materials and Zotefoams Equipment in good condition until returned to Zotefoams and not dispose of or use Zotefoams Materials or Zotefoams Equipment other than in accordance with Zotefoams' written instructions or authorisation;
- (f) the Products and Deliverables do not and will not infringe any Intellectual Property Rights or other proprietary right of any third party;
- (g) it shall comply with, and shall cause its personnel to comply with, such of Zotefoams' policies, procedures and codes of business conduct of which Zotefoams has given, or may in the future give, the Supplier express notice; and
- (h) Zotefoams shall not be responsible for the safekeeping of any property stored by the Supplier or the Supplier's personnel at Zotefoams' premises.

12 Confidentiality

12.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.

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

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its personnel or professional advisers to whom it discloses the other party's confidential information comply with the provisions of this clause 12; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under, or in connection with, the Contract.

13 Insurance

During the term of the Contract and for a period of six years thereafter, the Supplier shall (and shall ensure that any applicable subcontractors shall) maintain adequate and appropriate insurance with reputable insurers covering its liabilities under the Contract and shall, on Zotefoams' request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

14 Compliance with relevant laws and policies

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

- (a) comply with all applicable laws, statutes, regulations and codes from time to time in force relating to anti-bribery, anti-corruption and anti-slavery, including the Bribery Act 2010 and the Modern Slavery Act 2015;
- (b) not engage in any activity, practice or conduct which would constitute an offence under section 1, section 2 or section 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; and
- (c) comply with, and adhere in its own business dealings to the principles laid out in, Zotefoams' ethics, anti-bribery and corruption and anti-fraud policies available on Zotefoams' website at: <https://www.zotefoams.com/governance/>.

14.2 The Supplier shall ensure that any person associated with the Supplier who is performing services or providing products in connection with the Contract does so in full compliance with the terms imposed on the Supplier in clause 14.1 (**Relevant Terms**). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms and shall be directly liable to Zotefoams for any breach by such persons of any of the Relevant terms.

14.3 Upon Zotefoams' request, the Supplier shall promptly confirm in writing to Zotefoams what checks it has done (and what steps it has taken) in respect of its own supply chain to prevent bribery, corruption and slavery and to ensure compliance with the Relevant Terms.

15 Data protection

15.1 The following definitions apply in this clause 15:

- (a) **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.
- (b) **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK, including the UK GDPR, the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426).
- (c) **Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.

15.2 Each party shall comply with all applicable requirements of the Data Protection Legislation. This clause 15 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

15.3 The parties acknowledge that, for the purposes of the Data Protection Legislation, Zotefoams is the Controller and the Supplier is the Processor.

15.4 Without prejudice to the generality of clause 15.2, Zotefoams shall ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier and/or lawful collection of the Personal Data by the Supplier on behalf of Zotefoams for the duration and purposes of the Contract.

15.5 Without prejudice to the generality of clause 15.2, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:

- (a) process that Personal Data only on the documented written instructions of Zotefoams unless the Supplier is required by Domestic Law to otherwise process that Personal Data. Where the Supplier is relying on Domestic Law as the basis for processing Personal Data, the Supplier shall promptly notify Zotefoams of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits the Supplier from so notifying Zotefoams;
- (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by Zotefoams, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- (d) not transfer any Personal Data outside of the UK unless the prior written consent of Zotefoams has been obtained and the following conditions are fulfilled:
 - (i) Zotefoams or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by Zotefoams with respect to the processing of the Personal Data;

- (e) assist Zotefoams, at Zotefoams' cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify Zotefoams without undue delay on becoming aware of a Personal Data Breach;
- (g) at the written direction of Zotefoams, delete or return Personal Data and copies thereof to Zotefoams on termination of the Contract unless required by Domestic Law to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 15 and allow for audits by Zotefoams or Zotefoams' designated auditor and immediately inform Zotefoams if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

15.6 Zotefoams does not consent to the Supplier appointing any third party processor of Personal Data under these Terms without prior written consent from Zotefoams.

16 Termination

16.1 Without limiting its other rights or remedies, Zotefoams may terminate the Contract with immediate effect by giving written notice to the Supplier if:

- (a) the Supplier has committed a material breach of the Contract and (where such breach is capable of remedy) fails to remedy such breach within 14 days after receipt of a notice from Zotefoams specifying the breach and requiring it to be remedied;
- (b) the Supplier breaches clause 14;
- (c) the Supplier breaches any representation or warranty herein;
- (d) the Supplier takes any step or action, or has any step or action taken against it, in connection with it: entering or being placed into administration; entering into provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring); obtaining a moratorium; being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring); having a receiver appointed over any of its assets; or being subject to any creditor enforcement action;
- (e) the Supplier suspends, ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (f) the Supplier is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court that" did not appear in sections 123(1)(e) or 123(2);
- (g) any of the above steps or actions are taken or occur in another jurisdiction in connection with any analogous procedure in the relevant jurisdiction;
- (h) the Supplier's financial position deteriorates to such an extent that, in Zotefoams' opinion, the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (i) there is a change of Control of the Supplier.

16.2 Zotefoams may terminate the Contract without cause:

- (a) in respect of the supply of Products, in accordance with clause 3.7; and
- (b) in respect of the supply of Services, by giving the Supplier 30 days' written notice, whereupon the Supplier shall discontinue all work on the Services and Zotefoams shall pay the Supplier all costs reasonably incurred by the Supplier in providing the Services up until the date of termination.

16.3 In any of the circumstances in these Terms in which Zotefoams may terminate the Contract, where both Products and Services are supplied, Zotefoams may instead terminate part of the Contract in respect of the Products, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.

17 Consequences of termination

- 17.1 On termination of the Contract or any part of it for any reason, the Supplier shall immediately deliver to Zotefoams all Deliverables, whether or not then complete, and return all Zotefoams Materials and Zotefoams Equipment to Zotefoams. If the Supplier fails to do so, then Zotefoams may, without limiting its other rights or remedies, enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and shall not use them for any purpose not connected with the Contract.
- 17.2 Termination of the Contract shall not affect the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 17.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

18 General

- 18.1 **Inadequacy of damages:** Without prejudice to any other rights or remedies that Zotefoams may have, the Supplier acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the Contract by the Supplier. Accordingly, Zotefoams shall be entitled to seek the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach by the Supplier of the Contract.
- 18.2 **Force majeure:** Neither party shall be liable for delay or failure caused by events beyond its reasonable control (including acts of God, fire, flood, epidemic/pandemic, war, terrorism, labour disputes, governmental action, or failures of sub-suppliers caused by any of the foregoing (**Force Majeure Event**)). The affected party shall notify the other party promptly, mitigate the impact of the Force Majeure and resume performance as soon as reasonably practicable. If a Force Majeure Event continues for not less than 30 days, either party may terminate the Contract on written notice without liability for the unperformed part.
- 18.3 **Assignment and other dealings:** The Supplier shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over, dispose of or otherwise deal in any other manner with any of its rights and/or obligations under these Terms without the prior written consent of Zotefoams. Zotefoams may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over, dispose of or otherwise deal in any other manner with any or all of its rights and/or obligations under these Terms, provided that it gives prior written notice of the same to the Supplier.
- 18.4 **Variation:** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 18.5 **Waiver:** No failure or delay to exercise any right or remedy operates as a waiver. A waiver must be in writing and applies only to the specific instance.
- 18.6 **Rights and remedies:** The rights and remedies provided under these Terms are in addition to, and not exclusive of, any rights or remedies provided by law.
- 18.7 **Severance:** If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity, legality and enforceability of the rest of these Terms.
- 18.8 **Entire agreement:** These Terms, together with the Order and any documents expressly referred to in the Order, together constitute the entire agreement between the parties relating to the Order and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to their subject matter. Each party agrees that it has not relied on any statement not set out in those documents.
- 18.9 **No partnership or agency:** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture relationship between the parties, constitute either party the agent of the other party or authorise either party to make or enter into any commitments for, or on behalf of, the other party. Each party confirms that it is acting on its own behalf and not for the benefit of any other person.
- 18.10 **Third party rights:** No one other than a party to the Contract shall have any right to enforce any of its terms.
- 18.11 **Notices:** Any notice, consent, request, demand, approval or other communication to be given or made under, or in connection with, the Contract must be in writing and shall be:

- (a) delivered personally or sent by pre-paid first class post or special delivery to the intended recipient's registered office (or to such other address as either party may notify to the other from time to time in accordance with this clause 18.11);
- (b) sent by email to the intended recipient's email address as specified in the Order (or to such other email address as either party may notify to the other from time to time in accordance with this clause 18.11).

Any notice shall be treated as having been served on delivery if delivered by hand, at 9.00am on the second Business Day after posting if sent by pre-paid first class post or special delivery or when sent if sent by email during Business Hours or at 9.00am on the next Business Day if sent outside Business Hours (provided that, in each case, no bounce back is received). Service of proceedings may not be by email.

- 18.12 **Governing law:** 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 laws of England and Wales.
- 18.13 **Jurisdiction:** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of, or in connection with, the Contract or its subject matter or formation.