



# Purchase Order Terms and Conditions

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**BUILDING A LIMITLESS IRELAND**

## Definitions and Interpretation

The following definitions apply in these Conditions:

**“Affiliate”** means any subsidiary or parent company (or subsidiary of parent company) of a party from time to time, and the terms “subsidiary” and “parent” and “holding company” are defined in Sections 7 and 8 of the Companies Act 2014 and “Affiliates” shall be interpreted accordingly.

**“Anti-Bribery Laws”** means the Criminal Justice (Corruption Offences) Act 2018, the Ethics in Public Office Act 1995 and the Proceeds of Crime (Amendment) Acts 1996 to 2016 and any subordinate legislation made under those Acts from time to time, together with any guidance or codes of practice issued by the relevant Government department concerning any of that legislation (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any or all of them).

**“Applicable Law”** means any law of Ireland and the European Union and any other laws or regulations, directives, regulatory policies, guidelines, rules or industry codes for the time being in force and taking account of any amendments, relevant to the performance of the Suppliers obligations and includes, without limitation, the Environmental Regulations.

**“Conditions”** means these terms and conditions (as may be superseded by the terms of an agreement to be put in place between the parties).

**“Contract”** means the contract between NBI and the Supplier, for the purchase of Goods or Services by NBI incorporating the Purchase Order, these Conditions and any Specification.

**“Consignment Stock”** means a pre agreed volume of stock items, reserved for exclusive use by NBI and stored at Suppliers premises in Ireland. Title will remain with Suppliers until consumed by NBI. NBI will consume Consignment Stock on a monthly basis and the Supplier will deliver Consignment Stock to NBI designated delivery points under Incoterm DDP. Supplier will invoice NBI at the end of each month for Consignment Stock consumed. Upon payment, title of ownership will pass to NBI. The Supplier may maintain an inventory of Consignment Stock in Ireland at either their own premises or at designated storage locations agreed with NBI.

**“Data Protection Law”** means, to the extent applicable to the performance by each party of their respective obligations under the Contract (incorporating the Conditions), laws governing the Processing, use and disclosure of Personal Data to include the Regulation (EU) 2016/679 (GDPR), the Data Protection Act 2018 and any other amending or implementing legislation.

**“Delivery Address”** means the address(es) for delivery of the Goods or performance of the Services specified in the Purchase Order.

**“Delivery Date”** means the date for delivery of the Goods or performance of the Services specified in the Purchase Order.

**“Environmental Regulations”** means the Waste Management (Waste Electrical and Electronic Equipment) Regulations (S.I. 340 of 2005), as amended, the Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations (S.I. 341 of 2005) as amended, and the Waste Management (Batteries and Accumulators) Regulations 2008 (S.I. 268 of 2008) and the European Union (Waste Electrical and Electronic Equipment) Regulations (S.I. No. 149 of 2014).

**“Goods”** means the goods (or any instalment or any part of them) as described in the Purchase Order, which may include software where the context so implies.

“**NBI**” means the entity named on the front of the Purchase Order, .

“**NBI’s Normal Business Hours**” means 9am to 5pm, Monday to Friday, excluding public holidays, bank holidays and any other times which may be agreed between NBI and the Supplier.

“**Payment Period**” means Sixty (60) days from the date NBI receives a valid, properly submitted, undisputed invoice to [accounts@nbi.ie](mailto:accounts@nbi.ie) unless otherwise stated in the Purchase Order.

“**Prohibited Act**” means any of the following:

- i. offering, promising, giving or agreeing to give to any person a financial or other advantage, gift or consideration of any kind as an inducement or reward for doing or for having done or forborne to do or done any act in relation to the obtaining, execution or performance of this Contract or for showing or forbearing to show favour or disfavour to any person in relation to this Contract; or
- ii. committing any offence: (a) under the Anti-Bribery Laws; (b) under legislation creating offences concerning fraudulent acts; (c) at common law concerning fraudulent acts relating to this Contract;

“**Price**” means the price of the Goods or the charge for the Services, including carriage, packing, insurance, logistics costs, license or royalty payments, as set out in the Purchase Order.

“**Purchase Order**” means NBI’s Purchase Order for Goods or Services incorporating these Conditions.

“**Purchase Order number**” means the unique number set out on the Purchase Order.

“**Relevant Requirements**” means all Applicable Law relating to Prohibited Acts.

“**Services**” means the services to be provided by the Supplier (as described in the Purchase Order or if applicable, in a statement of work.

“**Specification**” means any specification, statement of work, description, plan, drawing or sample relating to the Goods or Services approved by NBI.

“**Supplier**” means the company / person named in the Purchase Order

“**Timetable**” means a timetable agreed by NBI for the provision of the Goods or performance of the Services.

## 1. Scope of Contract

- 1.1 NBI contracts with each Supplier subject to and upon these Conditions. Any variation to these Conditions will not be effective unless agreed in writing and signed by NBI,
- 1.2 NBI reserves the right to update these Conditions from time to time. Contracts are subject to the version of the Conditions in force at the time of Contract.
- 1.3 NBI contracts on behalf of itself and on behalf of each of its Affiliates, and that all rights afforded under this Contract to NBI are also afforded to each of its Affiliates.

## 2. Variation of Purchase Order

NBI may, at any time, vary or add to the Goods or Services, and the Supplier will carry out such variation as if they were incorporated in the Contract upon receipt of an amended Purchase Order.

## 3. Price

- 3.1 The Price of the Goods or Services is as stated in the Purchase Order and is exclusive of VAT. No increase in the Price or extra charges will be accepted by NBI. All pricing is quoted in Incoterm DDP.
- 3.2 The Supplier will bear the cost of unanticipated expenses or cost overruns required to

ensure the Goods or Services are provided in accordance with the terms of the Contract.

#### **4. Payment**

- 4.1 Time for payment shall not be of the essence of the Contract.
- 4.2 Invoices must be submitted electronically to [accounts@nbi.ie](mailto:accounts@nbi.ie). Prior to submitting invoices the Supplier must notify NBI Procurement to ensure the Purchase Order is goods received.
- 4.3 The Supplier may invoice NBI in respect of each Purchase Order at any time after delivery of the Goods or completion of the Services. Each invoice must be addressed to NBI, quote (a) the Suppliers unique invoice number, (b) the date, (c) NBI's Purchase Order number, (d) NBI's item code, (e) unit price, (f) quantity and description of Goods or Services, (g) details of the Supplier's name and registered address, (h) VAT number (if appropriate), amount of VAT payable and value of invoice both gross and net, inclusive and exclusive of VAT and (i) the Suppliers banking details. The Supplier must submit a separate invoice in respect of each instalment delivered under the Purchase Order.
- 4.4 The Supplier must declare to NBI procurement the monthly usage of Consignment Stock at the end of each calendar month. NBI will, no later than two (2) Business Days after the end of each calendar month, review usage volumes. The Supplier will invoice for the undisputed volume and payment will be made in accordance with the terms of this Clause 6.
- 4.5 NBI may withhold payment if a current revenue clearance certificate is not provided by the Supplier.
- 4.6 The Supplier must inform NBI of any change of name, bank details, VAT registration or company registration details.
- 4.7 In the event that NBI disputes an invoice, NBI may withhold payment until the dispute is resolved. If any sum of money shall be due from the Supplier to NBI, the same may be deducted from any sum then due or which at any time thereafter may become due to the Supplier under the Contract or any other agreement or contract with NBI.

#### **5. Inspection and Progress**

- 5.1 The Supplier agrees to allow NBI to carry out such inspections or tests as NBI may reasonably require.
- 5.2 If NBI is not satisfied that the Goods or Services will comply with the Contract the Supplier will immediately take all steps necessary to ensure compliance with the Contract within seven (7) days of the date of inspection.
- 5.3 A failure by NBI to make a complaint at the time of inspection in accordance with Clause 7.1 will not constitute a waiver by NBI of any of its rights or remedies.

#### **6. Delivery and Performance**

- 6.1 The Supplier will deliver the Goods to or perform the Services at the Delivery Address on the date or within the time scale for completion as specified in the Purchase Order during NBI's Normal Business Hours.
- 6.2 Time is of the essence in relation to delivery of the Goods or performance of the Services by the Supplier.
- 6.3 Without prejudice to Clause 10.1, the Supplier will inform NBI immediately in circumstances where it has reason to believe that Goods or Services will not be delivered or completed by the date specified in the Purchase Order.
- 6.4 Each delivery of Goods must be accompanied by a delivery note, quoting the Purchase Order number, and containing the same level of detail as the Purchase Order, and in the case of instalment sent, the outstanding balance remaining to be delivered. A service work

sheet or delivery docket for Services, containing the same level of detail as the Purchase Order must be submitted on completion of Services.

- 6.5 If NBI agrees that the Goods can be delivered by instalments, the failure by the Supplier to deliver any one instalment in accordance with this Contract entitles NBI at its discretion to treat the entire Contract as repudiated.
- 6.6 If Goods or Services are delivered in excess of the quantities ordered, NBI is not bound to pay for the excess and the excess remains and is returnable at the Suppliers risk and expense.
- 6.7 Title and property in the Goods passes to NBI upon delivery. The risk in the Goods will remain with the Supplier until they are delivered to and are accepted in writing by NBI.
- 6.8 NBI has the right to reject any Goods or Services which are not in accordance with the order and will not be deemed to have accepted all or part of the Goods or Services.
- 6.9 NBI reserves the right to inspect any Goods and Deliverables before dispatch from the Supplier's premises, but such inspection shall not relieve the Supplier from responsibility or liability nor be interpreted in any way to imply acceptance of such Goods or Deliverables.
- 6.10 The Supplier shall assign or procure the benefit of any manufacturers' warranties or guarantees in respect of the Goods to or for NBI and will provide all reasonable assistance in enforcing the same.
- 6.11 If the Goods are delivered to NBI in excess of the quantities ordered, NBI shall not be bound to pay for the excess and any excess will be and will remain at the Supplier's risk and will be returnable at the Supplier's expense, unless NBI agrees otherwise.
- 6.12 Without prejudice to its other rights, NBI reserves the right to cancel a Purchase Order for any reason at any time prior to delivery on giving the Supplier five (5) Business Days' notice in writing. Save in the event of breach by the Supplier, NBI will pay a reasonable price for all work in progress at the date of the cancellation notice, to the extent that such work in progress cannot reasonably be used by the Supplier in respect of its other customers. NBI shall not be liable for any other direct or indirect costs, damages or expenses of the Supplier arising from such cancellation.

## **7. Warranties**

- 7.1 The Supplier represents, warrants and undertakes to NBI that:
  - 7.1.1 the Goods will be of satisfactory quality (within the meaning of the Sale of Goods and Supply of Services Act 1980)(as amended) and fit for any purpose held out by the Supplier or made known to the Supplier expressly or implicitly prior to or at the time the Purchase Order is placed. The Goods will be free from defects in design, material and workmanship. Repairs and replacements shall themselves be subject to the foregoing obligations for a period of twelve (12) months from the date of their delivery or installation;
  - 7.1.2 the Goods and Services will conform in every respect with the description in the Purchase Order and /or any relevant Specification or sample;
  - 7.1.3 It will comply with, and the Goods and Services will be supplied in accordance with, Applicable Law
  - 7.1.4 the Services will be performed with due care, skill and diligence in accordance with recognised commercial practices and standards in accordance with any Timetable or by the Delivery Date agreed by NBI and by appropriately qualified and trained personnel;
  - 7.1.5 the supply of the Goods or Services and NBI's use of the Goods or Services will not

infringe the intellectual property rights of any other parties;

- 7.1.6 to the extent that the Supplier or its personnel have access to NBI's computer system in performing the Services under the Contract, the Supplier shall not (and will procure that its personnel, sub-contractors or agents do not) deliberately or negligently introduce any computer virus into those systems; and
- 7.1.7 the Supplier has the right to provide and / or sell the Goods and that the Goods are free from any charge or encumbrance not disclosed to NBI before the Contract is made;
- 7.2 NBI's rights under the Contract are in addition to the statutory implied terms implied in favour of NBI by the Sale of Goods and Supply of Services Act 1980, and any other statute.
- 7.3 The provisions of Clauses 9.1 and 9.2 will survive any performance, acceptance or payment pursuant to the Contract and will extend to any substituted or remedial Goods or Services provided by the Supplier.

## **8. Remedies**

- 8.1 Without prejudice to any other remedy NBI may have, in the event of late delivery, or if the Goods or Services including any software, are not supplied or performed in accordance with the Contract, then NBI may (whether or not any part of the Goods or Services have been accepted by NBI):
  - 8.1.1 cancel the Contract in whole or in part;
  - 8.1.2 postpone or refuse to accept any further delivery of Goods or Services without liability;
  - 8.1.3 require the Supplier at its expense to fulfil its obligations in accordance with the Contract within seven (7) days;
  - 8.1.4 whether or not NBI has previously required the Supplier to fulfil its obligations above, reject the Goods or Services (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier;
  - 8.1.5 recover from the Supplier any expenditure incurred by NBI in obtaining Goods or Services in substitution from another supplier;
  - 8.1.6 claim damages for all additional costs, losses or expenses incurred as a result of the Suppliers breach or breaches of the Contract; and/or
  - 8.1.7 in the case of late delivery of Goods or delay in performance of the Services, deduct from the Price by way of liquidated damages for delay, five per cent (5%) of the Price for each week (or part thereof) of delay to a maximum of twenty per cent (20%). It is acknowledged by the Supplier that such liquidated damages are a genuine pre-estimate of loss and shall not be construed as a penalty.

## **9. Packaging and Environmental Matters**

- 9.1 The Supplier must, before delivery, provide NBI with a list of any harmful or potentially harmful properties or substances in the Goods supplied. NBI will rely on such information from its Supplier to satisfy its own obligations under Applicable Law.
- 9.2 On delivery, the Supplier must provide NBI with comprehensive information on the origin or source of the Goods and, where applicable details in respect of the manufacture of the Goods, including but not limited to batch number(s) to enable NBI to trace the source of supply.

- 9.3 The Supplier must ensure that packaging is designed and produced to:
- 9.3.1 Comply with Applicable Law;
  - 9.3.2 minimise the volume and weight used.
  - 9.3.3 limit its impact on the environment when managed as a waste.
  - 9.3.4 permit its reuse or recovery, and
  - 9.3.5 manufactured so as to limit the presence of noxious and hazardous constituents.
- 9.4 The Supplier must provide NBI with information on the weight and category of packaging of the Goods supplied. This information must be submitted by the Supplier to NBI in advance of delivery of Goods.
- 9.5 NBI may at the Supplier's expense return all or any empty packaging materials to the Supplier.

## **10. Damage in Transit**

- 10.1 The Supplier must immediately repair or replace (at NBI's discretion) at its own cost any Goods damaged in transit.

## **11. Software**

- 11.1 Where there is a supply of software to NBI (whether software proprietary to the Supplier or to a third party), subject to Clause 17.1 the Supplier grants, or must procure the grant of an irrevocable, worldwide, non-exclusive, perpetual and royalty-free license to NBI and its Affiliates to use and copy the software and any associated documentation.
- 11.2 The Supplier shall promptly notify NBI of any modifications, maintenance, release or new version of the software, and shall offer them to NBI on such terms as they are generally made available to the Supplier's customers and in accordance with Clause 5.3 and Clause 13.3 below.
- 11.3 The Supplier warrants, undertakes and represents that:
- 11.3.1 the software will conform to its published or agreed specification and will be free from defects;
  - 11.3.2 no virus or malicious software will be contained in any software or in any media on which the software is delivered to NBI under this Contract; and
  - 11.3.3 it has full right and authority to grant a licence of the software to NBI.
- 11.4 The Supplier will provide NBI with such technical advice, assistance, data and documentation including source code and support contacts where necessary to allow NBI to maintain the software.
- 11.5 NBI may make such copies of the software as it may reasonably require or direct the Supplier to provide such copies to NBI.
- 11.6 The Supplier shall notify NBI in advance in respect of any third party software agreements which may impact the delivery of the Goods or Services. The Supplier shall support all software (including third party software) supplied with any Goods, Deliverables or Services.

## **12. Indemnity**

- 12.1 In this Clause a reference to NBI includes NBI's Affiliates and the provisions of this condition shall be for the benefit of and enforceable by, NBI's Affiliates. A reference to the Supplier includes its employees, subcontractors or agents. Without any prejudice to any other rights or remedies of NBI, the Supplier will indemnify and keep NBI indemnified against all

damages, costs, expenses (including legal costs) injury or death to third parties, all claims for loss, incurred by NBI arising out of or in connection with:

- 12.1.1 any breach of any of the warranties given by the Supplier;
- 12.1.2 any negligent or deliberate act or omission of the Supplier; and/or
- 12.1.3 any claim that the Goods, Services, software breach any third party intellectual property rights in relation to the supply or the use of them by NBI.

12.2 Nothing in this Contract excludes or limits:

- 12.2.1 either parties' liability for fraud, fraudulent misrepresentation or theft by it or its agents or employees or, in the case of the Supplier, by any sub-contractors or its agents or employees;
  - 12.2.2 the Supplier's liability for loss of, or damage to, property (including property belonging to any third party or to NBI or for which NBI is responsible);
  - 12.2.3 the Supplier's liability for its wilful misconduct or the wilful misconduct of its subcontractors, their respective officers, employees or agents;
  - 12.2.4 either parties' liability for death or personal injury caused by its negligence or that of its employees or agents or, in the case of the Supplier, by any sub-contractor or its agents or employees; or
  - 12.2.5 the Supplier's liability under Clause 28 (Data Protection), or Clause 17 (Intellectual Property).
- 12.3 Subject to Clause 14.3 above, each Party's total aggregate liability to the other, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with the Contract shall in no event exceed 125% of the Price payable under the Contract.
- 12.4 Except as otherwise provided for in the Contract, in no event will either Party be liable to the other Party for any consequential or indirect loss of profits or damage, howsoever arising, under or in connection with the Contract.

### 13. Insurance

- 13.1 The Supplier must maintain sufficient insurances with a reputable insurer to cover any potential liability under the Contract. As a minimum, where relevant, the Supplier must maintain the following insurances at the following indemnity levels:
- 13.1.1 public liability insurance of €12,700,000 for each and every incident and unlimited for all occurrences in the period of the insurance;
  - 13.1.2 product liability insurance of €12,700,000 for each and every incident and unlimited for all occurrences in the period of the insurance;
  - 13.1.3 employer liability insurance of €13,000,000 for each and every incident and unlimited for all incidents in the period of insurance;
  - 13.1.4 insurance as required under the Road Traffic Acts in respect of any vehicles or machinery used in connection with the execution or performance of this Contract;
  - 13.1.5 cyber insurance where requested by NBI;
  - 13.1.6 professional indemnity insurance of €6,500,000 for each and every occurrence or series of occurrences arising out of each and every event; and
  - 13.1.7 in the event the Supplier is performing services, installing or requiring access to any of NBI's Data Centres and / or main exchange buildings, higher insurance

requirements will be advised at that time.

15.2 The Supplier agrees on request by NBI to provide evidence of such insurances to NBI or to amend any insurance cover to meet any specific requirements of NBI.

#### **14. Termination**

14.1 The Contract or any Purchase Order may be terminated in whole or in part by NBI by giving written notice to the Supplier at any time prior to the delivery of the Goods or Services and NBI's sole liability will be to pay the Supplier the Price for any Goods delivered or Services performed up to and including the date of termination. NBI will not be liable to pay any further costs.

14.2 Without prejudice to any other rights or remedies either party may have, either party may terminate the Contract with immediate effect and without liability upon written notice in the event that:

14.2.1 the other party commits a breach of any of the terms of the Contract which if remediable, it fails to remedy within thirty (30) days of the date of the breach; or

14.2.2 either party is deemed bankrupt or enters into liquidation, whether compulsory or voluntary, other than for the purposes of amalgamation or reconstruction, is the subject of a winding up petition or compounds with its creditors generally or has a receiver or manager appointed over all or any of its assets or anything analogous to any of the above.

14.3 Termination of the Contract shall not affect the rights of either party existing at the date of termination.

14.4 Notwithstanding termination of the Contract those provisions which expressly or by implication survive termination will continue in full force and effect.

14.5 On termination of the Contract the Supplier must immediately return all documentation or materials containing confidential information, information relating to NBI's intellectual property and any property belonging to NBI.

14.6 During a reasonable period prior to and after termination the Supplier shall render reasonable assistance to NBI, if requested, to the extent necessary to effect an orderly handover to NBI and in good faith take all actions necessary to conclude in a proper and economic manner the activities of the Supplier, its personnel, suppliers and agents and shall return any and all equipment of NBI together with inventories of the same.

14.6.1 the Supplier shall be entitled to submit an invoice in respect of any Goods delivered prior to the termination which have not been invoiced and NBI shall make payment in respect of any such invoice in accordance with this Contract.

#### **15. Reputation and Inducement**

15.1 The Supplier must not do or omit to do anything which may damage the reputation of NBI or its Affiliates.

15.2 The Supplier shall not, and shall use reasonable endeavours to procure that its personnel, subcontractors and employees do not, commit a Prohibited Act.

#### **16. Confidentiality**

16.1 The Supplier will, and will procure that, all of its employees, agents or sub-contractors or advisors will keep all information relating to the business or the operations of NBI or its Affiliates which is not in the public domain confidential subject to any obligations under Applicable Law.

16.2 The obligation in Clause 19.1 will survive termination of the Contract.

## 17. Assignment and Sub-Contracting

- 17.1 The Supplier may not assign, novate, sub-contract or otherwise dispose of its rights or obligations or any part of them under the Contract without the prior written consent of NBI.
- 17.2 The appointment of a sub-contractor or agent in accordance with NBI's consent will not relieve the Supplier of any of its obligations under the Contract. The Supplier agrees on request by NBI to provide details of all contractual arrangements in place with subcontractors or agents in relation to the supply of the Goods or Services to NBI. The Supplier will indemnify and keep indemnified NBI from and against all damages, costs, charges and expenses (including legal costs) amounting from or incurred by reason of any act or omission of its sub-contractors or agents.

## 18. Acts beyond the Control of a Party

- 18.1 Neither party will be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations under this Contract arising from an Event of Force Majeure.
- 18.2 In the event an Event of Force Majeure continues for more than three (3) months, then either party may terminate the Contract by notice in writing to the other. The Supplier will assist and facilitate NBI and any alternative supplier of NBI to ensure continuity of supply and mitigation of loss. For the purposes of this Clause an Event of Force Majeure means in relation to either Party, an event beyond the reasonable control of that Party involving an act of God, war, riot, civil commotion, industrial dispute, fire, flood, storm or outbreak of a viral animal disease in Ireland such as 'foot and mouth disease' in response to which the Government of Ireland has issued an order halting the operation of the relevant party's business, which could not have been avoided by taking reasonable precautions which, having regard to all matters known to it before the occurrence of the Event of Force Majeure and all other relevant factors, it ought reasonably to have taken but it did not take ("**Event of Force Majeure**").
- 18.3 The Supplier must provide weekly updates to NBI, including all information deemed reasonably necessary by NBI, as to the impact of the Force Majeure on the Supplier's ability to provide the Goods or Services and the Supplier must mitigate the impact of same.

## 19. Entire Agreement

This Contract (including the any documents referred to specifically therein) supersedes all prior representations, arrangements, understanding and agreements between the Parties and sets forth the entire complete and exclusive agreement and understanding between the Parties relating to the subject matter hereof (except that NBI may rely on any verbal or other representations made by the Supplier in respect of the Goods or Services prior to issuing a Purchase Order). It is expressly agreed, without prejudice to the foregoing, that any standard terms or conditions of sale or supply of the Supplier (including those which appear on any invoice furnished by the Supplier in the course of providing the Goods and/or Services) shall not be applicable. If there is any inconsistency or conflict between these Conditions and any terms or conditions stated on the face of a Purchase Order, the latter shall take precedence.

## 20. Publicity

The Supplier must not, without the prior written consent of the Head of Procurement at NBI, advertise or publicly announce that the Supplier is supplying Goods or Services to NBI.

## 21. Relationship

Neither party has the right or authority express or implied to create or incur any liability on behalf of the other party.

## **22. Severance**

Any provision of the Contract which is or held to be invalid or unenforceable (in whole or in part) will be treated as severable from the remainder of the Contract and shall not affect the validity or enforceability of the remaining provisions of the Contract.

## **23. Waiver**

No waiver by NBI of any breach of the Contract by the Supplier will be considered as a waiver of any subsequent breach of the same or any other provision.

## **24. Audit**

The Supplier must maintain up to date records of all Purchase Orders issued by NBI, details of all Goods or Services and invoices and allow NBI or its auditors the right to inspect all such records on request by NBI. The Supplier shall provide to NBI such information as it reasonably requests in respect of any Goods, or Services provided under the Contract.

## **25. Data Protection**

The Supplier warrants that it is and will remain in compliance with the Data Protection Law, and that it has all appropriate procedures in place to ensure its compliance with the Data Protection Law whether the Supplier is a data controller or data processor for the purposes of the Data Protection Law and that where the Supplier is processing personal data on behalf of NBI that, unless otherwise agreed between the parties, the terms of the NBI Data Processing Agreement (found online [here](#)) are incorporated as part of these Conditions and shall apply.

## **26. Security and Business Continuity**

The Supplier will take all appropriate technical, organisational and security measures in line with best industry practice to protect against unauthorised access to NBI data, and to limit access to NBI to staff necessary for the provision of the Goods or performance of the Service.

## **27. Set Off**

The Supplier expressly agrees that NBI shall be entitled to withhold and set off monies owing to the Supplier in accordance with this Contract and / or any other contract between the parties in the event and to the extent that the Supplier owes any monies, damages, costs or expenses to NBI as a result of or in connection with the Suppliers performance or failure to perform its obligations under this contract.

## **28. Notices**

Any notice required or permitted to be given by either party to the other under this Contract shall be in writing and shall be delivered by certified or registered mail, postage, prepaid and return receipt requested or by courier, and will be deemed effective upon receipt by the addressee at the address in the Purchase Order, or such other address or facsimile number as the parties may designate by written notice to each other. For the purposes of this condition all notices shall be served on NBI to the Head of Procurement, with a copy to the NBI Legal Department at 3009 Lake Drive, Citywest, Dublin 24, D24 PPT3, Ireland.

## **29. Governing Law**

The Contract shall be governed by and construed in accordance with the laws of Ireland and the parties submit to the exclusive jurisdiction of the Irish Courts.

## **31 Sanctions**

The Supplier hereby warrants that it will at all times comply with all Sanctions and that neither it, nor any of its subsidiaries nor affiliates, nor any of their respective shareholders, officers, directors,

or employees is (i) currently listed on, or owned or controlled by, or acting on behalf of, a person listed on any Sanctions List; (ii) located, organised or resident in a Sanctioned Territory; or (iii) involved in any violations, government investigations, or enforcement actions related to Sanctions. **“Sanctions”** means any applicable economic, trade, or financial sanctions laws, regulations, embargoes, restrictive measures or other similar measures enacted, administered, imposed or enforced by any Sanctions Authority. **“Sanctions Authority”** means: (i) the United Nations Security Council or any committee thereof; (ii) the United States Government including the US Department of Treasury’s Office of Foreign Assets Control (**“OFAC”**), US Department of Commerce Bureau of Industry and Security and the US Department of State; (iii) the European Union or any member state thereof; (iv) the United Kingdom, including His Majesty’s Treasury; (v) the Government of Canada; and (vi) any other governmental institution or agency with jurisdiction over the Parties or either of them with responsibility for imposing, administering or enforcing Sanctions (together, **“Sanctions Authorities”**). **“Sanctions List”** means the Consolidated United Nations Security Council Sanctions List, the Specially Designated Nationals and Blocked Persons list maintained by the Office of Foreign Assets Control of the US Department of Treasury, the Denied Persons List maintained by the US Department of Commerce, the Consolidated list of persons, groups and entities subject to EU financial sanctions maintained by the European Union, the Consolidated List of Financial Sanctions Targets maintained by the United Kingdom Treasury, Consolidated Canadian Autonomous Sanctions List, or any other list issued or maintained by any Sanctions Authorities of persons subject to Sanctions (including investment or related restrictions), each as amended, supplemented or substituted from time to time. **“Sanctioned Territory”** means any country or territory which is itself, or whose government is, the target of comprehensive country-or-territory-wide Sanctions, which presently includes Iran, North Korea, Cuba, Syria, Crimea, Luhansk People’s Republic and Donetsk People’s Republic.