

Agriculture and Horticulture Development Board
Terms and Conditions for the Purchase of Goods and Services

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this Clause apply in these conditions.

<i>Term</i>	<i>Meaning</i>
Board	The Agriculture and Horticulture Development Board or any subsidiary thereof
Business Hours	Monday to Friday between 9am and 5pm excluding Public and Bank holidays in the UK
Contract	The Order and the Supplier's acceptance of the Order
Goods	Any goods specified in the Order that are agreed to be bought by the Board from the Supplier (including any part or parts of them) including goods required to be delivered in performance of the Services as further described in the Specification, if any
Law	Any legislation (primary or secondary), order, directive, codes of practice and standards or other legal or regulatory requirement in any relevant jurisdiction, from time to time
Losses	Has the meaning given to it in Clause 4.1
Order	The Board's written (which, for the purposes of this definition, includes electronic communications) instruction to supply the Goods and/or Services, incorporating these conditions
Supplier	The person, firm or company who accepts the Board's Order
Sensitive Data	Has the meaning given to it in Clause 17.2
Services	Any services specified in the Order to be bought by the Board from the Supplier and as set out in the Specification (if any) or to be rendered in connection with the delivery of the Goods to be delivered
Specification	The specification or scope attached to or clearly referred to in the Order, to include all documents, standards and drawings therein referred to

- 1.2 Reference to persons shall include individuals, bodies corporate, unincorporated associations, partnerships, public authorities and any other person having legal capacity and shall include subject to the terms of these conditions the successors and the permitted transferees and assigns of such persons.
- 1.3 The singular includes the plural and vice versa.
- 1.4 Reference to any gender includes any other gender.
- 1.5 The headings and index are inserted for convenience only and shall not affect the construction of these conditions.
- 1.6 Any reference to any statute is a reference to it as from time to time amended, consolidated or re-enacted and includes all instruments, orders or regulations made under, or deriving validity from such statute.
- 1.7 Reference to “includes” or “including” shall mean without limitation.

2. APPLICATION OF TERMS

- 2.1 Subject to any variation under Clause 2.4, these conditions are the only conditions upon which the Board is prepared to deal with the Supplier and they shall govern the Contract to the entire exclusion of all other terms or conditions.
- 2.2 The Board may send the Supplier a request in writing for Goods or Services it wishes to purchase under these conditions. The Supplier shall provide the Board with a quote or where necessary an estimate for the price of those Goods or Services which shall be deemed to be an offer by the Supplier to provide the Goods or Services to the Board subject to these conditions. If the Board wishes to accept the quote then the Board shall issue an Order which shall be binding on the parties and for the avoidance of doubt the Supplier shall not be entitled to impose additional charges in excess of the quoted price without the agreement of the Board.
- 2.3 No terms or conditions endorsed upon, delivered with or contained in the Supplier's quotation or acknowledgement of an Order, specification or similar document shall form part of the Contract and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.
- 2.4 These conditions apply to all the Board's purchases from the Supplier and any variation to these conditions shall have no effect unless expressly agreed in writing and signed by an authorised representative of the Board.

3. WARRANTIES

- 3.1 The Supplier warrants, represents and undertakes that the Goods and the Services shall:

- (a) not be changed without the prior written consent of the Board; and
 - (b) conform to the Order (including, but not limited to, the Specification, which the Supplier warrants to be accurate and complete in all material respects and not misleading).
- 3.2 The Supplier warrants, represents and undertakes that the Goods shall:
- (a) be of the best available design, of the best quality and workmanship subject to any specification and in any case without fault or defect (including latent defect);
 - (b) conform with all Laws applicable to such Goods as regards the design, manufacture, quality, packaging, storage, transportation, delivery, labelling, health, safety and environmental standards and use of such Goods which are in force at the time of supply;
 - (c) be complete and fully operational and shall be delivered with all parts (and also those parts that are not specified in the Order but which are required for proper operation and also including the usual safety devices, special tools etc.);
 - (d) be accompanied by all appropriate information, warnings, instructions and documentation in relation to the safe use, handling, storing, operation, consuming, transportation and disposal of any Goods or parts or materials including paper and/or electronic operation manuals or those available via functioning web link, in particular in relation to hazardous materials which will be clearly identified to the Board;
 - (e) be free of CFC's, asbestos, dioxins, halons and radiation above natural background levels and any other similarly hazardous substances unless specifically agreed by the Board; and
 - (f) comply with any applicable national and international quality assurance standards from time to time published under which the Supplier is approved; and/or as reasonably requested by the Board.
- 3.3 The Supplier warrants, represents and undertakes that the Services shall:
- (a) be performed with reasonable care and skill, in accordance with generally recognised commercial practices and standards for similar services and any agreed service levels; and
 - (b) conform with all Laws applicable to such Services including in relation to health, safety and environmental standards.
- 3.4 The Supplier warrants, represents and undertakes that it shall at all times during the duration of this Contract and at its own expense:
- (a) maintain all licences and consents necessary for the performance of its obligations under the Contract;
 - (b) adopt safe working practices and at the proper time supply and install within the original contract price such guards and safety

devices as may be necessary to comply with the provisions of all health and safety Laws and shall not in the performance of the Contract in any manner endanger the safety of or unlawfully or unreasonably interfere with the convenience of any other person, including employees and/or contractors of the Board;

- (c) ensure that, in performing its obligations under the Contract, it does not cause any disturbance or damage to the operations and property at the relevant site;
 - (d) comply with the Board's conditions in relation to any relevant site (including but not limited to health and safety conditions, safety management systems, hygiene policies and security policies) and the Board's code of conduct and code of ethics made available to the Supplier from time to time;
 - (e) assist the Board (and any person nominated by the Board) in the investigation of any accident or incident or the resolution of any dispute, which assistance shall include, but not be limited to, making personnel available for interview, providing access to documents and records and providing information reasonably requested by the Board;
 - (f) notify the Board as soon as it becomes aware of any breach of Laws or any health and safety hazard or issue which arises in relation to the Goods or Services (which notification shall not release the Supplier from any liability and/or obligations in respect of such breach, hazard or issue); and
 - (g) co-operate with the Board in all matters relating to the Services or supply of Goods.
- 3.5 The warranties given under this Clause 3 shall survive any performance, acceptance or payment pursuant to the Contract and shall be extended to any repaired or replacement Goods or substituted or remedial services provided by the Supplier.
- 3.6 At any time prior to delivery of the Goods to the Board or completion of the Services the Board (or its nominee) shall have the right to inspect and test the Goods or inspect the work being carried out in performance of the Services. If at the date of the inspection the Goods are located or the Services are being performed at the premises of the Supplier or its associated companies or sub-contractors, the Supplier shall procure that the Board or its nominees have access on reasonable notice and shall ensure that the inspectors shall receive such information and assistance as they reasonably request in relation to their inspection or testing of the Goods or Services.
- 3.7 If the results of such inspection or testing cause the Board to be of the opinion (acting reasonably) that the Goods and/or Services do not conform or are unlikely to conform with the Order or to any Specification and/or patterns supplied or advised by the Board to the Supplier, or that

the Goods and/or Services may not be delivered to time, the Board may at its option:

- (a) inform the Supplier in writing, following which the Supplier shall immediately take such action as is necessary to ensure conformity;
- (b) reject the Goods or Services; or
- (c) require and witness further testing and inspection.

3.8 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and the Services and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations under the Contract.

4. LIABILITY

4.1 The Supplier shall indemnify and keep the Board and any of its agents, contractors, customers or associated companies or bodies indemnified on demand against all direct, indirect or consequential losses and/or liabilities (all of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), loss, damages, injury, claims, charges, demands, actions, costs and expenses (including legal and other professional fees and expenses) (together the "Losses") awarded against or incurred or paid by the Board or such party as a result of or in connection with:

- (a) the Supplier's negligence, default or breach of Contract; and
- (b) any claim made against the Board in respect of any Losses sustained by the Board's employees or agents, contractors or by any customer or third party to the extent that such Losses were caused by, relate to or arise from the Goods or the provision of the Services as a consequence of a breach or negligent performance or failure or delay in performance of the terms of the Contract by the Supplier.

4.2 The Supplier shall maintain appropriate professional indemnity insurance cover in respect of any Services provided and appropriate product liability insurance cover in respect of any Goods provided and such other insurance cover reasonably requested by the Board at the time of the Order. If the Supplier fails to do so, the Board may insure and charge the Supplier with the cost. On request, the Supplier will show the insurance contract to the Board.

4.3 Subject to Clause 4.5, the aggregate liability of the Board to the Supplier under or in connection with these conditions whether arising from negligence, breach of contract or otherwise shall not exceed an amount equal to the price paid or payable by the Board to the Supplier for the relevant Goods and/or Services under these conditions.

4.4 Subject to Clause 4.5 the Board shall not be liable to the Supplier for any indirect or consequential loss or damage, loss of profit or loss of business

opportunity whether arising from negligence, breach of contract or otherwise.

- 4.5 Nothing in these conditions excludes or limits either party's liability:
- (a) for death or personal injury arising from its negligence or that of its employees, agents or subcontractors;
 - (b) for fraud or any of the acts set out in Clause 15; or
 - (c) under any indemnity.

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1 "Rights" means registered or unregistered patent rights, copyrights, trade mark and design rights, utility model rights, database rights, know how, and other intellectual property rights as may exist from time to time in any part of the world.
- 5.2 If Goods are manufactured or supplied or Services rendered according to the Board's designs or specifications ("the Board Designs"), or where the Supplier has provided any design or development Services to the Board (the "Commissioned Designs"), the Rights in relation to the Board Designs and the Commissioned Designs together with any other information, knowledge, idea, design, material, or invention and any expression of any idea created by the Supplier (or its agents or employees) in connection with any Order ("the Developments") shall be the exclusive property of the Board.
- 5.3 The Supplier shall fully disclose all Developments to the Board and shall not use the Developments for its own purposes or those of any third party nor disclose the Developments without the prior written consent of the Board. The Supplier at the expense and by agreement with the Board will take all measures which may be necessary to vest ownership of all Rights in the Developments in the Board or its nominee and shall assist the Board in establishing and protecting such Rights, including if necessary doing all such acts and executing all such documents which the Board deems necessary. To the extent permitted by applicable Laws, the Supplier shall waive or shall procure the waiver of moral rights in the Developments in relation to the Board (and its successor) and any third party authorised to use the Rights by the Board.
- 5.4 The Supplier warrants that no Rights (including any Rights belonging to any third party) are violated or infringed through the supply of any Goods or the rendering of any Services by the Supplier or through the use of such Goods or Services. The Supplier shall indemnify and keep indemnified the Board and any of its agents, contractors, customers or associated companies or boards on demand in respect of all Losses awarded against or incurred by the Board or that party in connection with any claim that the use or possession of any Goods or Services supplied

by or on behalf of the Supplier infringes any Rights of any third party (an "IPR claim").

- 5.5 If any IPR claim is made, or in the Supplier's reasonable opinion is likely to be made, the Supplier shall promptly and at its cost either:
- (a) obtain for the Board the right to continue using the relevant materials which were the subject of the IPR claim; or
 - (b) modify or replace the infringing part of the materials so as to avoid the infringement or alleged infringement but in such a way that it complies with the representations and warranties in this Contract.
- 5.6 If the Supplier becomes aware that any person alleges that any rights owned by the Board are invalid or that use of such Rights infringes any Rights of another party then it shall as soon as reasonably practicable give the Board particulars thereof in writing and shall make no comment or admission to any third party in respect thereof.
- 5.7 All the Board's Rights and all products, samples, documents and information provided by the Board to the Supplier (including copyright therein) shall remain the property of the Board. Their use by the Supplier shall be allowed only within the limits of the purpose of each Order or another written agreement between the parties.

6. DELIVERY, ACCEPTANCE AND REJECTION

- 6.1 The Goods shall be delivered DDP (Incoterms 2000), and the Services performed, at the place specified in the Order or to such other place of delivery as is agreed by the Board in writing prior to delivery of the Goods or the performance of the Services or where necessary agreed by the Board orally prior to such delivery or performance and subsequently confirmed in writing. Where the place for delivery specified in the Order is the Board's usual business address at Stoneleigh Park, Kenilworth, Warwickshire, CV8 2TL, delivery shall take place at the entrance to the Board's main building or such other building as may be specified in the Order and not roadside unless otherwise agreed in writing prior to delivery.
- 6.2 The Supplier shall unload the Goods at its own risk as directed by the Board. Unless otherwise stipulated by the Board in the Order, deliveries shall only be accepted by the Board in Business Hours.
- 6.3 The date for delivery shall be specified in the Order, or if no such date is specified then delivery shall take place within 28 days of the Order.
- 6.4 In respect of the Goods provided, the Supplier shall invoice the Board upon, but separately from, despatch of the Goods to the Board. In respect of the Services, the Supplier shall invoice the Board monthly in arrears (or at such other frequency as may be agreed between the parties).

- 6.5 The Supplier shall ensure that each delivery is accompanied by a delivery note which shows, among other things, the Order number, date of Order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.
- 6.6 Time shall be of the essence of the Contract unless specifically agreed otherwise.
- 6.7 If the Goods are not delivered on the due date, the Services are not provided in accordance with the agreed timetable or if the Goods or Services (in the reasonable opinion of the Board) do not comply with the Order, the Specifications or any other standards stipulated by the Board then, without prejudice to any other rights which it may have, the Board reserves the right to:
- (a) terminate the Contract in whole or in part;
 - (b) refuse to accept any subsequent delivery of the Goods or Services which the Supplier attempts to make;
 - (c) purchase from a third party other goods or services of the same nature of the defective Goods or Services and recover from the Supplier any excess cost incurred by the Board over the agreed Contract price together with all charges and expenses arising from the purchase of such other Goods or Services from the third party; and
 - (d) claim damages for any additional costs, loss or expenses incurred by the Board which are in any way attributable to the Supplier's failure to deliver the Goods or Services on the due date.
- 6.8 All Goods shall be packaged by the Supplier so as to ensure that they will be in good condition upon arrival at their destination. If the Supplier requires the Board to return any packaging material to the Supplier that fact must be clearly stated on any delivery note delivered to the Board and any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 6.9 Where the Board agrees in writing to accept delivery of Goods or Services by instalments the Contract shall be construed as a single contract in respect of each instalment. Nevertheless failure by the Supplier to deliver any one instalment shall entitle the Board at its option to treat the whole Contract as repudiated.
- 6.10 If the Goods are delivered to the Board in excess of the quantities ordered the Board shall be entitled to reject the excess Goods and shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be available for collection at the Supplier's expense within 3 months. Thereafter the Board may dispose of such excess Goods at the Supplier's expense.
- 6.11 The Board shall not be deemed to have accepted the Goods until it has had 7 days to inspect them following delivery. The Board shall also have

the right to reject the Goods as though they had not been accepted for 14 days after any latent defect in the Goods has become apparent.

7. RISK/PROPERTY

- 7.1 The Goods shall remain at the risk of the Supplier until delivery as defined in Clause 6.1 to the Board is complete (including unloading and stacking) when ownership of the Goods shall pass to the Board.

8. PRICE

- 8.1 The price of the Goods and/or Services shall be stated in the Order agreed pursuant to Clause 2.2 above and unless otherwise agreed in writing by the Board shall be exclusive of value added tax but inclusive of all other charges.
- 8.2 No variation in the price nor extra charges shall be accepted by the Board unless formally agreed in writing.

9. PAYMENT

- 9.1 The Board shall pay all undisputed amounts not later than the end of the month following the month of receipt of a valid invoice bearing the Board's Order number ('the due date'), but time for payment shall not be of the essence of the Contract. Without prejudice to the foregoing, the Board will ordinarily pay invoices within 30 days of receipt of a correct invoice and acceptance of the Goods and/or performance of the Services.
- 9.2 Without prejudice to any other right or remedy, the Board reserves the right to set off any amount owing at any time from the Supplier to the Board against any amount payable by the Board to the Supplier under the Contract.
- 9.3 If any sum under the Contract is not paid when due then, without prejudice to the parties' other rights under the Contract, that sum shall bear interest from the due date until payment is made in full, both before and after any judgment, at 2% per annum over the Bank of England base rate from time to time. The Supplier is not entitled to suspend deliveries of the Goods as a result of any sums being outstanding.

10. CONFIDENTIALITY

- 10.1 For the purposes of this Clause 10, "Confidential Information" shall mean all documentation, software, knowledge, information and material, including notes and reports incorporating such information, whether of a technical, commercial, operational or financial nature or otherwise relating in any manner to the business affairs of the Board including the

Board's Rights and Developments as defined in Clause 5 (in whatever form and including, without limitation, business plans, research and development material, marketing strategies, specifications, processes, designs, drawings, initiatives and inventions) disclosed directly or indirectly by the Board to the Supplier or available or apparent to the Supplier in the course of the Contract except to the extent that such information is already known to the Supplier or legitimately disclosed to the Supplier by a third party or otherwise legitimately enters the public domain.

- 10.2 The Supplier shall keep in strict confidence all Confidential Information disclosed to the Supplier by the Board or its agents and the Supplier shall restrict disclosure of such Confidential Information to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Supplier's obligations to the Board and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Supplier.

11. TERMINATION

- 11.1 The Board shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Supplier written notice whereupon all work on the Contract shall be discontinued and the Board shall pay to the Supplier compensation for any costs reasonably incurred or commitments made for work-in-progress or Services already performed at the time of termination or suspension. Under no circumstances shall the Board be liable under the Contract for any loss of anticipated profits or any consequential or indirect loss.
- 11.2 Without prejudice to its other rights or remedies, the Board shall have the right at any time by giving notice in writing to the Supplier to terminate the Contract in whole or in part forthwith if:
- (a) the Supplier commits a material breach of any of the terms and conditions of the Contract; or
 - (b) any distress, execution or other process is levied upon any of the assets of the Supplier; or
 - (c) the Supplier has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Supplier or notice of intention to appoint an

administrator is given by the Supplier or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Supplier or for the granting of an administration order in respect of the Supplier, or any proceedings are commenced relating to the insolvency or possible insolvency of the Supplier; or

- (d) the Supplier ceases or threatens to cease to carry on its business; or
- (e) the financial position of the Supplier deteriorates to such an extent that in the opinion of the Board the capability of the Supplier adequately to fulfil its obligations under the Contract has been placed in jeopardy; or
- (f) in the Board's reasonable opinion the Supplier is unlikely to be able to fulfil its obligations under the Contract; or
- (g) any event giving rise to a right of the Board to terminate under another condition in this Contract occurs.

11.3 The termination of the Contract, however arising, shall be without prejudice to the rights and duties of the Board and the Supplier accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

11.4 Subject to Clause 11.5, to the extent that the Contract is declared wholly ineffective or otherwise invalid, void, voidable or unenforceable by any court, tribunal or administrative body of competent jurisdiction pursuant to Law (including any Law which implements or gives effect to the EU Remedies Directive [2007/66/EC]), the Contract shall terminate with immediate effect and the Board shall pay the Supplier such amounts in respect of work-in-progress or Services already performed as if the Contract had been terminated by the Board pursuant to Clause 11.1. The Supplier acknowledges that, other than as set out in this Clause 11.4 (or Clause 11.5, if applicable), it shall be entitled to no other compensation or payment from the Board in the event of any such termination.

11.5 Where a declaration of the type described in Clause 11.4 (a "Declaration") is stayed or otherwise suspended pending an appeal by the Board or for any other reason, the Contract shall continue in full force and effect for such period of stay or suspension (the "Relevant Period"). If the Declaration is upheld at the end of the Relevant Period the Contract shall be deemed to have terminated on the date the original Declaration was made (or such other date as may be determined by the court, tribunal or administrative body of competent jurisdiction) and the provisions of Clause 11.4 shall apply with effect therefrom (provided that the amounts being reimbursed to the Supplier thereunder shall include those reasonably incurred by it in respect of work-in-progress or Services performed during the Relevant Period). If the Declaration is overturned at

the end of the Relevant Period the Contract shall continue in full force and effect for the remainder of the Term. The Supplier agrees to provide all reasonable assistance to the Board in connection with any Declaration or appeal against a Declaration and in mitigating the effect of such.

12. ASSIGNMENT

- 12.1 The Supplier shall not be entitled to assign the Contract or any part of it without the prior written consent of the Board.
- 12.2 The Board may assign the Contract or any part of it to any person.

13. SUB-CONTRACTING

- 13.1 The appointment of sub-contractors or the performance of the Supplier's obligations by or through any person other than the Supplier shall be subject to the prior approval of the Board unless such other person is identified in the Order as acting in such capacity. However, the Board's approval shall not discharge the Supplier in any respect from its duty properly and punctually to meet its obligations under the Contract and the Supplier shall remain liable to the Board for any performance or non-performance of such obligations.

14. FORCE MAJEURE

- 14.1 Neither party shall be responsible for any failure to perform its obligations hereunder due to circumstances beyond its reasonable control including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce).

15. GIFTS, INDUCEMENTS AND REWARDS

- 15.1 The Board shall be entitled to terminate the Agreement with immediate effect and recover from the Supplier the amount of any Losses resulting from such cancellation if the Contractor shall have offered, given, agreed to give, received or solicited to or from anyone a bribe, gift, consideration, inducement or reward of any kind for doing or not doing anything in relation to the obtaining or execution of the Contract, the delivery of the Goods or Services, any other contract with the Board or any contract with any other public body. This shall also apply if the like acts shall have been done by any person employed by the Supplier or acting on the Supplier's behalf (whether with or without the knowledge of the Supplier) or if, in relation to this Contract or other Contract with the Board, the Supplier or any person employed by or acting on the Supplier's behalf

shall have committed any offence under the Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Acts 1906-1916.

16. FREEDOM OF INFORMATION ACT

- 16.1 All public bodies have a duty to comply with the Freedom of Information Act 2000 ('FOIA') and the Environmental Information Regulations 2004 ('EIR').
- 16.2 Accordingly, information obtained from the Supplier may be disclosed in response to a request, unless an exemption provided for under FOIA or EIR is applicable and the Supplier shall cooperate with the Board in respect of such requests.
- 16.3 The Board agrees to consult with the Supplier in considering any request received under FOIA or EIR relating to information obtained from or relating to the Supplier before replying to that request.

17. DATA PROTECTION

- 17.1 To the extent the provision of the Services or supply of Goods by the Supplier requires the processing of personal data in respect of which the Board is a data controller (as such terms are defined in the Data Protection Act 1998), the Supplier agrees to implement appropriate technical and organisational measures to maintain the security of such personal data and prevent unauthorised or unlawful access to or processing of that personal data or any accidental loss, destruction or damage. Furthermore, the parties agree that they shall not transfer or permit the transfer of any personal data outside the European Economic Area without the other party's prior written consent.
- 17.2 As a minimum level of protection for AHDB personnel and payroll data, levy collection data, business benchmarking data, databases containing personal data of more than 1000 records and similar personal data ('Sensitive Data'), the Supplier shall:
 - (a) Develop, provide, implement and verify compliance with an information risk policy acceptable to AHDB;
 - (b) Hold the Sensitive Data in a secure system;
 - (c) Assess risks to the confidentiality, integrity and availability of Sensitive Data at least quarterly;
 - (d) Accreditate and verify its Information and Communication Technology (ICT) systems handling Sensitive Data to the extent necessary to give confidence in the security of the data;
 - (e) Take responsibility for preserving the integrity of Sensitive Data and preventing its corruption or loss, including ensuring that such data being transferred between premises is undertaken by a secure means appropriate to the sensitivity of the data;

- (f) Perform secure back-ups of all Sensitive Data and ensure that up-to-date back-ups are stored off-site in accordance with a recovery plan. The back-ups shall be made available to the Board at all times upon request and be delivered to the Board at no less than six-monthly intervals.
 - (g) Comply with clauses 17.3 and 17.4.
- 17.3 The Supplier shall not store, copy, disclose, or use Sensitive Data except as necessary for the performance by the Supplier of its obligations under the Contract or as otherwise expressly authorised in writing by the Board.
- 17.4 To the extent that Sensitive Data is held and/or processed by the Supplier, it shall:
 - (a) Supply that Sensitive Data to the Board as requested by and in the format specified by the Board;
 - (b) Notify the Board forthwith and inform the Board of the remedial action the Supplier proposes to take if the Supplier becomes aware that Sensitive Data in its possession has or may have become corrupted, lost or degraded. The Supplier shall restore or procure the restoration at its expense of such data that has become corrupted, lost or degraded wholly or partially as a result of the Supplier's default as soon as practicable but not later than four weeks from the date on which the possibility of such corruption, loss or deterioration comes to the Supplier's attention. Where such restoration is performed by or on behalf of the Board otherwise than by the Supplier, the Supplier shall promptly reimburse all of the costs thus reasonably incurred by the Board.

18. EQUAL OPPORTUNITIES

- 18.1 The Supplier shall comply with its statutory obligations under the Sex Discrimination Act 1975, Race Relations Act 1976 and Disability Discrimination Act 1995 or any other similar discriminatory legislation adopted in the future (and any replacements or amended versions thereof).

19. GENERAL

- 19.1 Each right or remedy of the Board under the Contract is without prejudice to any other right or remedy of the Board whether under the Contract or not and is in addition to any conditions implied in favour of the Board by Law.
- 19.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining

provisions of the Contract and the remainder of such provision shall continue in full force and effect.

- 19.3 Failure or delay by the Board in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 19.4 Any waiver by the Board of any breach of, or any default under, any provision of the Contract by the Supplier shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 19.5 The parties to the Contract do not intend that any term of the Contract other than Clause 4 shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 19.6 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law, and the parties submit to the exclusive jurisdiction of the English courts.
- 19.7 The Contract constitutes the entire agreement between the Supplier and the Board relating to the sale and purchase of the Goods and/or Services. Each party acknowledges that in entering into the Contract it has not relied on any representations, agreements, warranties or other assurances (other than those repeated in the Contract) and waives all rights and remedies which but for this Clause 19.7 would be available to it. Nothing in this Clause 19.7 excludes or limits any liability for fraud.
- 19.8 The Supplier shall indemnify the Board for itself and any future provider of services to the Board against all and any costs, expenses, liabilities, damages and losses arising out of any claim, action, demand or proceeding which arises or is alleged to arise by virtue of the operation of the Transfer of Undertakings (Protection of Employment) Regulations 2006 in connection with the termination of the provision of any of the Services (including without limitation in relation to any dismissal or alleged dismissal of any individual employed or engaged or formerly employed or engaged in the provision of the Services).
- 19.9 Nothing in the Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).