

PURCHASE ORDER - TERMS AND CONDITIONS

1 DEFINITIONS AND INTERPRETATION

1.1 The following words and expressions shall have the following meanings in this Agreement unless the context requires otherwise:

Acceptance has the meaning given in clause 6.7;

Acceptance Tests has the meaning given in clause 6;

Agreement means these Terms and Conditions, any Order Form agreed between the parties, any Purchase Order, and any documents or policies incorporated by reference;

Applicable Laws means all applicable laws, statutes, enactments, ordinances, orders, regulations and codes from time to time in force in England and Wales and any jurisdiction in which the Products and/or Services are provided by the Supplier and/or received by Arqiva, including those relating to Bribery, Modern Slavery, Fraud, Sanctioned Business, Tax Evasion and any Data Protection Legislation;

Arqiva Equipment means any equipment, including tools, systems, cabling or facilities, provided by or on behalf of Arqiva, its agents, subcontractors or consultants (other than the Supplier) which is used directly or indirectly in the supply of the Services;

Arqiva Materials means all documents, information, items and materials in any form whether owned by Arqiva or a third party, which are provided by or on behalf of Arqiva to the Supplier in connection with this Agreement;

Arqiva Obligations means the Arqiva obligations as set out in this Agreement;

Associated Persons has the meaning given in clause 16.2.2;

Background IP means in respect of each party, any and all Intellectual Property Rights owned by or licensed to that party: (a) before the Effective Date or (b) which arise on or after the Effective Date other than in the course of or in connection with the performance of this Agreement, in each case including any and all Improvements to them;

Bribery means conduct which constitutes an offence under the UK Bribery Act 2010 or which would constitute an offence if the UK Bribery Act 2010 were in force in the jurisdiction where the conduct took place;

Business Day means a day (not being a Saturday or a Sunday) when banks are open for business in England;

Confidential Information means any information (however recorded or preserved) disclosed or made available directly or indirectly, whether before on or after the date of this Agreement, whether in writing, verbally, visually, electronically or by any other means, by or on behalf of either party (the **disclosing party**) to the other party (the **receiving party**) in connection with this Agreement, including: (a) the existence and terms of this Agreement; (b) any information that is marked as and/or ought to be reasonably considered as confidential relating to the disclosing party or its Group including: (i) their business or financial affairs, assets, customers, clients, suppliers, forecasts, prices, costs, personnel, requirements, bid information, plans, intentions, strategies and opportunities and/or (ii) their operations, processes, systems, methods, know-how, designs, trade secrets, product information, data, algorithms, computer software, source code, specifications, drawings, models, inventions, research, developments or improvements; and/or (c) those portions of plans, analyses, compilations, studies, reports and other documents prepared by either party which contain or otherwise reflect or are generated from any information specified in paragraphs (a) and (b);

Customer means a customer of the Arqiva Group;

Data Protection Legislation means all applicable data protection and privacy legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data and including the UK GDPR, the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426), and "**Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Processing**" have the meaning as set out in the UK Data Protection Legislation;

Deliverables means any outputs of the Services and any other documents, products and materials provided by the Supplier to Arqiva in relation to the Services;

Delivery Location means the delivery location for any Products or Services indicated in the Order Form and/or PO or otherwise nominated by Arqiva;

Effective Date has the meaning given to it in clause 11.1;

Force Majeure Event means any event or circumstance not within a party's reasonable control including without limitation acts of God or of the public enemy, flood, drought, earthquakes or other natural disaster, epidemic or pandemic, terrorism, riots and insurrection, war, fire, sanction and embargoes, judicial or government actions and acts of civil or military authority; but does not include labour or trade disputes, strikes, industrial action or lockouts or other labour difficulties concerning the affected party or its Group companies;

Foreground IP means any and all Intellectual Property Rights created and/or developed by or on behalf of a party in the course of or in connection with the performance of this Agreement in each case including any and all Improvements to them;

Fraud means conduct which constitutes an offence under any Applicable Laws relating to fraud, including the UK's Economic Crime and Corporate Transparency Act 2023, or which would constitute such offence if such conduct had been carried out in the United Kingdom;

Group means in relation to a company, that company, any subsidiary and any holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company;

Improvement means any invention, discovery, technology, result, concept and/or idea that is created, conceived and/or reduced to practice and that constitutes an improvement, enhancement, modification and/or derivative of any Intellectual Property Rights;

Insolvency Event means in respect of a party: (i) the party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986; (ii) the party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors; (iii) the party applies to court for, or obtains, a moratorium under Part A1 of the IA 1986; (iv) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that party (being a company, limited liability partnership or partnership); (v) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the party (being a company, partnership or limited liability partnership); (vi) the holder of a qualifying floating charge over the assets of the party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver; (vii) a person becomes entitled to appoint a receiver over all or any of the assets of the party or a receiver is appointed over all or any of the assets of the party; (viii) a creditor or encumbrancer of the party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the party's assets and such attachment or process is not discharged within 14 days; or (ix) any event occurs, or proceeding is taken, with respect to the party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above but excluding any of the actions above undertaken for the sole purpose of a scheme for a solvent amalgamation of that party with one or more other companies or the solvent reconstruction of that party;

Intellectual Property Rights means all rights to inventions, patents, utility models, designs (and including rights relating to semiconductor topographies), rights in computer software, database rights, copyright and related rights, moral rights, trade marks and service marks, business names, domain names, rights in get-up, goodwill and the right to sue for passing off, rights to use and protect the confidentiality of Confidential Information (including know-how and trade secrets) and all 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 throughout the world and all future rights of such nature, and in each case for the full term of the relevant right;

Key Personnel means the persons identified as key personnel (if any) or otherwise identified as key in writing between the parties from time to time;

Licensed Software has the meaning given to it in clause 14;

Malware means any device, software, code, file and/or programme which may prevent, impair, destroy, damage, disable or otherwise adversely affect the operation of any computer software, hardware or network, programme, data, any telecommunications service, equipment, network or any other service or device or the user experience including worms, trojan horses, viruses and other similar things or devices;

Mandatory Policies means Arqiva's business policies and codes which apply to suppliers as published on Arqiva's website www.arqiva.com including Arqiva's Supplier Code of Conduct, Safety Health and Environment policies and Information Security policy as amended from time to time and/or as provided by Arqiva to the Supplier from time to time;

Modern Slavery means conduct which constitutes an offence under the UK Modern Slavery Act 2015 or which would constitute an offence if the UK Modern Slavery Act 2015 were in force in the jurisdiction where the conduct took place;

Money Laundering or Terrorist Financing means conduct which constitutes an offence under any Applicable Laws relating to money laundering or terrorist financing, including the UK's Proceeds of Crime Act 2002 and the Terrorism Act 2000, or which would constitute such an offence if such conduct had been carried out in the United Kingdom;

New Software has the meaning given to it in clause 14;

Order Form has the meaning given to it in clause 2.2 and a **Draft Order Form** has the meaning given to it in clause 2.1;

Price means the price for the Services and/or Products as set out in the PO;

Permitted Recipients has the meaning given to it in clause 15;

Products means the goods, products and/or equipment to be supplied by the Supplier during the course of or arising out of the performance of this Agreement and/or the Services including Deliverables, as more particularly described in the Order Form and/or PO, and including but not limited to any drawing, report, document, specification, software, programming tool, interface, design, output or other material to be developed or created by the Supplier during the course of or arising out of the performance of this Agreement and/or the Services;

Purchase Order or PO has the meaning given to it in clause 2.3;

Sanctioned Business means any business conducted with any Sanctioned Entities and **Sanctioned Entities** means any person or entity which is: (a) listed, or is owned or controlled, directly or indirectly, by any person or entity which is listed, on an SDN List; or (b) located, organised or resident in a country which is the subject of territorial sanctions by any Authority; or (c) a governmental agency, authority, or body or state-owned enterprise of any country which is the subject of sanctions by any Authority, where "**SDN List**" means the Specially Designated Nationals List maintained by the Office of Foreign Assets Control of the US Department of the Treasury, or any similar list maintained by any Authority, and "**Authority**" means any of the United Nations, the European Union, the United Kingdom, any European Union member state, or the United States of America;

Services means the services to be supplied by the Supplier pursuant to this Agreement;

Service Levels (or SLA) means a service level agreement in relation to Services to be provided by the Supplier pursuant to this Agreement;

Shared Personal Data has the meaning given to it in clause 17.1.1;

Software means any software provided by the Supplier and/or any software required by the Supplier to fulfil its obligations under this Agreement and/or any software that Arqiva needs to use the Services and/or Products including all software embedded in or forming an integral part of any of the Products;

Specifications means the relevant requirements and/or specifications for the Products and/or Services set out in this Agreement or as otherwise communicated by Arqiva in writing;

Supplier Tests has the meaning given to it in clause 6;

Tax Evasion means conduct that constitutes any criminal offence of tax evasion or facilitation of tax evasion in any jurisdiction, including the tax evasion offences under section 45(1) and 46(1) of the UK Criminal Finances Act 2017;

Term has the meaning given to it in clause 11.1;

Termination for Default means termination by Arqiva pursuant to any of clauses 6.3, 11.1, **Error! Reference source not found.**, 16.4 or **Error! Reference source not found.**;

TSA means the UK Telecommunications (Security) Act 2021;

VAT means value added tax; and

Vulnerability means a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability.

- 1.2 Clause and paragraph headings shall not affect the interpretation of this Agreement. References in this Agreement to clauses shall be to clauses of this Agreement.
- 1.3 A person includes a natural person, corporate or unincorporated body whether or not having separate legal personality. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established. A reference to a holding company or a subsidiary means a holding company or a subsidiary as the case may be as defined in section 1159 of the Companies Act 2006.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time. A reference to legislation or a legislative provision shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- 1.6 A reference to writing or written includes e-mail.
- 1.7 Any words following the terms "including", "include", "in particular", "for example" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2 PURCHASE ORDER

- 2.1 Arqiva and its Group may order any Products and/or Services from the Supplier by asking for a quote from the Supplier. The Supplier shall provide a quote or an order form for the Products/Services ("**Draft Order Form**") which shall include a proposed price which shall not exceed any pricing agreed in other POs in force at the time. The proposal in the Draft Order Form shall be valid for a period of ninety (90) days or such other period as the parties may agree.
- 2.2 Once a Draft Order Form has been agreed between the parties, it shall become an "**Order Form**" but it shall not be binding until a Purchase Order has been issued by Arqiva (as described below). This Agreement shall apply to the Products and/or Services ordered, and any Supplier terms and conditions on any order form, quote, acknowledgment, invoice or other document shall not apply.
- 2.3 Arqiva has a no PO no pay policy. Notwithstanding the agreement of an Order Form, the parties agree that Arqiva shall not be obliged to purchase the Products and/or the Services set out in the Order Form unless and until Arqiva issues a purchase order (the "**Purchase Order**" or "**PO**") referencing the agreed Order Form.
- 2.4 Arqiva shall order the Services and/or Products set out in the Order Form by submitting a Purchase Order to the Supplier. Within three (3) Business Days of receiving a Purchase Order, the Supplier shall either (a) confirm acceptance of the Purchase Order or (b) decline the PO if it is not issued in accordance with the Order Form and/or this Agreement. If the Supplier has not responded to a Purchase Order within three (3) Business Days of receiving it, such Purchase Order shall be deemed accepted by the Supplier. Any Purchase Order which is accepted or deemed accepted shall be binding on the Supplier. An amendment to a Purchase Order is only accepted by Arqiva when Arqiva issues a Purchase Order amendment or a new Purchase Order reflecting such changes.
- 2.5 If there is any inconsistency in the rights and obligations set out in the General Terms, any Order Form and any PO, the following order of priority shall prevail: (a) the PO shall prevail, and then (b) the Order Form, and then (c) the General Terms.

RESPONSIBILITIES

- 3.1 The Supplier shall:
- 3.1.1 provide the Products and/or Services in accordance with this Agreement;
 - 3.1.2 comply with and ensure that the Products and/or Services comply with all Applicable Laws and Mandatory Policies;
 - 3.1.3 co-operate with Arqiva in all matters relating to the Products and/or Services and comply with Arqiva's reasonable instructions;
 - 3.1.4 obtain and maintain during the Term all necessary licences, permits and consents in relation to the Products and/or Services; if the Products are to be connected to a telecommunications network or circuit run under statutory licence by a public or private telecommunications operator, at its expense obtain approval for the connection including carrying out modifications to the Products and/or Services as required for such approval;
 - 3.1.5 not do, or omit to do, anything which may cause Arqiva to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business or which may cause Arqiva or any member of its Group to breach a contract with any Customers;
 - 3.1.6 hold all Arqiva Materials and Arqiva Equipment (if any are provided) in safe custody at its own risk (including having in place appropriate insurance to cover any replacement value), maintain them in good condition until returned to Arqiva, and not dispose of and/or use them other than in accordance with Arqiva's written instructions or authorisations;
 - 3.1.7 provide adequate instructions and documentation to enable Arqiva and its Customers (as applicable) to make full use of the Products and/or Services and to provide any first level support which Arqiva may need to provide to its Customers;
 - 3.1.8 maintain all reports, records and other documents relating to the provision of the Products and/or Services during the Term and for a further period of six years afterwards, and allow Arqiva access to them at all reasonable times and promptly provide Arqiva with copies of them and other information related to the Products and/or Services as reasonably requested by Arqiva; and
 - 3.1.9 comply with any additional obligations as set out in the Order Form and/or PO.
- 3.2 To the extent that any Key Personnel are identified, Supplier shall not remove or replace such personnel unless requested to do so by Arqiva or with Arqiva's consent or the person is on long-term leave or the person's employment with the Supplier ends. The Supplier shall inform Arqiva of the identity and background of any temporary or permanent replacements for Key Personnel for Arqiva's approval (not to be unreasonably delayed or withheld). Arqiva may (acting reasonably and in good faith) request the removal or replacement of Key Personnel.
- 3.3 Arqiva shall reasonably co-operate with the Supplier and shall comply with the Arqiva Obligations.

4 PRICE AND PAYMENT

- 4.1 In consideration of the full performance of the Supplier's obligations under this Agreement, Arqiva shall pay the Price in accordance with the terms of this Agreement. The Price shall be:
- 4.1.1 inclusive of all charges for packaging, carriage and delivery to the relevant Delivery Location and any duties, import taxes, withholding taxes or levies other than VAT;
 - 4.1.2 exclusive of any applicable VAT which, where payable, shall be paid by Arqiva subject to receipt of a proper VAT invoice.
- 4.2 Unless agreed otherwise in the PO, the Supplier shall invoice Arqiva: (a) in respect of the Products, following delivery and Acceptance of the Products and (b) in respect of the Services, monthly in arrears.
- 4.3 To be valid, invoices must comply with the Purchase Order (including in terms of description, quantity and amount) and the Purchase Order number must be quoted on the invoice.
- 4.4 Arqiva will pay all valid and uncontested invoices within sixty (60) days of receipt of invoice. All payments due to either party under the terms of this Agreement shall be paid in Pounds Sterling or as otherwise agreed in writing.
- 4.5 The Supplier acknowledges that in order to ensure effective management of Arqiva's internal budgets and cashflow, it is reasonable for Arqiva to require that the Supplier submits an invoice to Arqiva in a timely manner. Accordingly, the Supplier agrees that if it fails to issue an invoice to Arqiva within twelve (12) months of the date on which the Supplier was entitled to raise an invoice, Arqiva shall not be liable to pay the amounts that would have been due under such invoice and the Supplier shall not be entitled to recover such amounts from Arqiva.
- 4.6 The Supplier shall not charge Arqiva for any of its out-of-pocket expenses incurred in the performance of this Agreement, unless such expenses have been agreed to be paid by Arqiva, are pre-approved in writing by Arqiva before being incurred and comply with Arqiva's expenses policy.
- 4.7 In the event that any payment due under this Agreement is not made on the due date the defaulting party shall pay to the other (if demanded) interest on the amount outstanding at the rate of two percent (2%) per annum above the Bank of England's base rate from time to time, for the period from the due date until the date of actual payment. This rate of interest shall apply notwithstanding any higher rate of interest specified in The Late Payments of Commercial Debts (Interests) Act 1998 or any other statute, and the parties acknowledge and agree that this rate of interest represents a substantive remedy for late payment of debts.
- 4.8 Whenever any sum of money shall be recoverable from or payable by the Supplier, Arqiva may at its discretion deduct and/or set off the same from any sum then due or which at any time may become due to the Supplier by Arqiva and/or its Group or demand that the sum be paid by the Supplier to Arqiva (without prejudice to any other rights or remedies available to Arqiva under this Agreement).

5 DELIVERY, RISK AND TITLE

- 5.1 On or before delivery, the Supplier shall provide all necessary installation, operating and maintenance documentation in relation to the Products and/or Services including operating instructions, parts lists and comprehensive spares listings. All documentation supplied shall be in the English language along with any translations required to comply with Applicable Laws.
- 5.2 The Supplier shall deliver the Products and/or supply the Services at the time specified in this Agreement and time of delivery or performance shall be of the essence. Products and/or Services shall not be delivered or supplied early unless otherwise agreed in writing.
- 5.3 The Supplier shall be responsible for the safe custody of the Products during transport, delivery and off-loading at the Delivery Location and the Supplier shall at its sole expense insure the Products to their full replacement value until delivery at the Delivery Location.
- 5.4 The Supplier shall at its own risk, cost and expense (including any packaging and shipping costs) repair or replace Products damaged or lost in transit and/or which do not conform with this Agreement. Arqiva reserves the right to hold such damaged or non-conforming Products at the Supplier's risk or to return them at the risk and expense of the Supplier.
- 5.5 Risk of damage to or loss of the Products shall pass to Arqiva upon delivery to Arqiva in accordance with this clause 5 and title shall transfer to Arqiva upon Acceptance. Products shall be provided with full title guarantee and free from encumbrances and any other rights of any nature exercisable by any third party.

6 ACCEPTANCE

- 6.1 Prior to delivery to Arqiva, the Supplier shall carry out all tests required to ensure that the Products and/or Services comply with this Agreement ("**Supplier Tests**"). The Supplier shall give Arqiva the opportunity to attend the Supplier Tests at the request of Arqiva.
- 6.2 Following delivery to Arqiva, Arqiva shall have the opportunity to inspect and/or test the Products and/or Services to ensure that they comply with this Agreement ("**Acceptance Tests**").
- 6.3 Arqiva shall inform the Supplier in writing of any failure of the Acceptance Tests. The Supplier shall at its own cost, risk and expense remedy the defects and deficiencies and resubmit the Products and/or Services for repeated Acceptance Testing within ten (10) Business Days of Arqiva's notice. If the Products and/or Services fail to pass any repeated Acceptance Tests, then Arqiva may, by written notice to the Supplier, choose at its sole discretion and without prejudice to its other rights and remedies:
- 6.3.1 to accept the Products and/or Services subject to a change of acceptance criteria, amendment of the requirements and/or specifications and/or reduction in the Price;
 - 6.3.2 to require the Supplier to repair the Products or to supply replacement products or to re-perform the Services in accordance with this Agreement at the Supplier's cost and expense; and if the Supplier does not do so: (a) Arqiva shall have step-in rights and/or (b) Arqiva

- shall be entitled to procure and implement replacements for, or alternatives to, the Products and/or Services not provided in accordance with this Agreement and the Supplier shall reimburse Arqiva for any additional costs of procuring and implementing such replacements or alternatives; and/or (c) the Supplier shall provide to Arqiva, or its nominee, without charge, such reasonable assistance as it may require to facilitate transfer of the provision of the Products and/or Services to Arqiva and/or another provider;
- 6.3.3 to reject the Products and/or Services as not being in conformity with this Agreement, in which event Arqiva may terminate this Agreement either in its entirety or as relates to the specific Products and/or Services;
- 6.3.4 with respect to Software (if any is being provided by the Supplier), either itself or through a third party, to modify or adapt the Software so that it complies with this Agreement and the Supplier shall, at its own cost and expense, upon Arqiva's written request provide a copy of the source code of the Software together with all documentation necessary to maintain and support the Software; and/or
- 6.3.5 to require the repayment of any part of the Price which has been paid.
- 6.4 If the Supplier becomes aware, either as a result of its own testing or reports from its customers, of any defects that are relevant to the Products and/or Services supplied to Arqiva, the Supplier shall immediately notify Arqiva of such defects and its proposed remedial action to repair or replace the Products and/or Services.
- 6.5 The Supplier shall maintain equipment availability, or a supply of such spares, consumables or replacement parts in relation to the Products, for a period of fifteen (15) years from Acceptance, such equipment, spares or replacement parts to be fully compatible with but not necessarily identical to items previously supplied under this Agreement, and shall monitor the ongoing availability of such equipment, spares or replacement parts.
- 6.6 Without prejudice to clause 6.5, if for any reason during the Term, the Supplier becomes aware that any such equipment, spares or replacement parts are or will no longer be available from the original manufacturer, or that the Products or any parts of them will be reaching their end of life or end of support, the Supplier shall provide written notice to Arqiva of the same as soon as reasonably practicable on becoming aware.
- 6.7 Acceptance ("**Acceptance**") shall only take place when Arqiva confirms in writing that the Products and/or Services have been accepted.

7 WARRANTIES

- 7.1 Each party warrants that it has the full right, power and authority to enter into and to perform this Agreement.
- 7.2 The Supplier represents and warrants to Arqiva that:
- 7.2.1 it shall provide the Products and/or perform the Services in a timely, competent, professional manner with all due care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- 7.2.2 the Products and/or Services, and all products, materials, standards and techniques used in providing them, shall be of satisfactory quality and fit for any purpose expressly or implicitly made known to the Supplier and shall be free from defects in installation, design, material, workmanship and performance;
- 7.2.3 the Products shall be free from any charges, liens, mortgages, security interests or other encumbrances and/or claims against title;
- 7.2.4 the Products and/or Services shall conform in all respects with this Agreement;
- 7.2.5 the Supplier, the Products and the Services shall all comply with Applicable Laws and Mandatory Policies, and the Supplier shall continue throughout the Term to hold all permissions, permits and licences required to perform this Agreement;
- 7.2.6 all Supplier personnel involved in the provision of the Products and/or Services have suitable skills, training and experience to enable them to perform the tasks assigned to them, and such personnel are in sufficient number to enable the Supplier to fulfil its obligations under this Agreement;
- 7.2.7 any Software will: (i) be currently supported versions of that Software; (ii) be free from material defects and errors; and (iii) perform in accordance with the user manuals and specifications for such Software;
- 7.2.8 the performance of its obligations, Arqiva's and/or its Customers' receipt and use of the Products and/or Services, any Intellectual Property Rights provided or made available and any confidential information disclosed by Supplier or on its behalf and/or the exercise of any rights granted under any licences granted by Supplier pursuant to this Agreement, will not infringe any third party rights including Intellectual Property Rights or moral rights;
- 7.2.9 it shall not distribute or transmit to Arqiva, its Group and/or any of its Customers or any other party any Malware and/or Vulnerability and shall implement procedures in line with best industry practice to prevent such distribution or transmission; and
- 7.2.10 the Products shall comply and operate in all material respects in accordance with this Agreement and be free from defects in material or workmanship for a period of twenty four (24) months from Acceptance by Arqiva or as agreed under the Order Form and/or PO, and in the event it does not, the Supplier shall, at no additional charge to Arqiva, promptly carry out any necessary remedial action to repair or replace the Products in order to ensure that the Products substantially comply with this Agreement. Repair or replacement shall be without charge to Arqiva and Products shall be re-warranted for the remainder of the original warranty period as extended to reflect the time during which the Products were out of use.

8 DELAYS

- 8.1 If, at any time, the Supplier becomes aware that it will not or is unlikely to successfully achieve any milestone or deadline as set out in this Agreement, it shall immediately notify Arqiva of the delay, the reasons for the delay, the consequences of the delay and how the Supplier proposes to remedy or mitigate the delay.
- 8.2 Save as provided in clause 8.3 below, if the Supplier fails to meet any relevant milestone or deadline, without prejudice to Arqiva's other rights and remedies, Arqiva shall be entitled to claim and/or recover from the Supplier by way of liquidated damages at a rate of one percent (1%) of the value of the Purchase Order for each Business Day that delivery of the Products and/or Services is delayed capped at twenty percent (20%) of the value of the Purchase Order in accordance with the terms of this clause 8.2. The Supplier acknowledges and agrees that Arqiva shall be entitled to recover the liquidated damages by reduction, withholding or set-off against any sums payable by Arqiva under this Agreement, provided that if these sums are insufficient to satisfy the Supplier's liability under this clause the Supplier shall promptly pay the balance of that liability within twenty (20) Business Days of the date of Arqiva's written notice to the Supplier requiring the same. The parties confirm that these liquidated damages are reasonable and proportionate to protect Arqiva's legitimate interests in the performance of this Agreement and shall not be treated as a penalty.
- 8.3 If the Supplier would have been able to successfully achieve or procure the successful achievement of a relevant milestone or deadline but has failed to do so as a direct result of Arqiva's failure to fulfil its Arqiva Obligations, the Supplier shall be allowed an extension of time to achieve that milestone or deadline equal to the delay caused by that Arqiva's failure.

9 LIABILITY AND INSURANCE

- 9.1 Nothing in this Agreement shall exclude, restrict or limit either party's liability for Fraud (including fraudulent misrepresentation) or for death or personal injury resulting from its own or that of its employees' negligence while acting in the course of their employment, or for any other liability which cannot be excluded or limited as a matter of law.
- 9.2 Subject always to the provisions of clause 9.1, neither party shall be liable to the other for any incidental, special, indirect or consequential loss.
- 9.3 Subject to clauses 9.1 and 9.2, Arqiva's total liability to the Supplier arising out of or in connection with this Agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise shall not exceed the Price in aggregate paid by Arqiva under the PO.
- 9.4 To the extent that any losses are incurred by Arqiva's Group companies as a result of a breach of this Agreement by the Supplier, those losses shall be treated as losses of Arqiva and recoverable as such.

- 9.5 Without prejudice to the Supplier's liability under this Agreement, the Supplier shall obtain and maintain at its own cost and expense adequate insurance to cover its obligations and/or liabilities under this Agreement with reputable and established insurers without unusual or onerous conditions or excesses. The Supplier undertakes to provide Arqiva within five (5) Business Days of Arqiva's request with a copy of the insurance policies and/or certification of cover evidencing compliance with this clause 9.5.

10 INDEMNITY

- 10.1 The Supplier shall indemnify and hold Arqiva, its Group companies and its and their officers, employees, agents and Customers, harmless from any claims, demands, actions, losses, damages, liabilities, costs and expenses including reasonable legal costs and expenses, suffered incurred or sustained by them which are caused by, or arise as a result of:
- 10.1.1 the Supplier's failure to comply with its warranties under this Agreement;
 - 10.1.2 the Supplier's Fraud or wilful default of its obligations under this Agreement;
 - 10.1.3 any claim for or any allegation of infringement of any Intellectual Property Rights in relation to the Products and/or Services provided by the Supplier, and/or from the use by Arqiva and/or its Customers of the Products and/or Services in accordance with this Agreement;
 - 10.1.4 the Supplier's failure to comply with the TSA and/or Data Protection Legislation (including any Personal Data Breach) and/or any Vulnerability, Malware or security incident affecting Arqiva's network, systems and/or information assets caused by the Supplier or arising as a result of the Services and/or the Products;
 - 10.1.5 the Supplier's failure to comply with its confidentiality obligations under clause 15; and/or
 - 10.1.6 the transfer of any Supplier's employees to Arqiva and/or its Group companies in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 in the event that any such transfer occurs.

11 TERM AND TERMINATION

- 11.1 This Agreement shall commence on the date of the PO (the "Effective Date") and shall expire on the date indicated on the PO or, if terminated early, on the date indicated in the notice of termination (the "Term").
- 11.2 Either party may terminate this Agreement with immediate effect on written notice to the other Party at any time if the other party:
- 11.2.1 commits a material breach of this Agreement (or a number of breaches or repeated breaches that, taken together, constitute a material breach of this Agreement) which is incapable of remedy or, if such breach is remediable, fails to remedy that breach within fourteen (14) days of receiving written notice from the party requiring it to do so. A breach by the Supplier of the warranties shall be deemed a material breach; or
 - 11.2.2 is the subject of an Insolvency Event.
- 11.3 Arqiva may terminate this Agreement for any reason, in whole or in part, at any time by giving no less than thirty (30) days' prior written notice to the Supplier.

12 CONSEQUENCES OF TERMINATION

- 12.1 On termination or expiry of this Agreement:
- 12.1.1 the Supplier shall repay to Arqiva any amount which it may have been paid in advance in respect of Products and/or Services not provided as at the date of termination or expiry;
 - 12.1.2 at the request of Arqiva, the Supplier shall provide such reasonable assistance (including access to information, materials and personnel) as Arqiva may reasonably require to facilitate the transfer of the provision of the Products and/or Services to another provider and/or to Arqiva. Such assistance shall be at a reasonable price (and in any event no more than the pricing for similar products and/or services provided by the Supplier to Arqiva) except in the circumstances of Termination for Default in which case there shall be no charge for such assistance and the terms of this Agreement shall continue to apply to such exit assistance services;
 - 12.1.3 following the end of the Term or exit assistance period (if later):
 - 12.1.3.1 each party shall destroy or return to the other party all document and materials (and any copies) containing, reflecting, incorporating or based on the other party's Confidential Information in respect of this Agreement, and upon request shall certify in writing that it does not retain any of the other party's Confidential Information. Notwithstanding the above, Arqiva may retain any Confidential Information required for any ongoing use of the Products and/or Services and the receiving party and its Group (i) may retain copies of the Confidential Information solely in order to comply with Applicable Laws or professional standards and (ii) may retain electronic files of the Confidential Information automatically backed up or stored pursuant to customary management procedures; provided, however, that any Confidential Information so retained will continue to be held confidential pursuant to the terms of this Agreement; and
 - 12.1.3.2 the Supplier shall return any Arqiva Materials and/or Arqiva Equipment to Arqiva.
- 12.2 In the event of termination for convenience of this Agreement by Arqiva, the Supplier shall be entitled to be paid a proportion of the Price in respect of Services rendered and Products delivered up to the date of termination to the extent not already paid.
- 12.3 In the event of Termination for Default, and without prejudice to any other right or remedy available to Arqiva including but not limited to Arqiva's right to obtain a refund of any Price paid to the Supplier, Arqiva shall have the right to step-in and/or contract with another supplier to provide the Products and/or Services including:
- 12.3.1 at Arqiva's request, the Supplier shall deliver to Arqiva any Products that are complete and ready for delivery at the date of termination and any work in progress;
 - 12.3.2 at Arqiva's request, the Supplier shall assign to Arqiva the benefit of any sub-contract entered into by the Supplier in connection with the Products and/or Services; and/or
 - 12.3.3 Arqiva shall have the right to use without charge any of the Supplier's documentation, designs, processes, technical information and Intellectual Property Rights, or those of its sub-contractors, necessary for Arqiva and/or its providers to continue the provision of the Products and/or Services contracted for under this Agreement.
- 12.4 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement including clause 7 (Warranties), clause 8 (Delays), clause 9 (Liability and Insurance), clause 10 (Indemnity), this clause 12 (Consequences of Termination), clause 13 (Intellectual Property Rights), clause 15 (Confidentiality) and clause 20 (General) shall survive and remain in full force and effect. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations and/or liabilities of the parties that have accrued up to the date of termination or expiry.

13 INTELLECTUAL PROPERTY RIGHTS

- 13.1 All Background IP is and shall remain the exclusive property of the party owning it and nothing in this Agreement shall operate to transfer or assign any Background IP of one party to the other. In relation to Arqiva Materials, Arqiva and its licensors (as applicable) shall retain ownership of all Intellectual Property Rights in the Arqiva Materials.
- 13.2 Arqiva hereby grants to the Supplier a limited, non-exclusive, non-transferable, non-sublicensable, royalty-free licence during the Term to use any Arqiva's Background IP, Arqiva Materials and/or Arqiva's Foreground IP in each case strictly to the extent that it is required to carry out the Supplier's obligations under this Agreement and not otherwise.
- 13.3 The Supplier hereby grants to Arqiva an irrevocable, perpetual, non-exclusive, worldwide, transferable, royalty-free licence, with the right to sub-license, to use the Supplier's Background IP to the extent that the Supplier's Background IP is incorporated in the Products and/or Services and/or in so far as Arqiva requires the same to enable it and/or its Customers to use the Products and/or Services.
- 13.4 To the extent that any Foreground IP arises or is developed by or on behalf of the Supplier (including any third party engaged by or on behalf of the Supplier), it shall be owned by Arqiva, and for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Supplier hereby assigns absolutely with full title guarantee by way of present assignment of present and future rights all

of its rights, title and interest in and to any such Foreground IP to Arqiva and shall procure waivers of all moral rights in such Foreground IP to which any individual is now or may be at any future time entitled. The Supplier shall execute and/or procure the execution of all documents and assignments and do all such things as Arqiva may reasonably require to perfect Arqiva's title in such rights, to transfer the full benefit of any such rights to Arqiva and/or to register Arqiva as owner of such rights. If it is not possible by operation of law for the Supplier to assign such rights to Arqiva, the Supplier shall hold such rights on trust for Arqiva and shall execute such documents and do all such things as may be reasonably required by Arqiva to effect such disposition of rights as is closest in effect to an assignment to Arqiva.

14 SOFTWARE

- 14.1 To the extent that the Products and/or Services include Software created or developed specifically for Arqiva by or on behalf of Supplier ("**New Software**"), clause 13.4 shall apply to such Software. The Supplier shall deliver to Arqiva the assigned software in both source code and object code forms and shall provide updates of the source code on each new release of that software on media that is reasonably acceptable to Arqiva. The Supplier warrants that it is entitled to assign the rights in the Software as set out in this clause 14.1.
- 14.2 For any Software other than New Software ("**Licensed Software**"), the Supplier hereby grants to Arqiva an irrevocable, perpetual, non-exclusive, worldwide, sub-licensable, transferable, royalty-free licence to use and copy that Licensed Software.
- 14.3 At Arqiva's request, the Supplier shall enter into an escrow agreement with Arqiva's nominated escrow provider in relation to the Licensed Software and shall deposit the source code for such Licensed Software and ensure that the deposited version of the Licensed Software is kept up to date as the Licensed Software is modified or upgraded. Arqiva shall pay the deposit and maintenance fees under such escrow agreement and the Supplier shall pay the release fees. Should escrow not be available, the Supplier shall inform Arqiva without delay along with the reasons why and shall provide Arqiva with a suitable alternative to escrow which affords the nearest equivalent protection.
- 14.4 The Supplier shall at Arqiva's request provide Arqiva with the interface information needed to achieve interoperability between the Software and another independently developed program.

15 CONFIDENTIALITY

- 15.1 The receiving party shall keep the disclosing party's Confidential Information confidential and shall not use, copy, transcribe, exploit, distribute and/or disclose such Confidential Information except as expressly permitted by this clause 15, and shall take reasonable measures in relation to dealing with, protecting and/or safeguarding such Confidential Information from unauthorised disclosure. Such measures shall take into account industry practice and shall be at least equivalent to any measures used by the receiving party in protecting its own information of similar sensitivity and importance.
- 15.2 The receiving party may itself use and may disclose the disclosing party's Confidential Information to its employees, officers, representatives, professional advisers and those of any member of its Group and in respect of Arqiva its Customers and other suppliers (the "**Permitted Recipients**") who need to know such Confidential Information in each case solely for the purpose of performing its obligations and/or enjoying its rights under this Agreement, provided that it procures that its Permitted Recipients shall comply with obligations of confidentiality that are no less stringent than those set out in this clause 15 in relation to the Confidential Information disclosed to them and the receiving party assumes full responsibility for the acts and omissions of its Permitted Recipients to whom it discloses any Confidential Information regarding their use of such Confidential Information.
- 15.3 The receiving party may disclose Confidential Information received under this Agreement if the receiving party is requested or required by law or by any court of competent jurisdiction or any regulatory, judicial, governmental or similar body (including the rules of any listing authority or stock exchange) to produce or disclose Confidential Information. The receiving party shall, if and to the extent permitted to do so, as soon as reasonably practicable inform the disclosing party of such request or requirement in writing so that the disclosing party may take such action as it deems appropriate to protect the Confidential Information, and the receiving party shall provide reasonable cooperation to support such action at the disclosing party's request.
- 15.4 The restrictions set out in this clause 15 shall not apply to information which: (a) is or becomes available to the public other than as a direct or indirect result of breach of the receiving party's confidentiality obligations, (b) was lawfully in the possession of or already known to the receiving party prior to disclosure under this Agreement, (c) is or was received from a third party having the lawful right to disclose such information provided that such source is not known to the receiving party to be under any confidentiality obligation, or (d) is or was independently developed by the receiving party without breach of this Agreement and/or without reference to the disclosing party's Confidential Information.
- 15.5 To the extent permissible by law, the receiving party shall immediately notify the disclosing party if it becomes aware of any unauthorised use or disclosure of the disclosing party's Confidential Information by any person in breach of this Agreement and shall promptly take reasonable steps to limit, stop or otherwise remedy such misappropriation or unauthorised use or disclosure.
- 15.6 The provisions of this clause 15 shall survive termination or expiry of this Agreement in perpetuity.

16 ANTI-BRIBERY, SHE AND ETHICS

- 16.1 In performing its obligations under this Agreement, the Supplier shall not engage in any activity, practice or conduct that would constitute Bribery, Modern Slavery, Money Laundering or Terrorist Financing, Sanctioned Business, Fraud, Tax Evasion and/or any other offence under Applicable Laws.
- 16.2 The Supplier represents and warrants that:
 - 16.2.1 neither the Supplier nor any of its Group companies, officers or employees has been convicted of any offence of Bribery, Modern Slavery, Money Laundering or Terrorist Financing, Sanctioned Business, Fraud and/or Tax Evasion; and to the best of its knowledge, neither the Supplier nor any of its Group companies, officers or employees has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with Bribery, Modern Slavery, Money Laundering or Terrorist Financing, Sanctioned Business, Fraud and/or Tax Evasion;
 - 16.2.2 it has put in place and shall maintain throughout the Term all processes, procedures and compliance systems reasonably necessary to ensure that Bribery, Modern Slavery, Money Laundering or Terrorist Financing, Sanctioned Business, Fraud and/or Tax Evasion do not occur in its business or down its supply chain by any other person associated with it (including its Group companies, officers, employees, agents, sub-contractors, suppliers and service providers) ("**Associated Persons**"); and
 - 16.2.3 it shall comply with all Applicable Laws relating to the environment and health and safety and electrical or electronic equipment, and neither the Supplier nor any of its Group companies, officers or employees shall in the performance of this Agreement in any manner including through its Products, Services or workmanship endanger the safety of the public and/or use or cause to be used any equipment, products, materials or substances which are generally known within the Supplier's industry to be dangerous, toxic or a hazard to health.
- 16.3 The Supplier shall immediately notify Arqiva (a) if it is (or any Associated Persons are) investigated by any law enforcement agency or regulatory authority in connection with the provision of the Products and/or Services or in relation to offences under Applicable Laws including Bribery, Modern Slavery, Money Laundering or Terrorist Financing, Sanctioned Business, Fraud and/or Tax Evasion, and/or (b) if Bribery, Modern Slavery, Money Laundering or Terrorist Financing, Sanctioned Business, Fraud and/or Tax Evasion has occurred, or it has reasonable cause to believe has occurred, in its business or within the business of its Associated Persons, and/or (c) if at any time it suspects or becomes aware of any danger to health and safety in connection with the Products and/or Services including any proposed or actual use of any hazardous goods or toxic substance materials in relation to the Products and/or Services.
- 16.4 The Supplier undertakes that, at the reasonable request of Arqiva, it will confirm in writing that it is complying with its warranties under clauses 7.2.5 and 16.2. If the Supplier is in default under this clause 16 or clause 7.2.5, Arqiva may by notice: (i) require the Supplier to remove any Supplier personnel whose acts or omissions have caused the default from performance of the Services and/or provision of the Products; or (ii) immediately terminate this Agreement.

17 DATA PROTECTION AND IT SECURITY

- 17.1 Each party shall comply with Data Protection Legislation in performing its obligations under this Agreement, including the following:
- 17.1.1 if the parties share any Personal Data (the "**Shared Personal Data**"), each party shall: ensure that it has all necessary notices and consents and lawful bases in place to enable lawful transfer of any Shared Personal Data pursuant to this Agreement; process the Shared Personal Data only for the performance of this Agreement; not disclose or allow access to Shared Personal Data other than for the purposes anticipated by this Agreement; ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of any of the Shared Personal Data and against accidental loss or destruction of, or damage to, any of the Shared Personal Data; and not transfer any of the Shared Personal Data outside the UK unless such transfer complies with Data Protection Legislation; and
- 17.1.2 if the Supplier processes personal data on behalf of Arqiva as part of the Services, the parties shall enter into a data processing agreement and the Supplier shall act only on instructions from Arqiva in relation to such Processing.
- 17.2 If the Supplier provides Products and/or Services which fall under the scope of the TSA either in provision to or use by Arqiva, then the parties agree that the TSA terms shall apply and the Supplier shall at its own cost ensure compliance with the TSA. The Supplier shall provide support in relation to those Products and/or Services as required pursuant to the TSA. The Supplier shall in relation to its Products and/or Services assist Arqiva in ensuring compliance with its obligations under the TSA and the Data Protection Legislation including with respect to the security of Arqiva's network and information systems, security breach and incident reporting requirements, Personal Data Breach notifications, Data Subject rights requests, Data Protection impact assessments, and consultations with and/or responding to requests from the Information Commissioner, Ofcom or other regulators, and shall notify Arqiva without undue delay on becoming aware of any security incident which could potentially affect Arqiva, any Personal Data Breach, any breach of the TSA and/or of the Data Protection Legislation in the performance of this Agreement; and the Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause 17.

18 FORCE MAJEURE

- 18.1 Neither party shall be liable for any failure or delay in performing any of its obligations under this Agreement for so long as and to the extent that such performance is directly prevented, hindered or delayed by a Force Majeure Event provided that the Supplier shall not be entitled to rely on a Force Majeure Event which was in existence at the time of the Supplier entering into this Agreement.
- 18.2 The affected party shall: (a) as soon as reasonably practicable after becoming aware of the impact of the Force Majeure Event, notify the other party in writing of the existence of the Force Majeure Event and the delay or default likely to be caused by or resulting from it, and for so long as such party is affected shall provide regular reports on the likely duration and effect of the same, and on the progress of work to overcome or remedy its inability to perform; and (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 18.3 The Supplier shall not be entitled to rely on the provisions of this clause 18 for any failure by the Supplier to take reasonable and prudent steps to ensure that it has appropriate disaster recovery and/or business continuity measures in place including alternative sources of supply for any goods or services or components which are to be provided or supplied to the Supplier by others. In the event that the Supplier is not providing all or any part of the Products and/or Services due to a Force Majeure Event, Arqiva shall have no obligation to make payments in respect of such Products and/or Services not being provided and may procure such Products and/or Services from another supplier. Supplier shall cooperate with any efforts that Arqiva makes to obtain alternative suppliers of those Products and/or Services.

19 AUDIT

- 19.1 Arqiva and/or its professional advisers may, upon reasonable notice and at reasonable times access the Supplier's premises, personnel, records and systems and inspect, audit and take copies of relevant books, reports, records and other documents as may be required to verify the Supplier's compliance with the terms and conditions of this Agreement. The Supplier shall provide reasonable co-operation, access and assistance in relation to such audit. Each party shall bear its own costs and expenses incurred in respect of such audit unless the audit identifies a breach of this Agreement by the Supplier, in which case the Supplier shall reimburse Arqiva for all its reasonable costs incurred in relation to the audit. If an audit identifies that the Supplier has failed to perform its obligations under this Agreement then without prejudice to Arqiva's other rights and remedies, Supplier shall take the necessary steps to comply with such obligations at no additional cost to Arqiva.

20 GENERAL

- 20.1 **Entire agreement:** This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, arrangements, promises, assurances, course of dealing, warranties, representations and understandings between them, whether written or oral, in relation to its subject matter. Each party agrees that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 20.2 **Notices:** Any notice to be given under this Agreement shall be in writing and in English and delivered by hand, pre-paid first class post or airmail or delivery service with proof of delivery to the registered office address or such other address as the relevant party may notify from time to time. A copy of any notices sent to Arqiva shall also be sent to legal@arqiva.com with a hard copy to the Legal Department at Arqiva Limited, Crawley Court, Winchester SO21 2QA. A notice is deemed to be delivered as follows: (a) if delivered by hand, at the time the notice is left with the reception staff at the address set out above, (b) if sent by pre-paid first class, at 9.00 am on the second Business Day after posting, (c) if sent by pre-paid airmail providing proof of postage, at 9.00 am on the fifth Business Day after posting, or (d) if sent by delivery service providing proof of delivery, at the time of delivery.
- 20.3 **Variation:** No variation of this Agreement shall be effective unless it is in writing and signed by an authorised representative of each party. Changes made by Arqiva to POs in line with this Agreement are considered agreed variations for the purposes of this Agreement.
- 20.4 **Assignment and sub-contracting:** Arqiva may at any time assign, novate, sub-contract, transfer, mortgage, charge, declare a trust of or deal in any other manner with any or all of its rights and/or obligations under this Agreement. Except as expressly permitted by this Agreement, the Supplier shall not assign, novate, sub-contract, transfer, mortgage, charge, declare a trust of or deal in any other manner with any or all of its rights and/or obligations under this Agreement, in whole or in part, without Arqiva's prior written consent. Where Arqiva consents to any of the above, the Supplier shall remain primarily liable and responsible for the fulfilment of any of its obligations under this Agreement, and the Supplier shall provide to Arqiva with the name of the primary contact and accompanying contact details for such assignees and/or sub-contractors.
- 20.5 **Further Assurance:** Each party shall, at its own cost and expense, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and instruments and perform such acts and do such things as may reasonably be required for the purpose of giving full effect to this Agreement and/or the transactions contemplated in it.
- 20.6 **No partnership or agency:** The parties are independent and are not partners or principal and agent and nothing in this Agreement shall create or be deemed to create a partnership, joint venture, trust or relationship of employer and employee or principal and agent between the parties. Each party is acting on its own behalf and not for the benefit of any other person. The parties acknowledge that the Supplier is

an independent contractor of Arqiva and the Supplier's employees are not employees of Arqiva. Neither party shall have nor shall represent that it has any authority to make any commitments on the other party's behalf.

- 20.7 **Severance:** If for any reason any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision or part-provision of this Agreement is deemed deleted, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of, or achieves the same objects as, the original provision.
- 20.8 **Waiver:** A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and shall apply only to the party to whom the waiver is addressed and the circumstances for which it is given and shall not be deemed a waiver of any subsequent right or remedy. No failure, delay or omission by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement shall prevent or restrict the further exercise of that or any other right or remedy.
- 20.9 **Third party rights:** Except as expressly set out in this Agreement, a person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. Each and every obligation of the Supplier under this Agreement is owed to Arqiva and members of the Arqiva Group who may enforce the terms of this Agreement under the Contracts (Rights of Third Parties) Act 1999. The rights of parties to rescind or vary this Agreement and any documents entered into pursuant to or in connection with it are not subject to the consent of any other person.
- 20.10 **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 20.11 **Governing law and jurisdiction:** This Agreement 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 the laws of England and Wales. 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 this Agreement or its subject matter or formation.