

Save for circumstances where the parties have entered into a separate agreement in relation to the goods or services purchased, these terms and conditions shall apply to all purchase orders issued by Gatwick in respect of Goods and/or Services, as stated in the Purchase Order, from the 10th March 2020.

NOW IT IS AGREED:**1 DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement:

Airside means areas designated as a Security Restricted Area under Section 11a of the Aviation Security Act 1982 as amended by the Aviation and Maritime Act 1990 and Regulation EU300/2008. Access to these areas requires entry through a Gatwick Security Control Post.

Agreement the Purchase Order and these Terms and Conditions being Clauses 1 to 28 herein.

Applicable Law means any legislation at any time, including but not limited to any statute, statutory instrument, regulation, rule, by-law or permission, relating to or applicable to the Goods and/ or Services or any lawful requirement or demand of any court, governmental body or regulatory authority having authority over Gatwick or the Supplier in respect of which compliance is obligatory.

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

Business Days means any day which is not a Saturday, a Sunday or a public bank holiday in London, England.

CDM Regulations means the Construction Design Management Regulations 2015 and the related Approved Code of Practice issued by the Health & Safety Commission.

Change of Control shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression Change of Control shall be construed accordingly.

Change Document means a document which sets out any changes to these Terms and Conditions agreed between the parties in advance of entering into the Agreement.

Claims means any and all claims, actions, costs, damages, expenses, legal and other professional fees, awards or fines suffered or incurred and any and all redundancy costs, dismissal costs made or threatened by or on behalf of Supplier Personnel.

Confidential Information means any trade secrets, processes, customer lists, data bases, trading details, information in relation to employees and officers or other information or activities of a confidential nature and/or specifically designated as confidential relating to Gatwick, or third parties at or on the Airport (including without limitation details of activities, businesses or finances of any such party and or subsisting in any Intellectual Property rights of such party).

Commencement Date means the date set out in the Purchase Order for the commencement of the Agreement formed by the Purchase Order.

Data Controller has the meaning given in Data Privacy Laws.

Data Privacy Law the Data Protection Act 2018, the EU Regulation (EU) 2016/679 General Data Protection Regulation ("GDPR"), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003, Electronic Communications Code set out in schedule 3 (a) to the Communications Act 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

Defect means any defect in or failure of the Goods and/or Services or any part of them including but not limited to defects in advice, workmanship, installation design and Materials.

Delivery Date means the date Gatwick notifies the Supplier in writing that the Goods and/or Services are to be delivered.

Fees means the Fees payable for the Goods and/ or Services specified in the Purchase Order; or if no price is set out, the price set out in the Supplier's published price list in force at the Commencement Date.

Force Majeure Event means any circumstance not within a party's reasonable control, including (without limitation) the following: acts of God, war, threat or preparation for war, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of buildings, fires, floods, tempests, earthquake, insurrection, riot, civil war, civil commotion, rebellion, strike, lock-out or labour dispute (but not a strike, lock-out or labour dispute specific to the Party relying on such event or circumstance).

GADs means any directive issued by or on behalf of the Chief Executive Officer of Gatwick.

GAL Technical Standards means Gatwick's standards which apply to the Goods or Services which are either set out in the Purchase Order or which are available upon request from the Supplier.

Goods means materials, goods, plant or equipment to be supplied to Gatwick by the Supplier as are more particularly described in the Purchase Order or any goods provided by the Supplier as part of the Services.

Insolvency Event means the occurrence of any of the following in relation to the Supplier:

- (a) it stops or suspends its business or payment of any class of its debts or is or becomes unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986) or otherwise becomes insolvent **OR** (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 **OR** (being a partnership) has any partner to whom any of the foregoing apply;

(b) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with its winding up (being a company);

(c) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the company;

(d) it 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 other than (being a company) for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or its solvent reconstruction;

(e) the holder of a qualifying floating charge over the assets has become entitled to appoint or has appointed an administrative receiver;

(f) a person becomes entitled to appoint a receiver over all or any of its assets or a receiver is appointed over all or any of its assets;

(g) the Supplier (being an individual) is the subject of a bankruptcy petition or order;

(h) a creditor or encumbrancer of the Supplier 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 Supplier's assets and such attachment or process is not discharged within 14 days; or

(i) any event occurs, or proceeding is taken, in any jurisdiction to which the Supplier is subject that has an effect equivalent or similar to any of the events afore mentioned.

Intellectual Property Rights includes patents, trademarks, software, service marks, business names and domain names, rights in designs, utility models, copyrights and neighbouring and related rights, rights in computer software, database rights, moral rights, rights to inventions, rights in get-up, goodwill and the right to sue for passing off, rights to use and protect the confidentiality of Confidential Information, know-how all other intellectual property rights whether registered or unregistered and include all applications, and rights to apply for and be granted extensions or renewals of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protections which subsist or will subsist now or in the future in any part of the world.

Landside means all areas of Gatwick Airport that can be accessed without passing through a Gatwick Security Control Post.

Locations means the locations from time to time occupied by the Supplier for the purpose of performing its obligations pursuant to this Agreement and "Location" shall bear a commensurate meaning.

Losses means losses (including direct and indirect losses, consequential loss), liabilities, damages, compensation, awards, payments made under settlement arrangements, claims, costs and expenses including fines, penalties, legal and other professional fees and expenses.

Materials means all information, formulae, data, models, drawings, prints, samples, specifications, documentation, goods, software, or calculations or other similar items and other technology including improvements in the same used in or otherwise provided by the Supplier to Gatwick as part of the Services under this Agreement including all drafts, updates, additions and revisions thereto.

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

New IPR means all Intellectual Property Rights (a) in any Goods created or developed pursuant to this Agreement and/or (b) created or developed in the provision of the Services.

Personal Data means all personal data (as defined in the Data Privacy Laws) that is Processed in relation to the performance of this Agreement.

Processing has the meaning given in Data Privacy Laws. 'Process' and 'Processed' shall be construed accordingly.

Purchase Order means the order placed by Gatwick for the supply of Goods and/ or Services under these terms and conditions which shall include a Specification, a Change Document or other documents attached to or referred to in the order.

SAR means a written request made by or on behalf of an individual for the information they are entitled to ask for under Data Privacy Laws.

Services means all the obligations of the Supplier under this Agreement, including the provision of any Goods, supply of Materials and the performance of the Services as more particularly described in the relevant Purchase Order and/ or Specification.

Site Regulations means the rules and regulations applicable to the Location and as amended by Gatwick from time to time which are available upon request.

Specification means a description of the quality, quantity and other performance specifications and technical criteria or characteristics of the Goods and or Services which are notified by the Supplier to Gatwick.

Supplier means the party with whom Gatwick contracts under this Agreement as set out in the Purchase Order.

Supplier Personnel means any person named as a contact for the Supplier in the Purchase Order, any employee of the Supplier, any Subcontractor, agent or any other individual who may perform the Services and/or provide the Goods on behalf of the Supplier.

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

Term a period beginning on the Commencement Date and ending on the Termination Date.

Termination Date means the date set out in the Purchase Order upon which this Agreement automatically terminates or the Supplier's engagement under this Agreement may be terminated and which is subject to any extension in accordance with this Agreement.

- 1.2 Defined terms not set out above shall have the meaning ascribed to them in the Purchase Order.
- 1.3 References to Clauses are to clauses in the main body of this Agreement.
- 1.4 Any reference to a statute, statutory provision or subordinate legislation (except where the context otherwise requires)
 - (a) shall be deemed to include any byelaws, licences, statutory instruments, rules, regulations, orders, notices, directions, consents or permissions made under that legislation; and
 - (b) shall be construed as referring to any legislation which replaces, re-enacts, amends or consolidates such legislation (with or without modification) at any time.
- 1.5 A reference to writing or written excludes faxes and e-mail.
- 1.6 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.7 Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.8 These terms shall extend to any substituted or remedial Services and/or repaired or replacement Goods supplied by the Supplier.
- 1.9 Gatwick's rights under this Agreement are in addition to its rights and remedies implied by statute and common law.

2 ENTIRE AGREEMENT

- 2.1 The Agreement supersedes all prior negotiations, representations and undertakings, whether written or oral, and constitutes the entire agreement between the Parties relating its subject matter of the Purchase Order save where the Parties have entered into a written contract or framework agreement regarding the subject matter of the Purchase Order in which event the written contract or framework agreement between the Parties and the Purchase Order shall constitute the entire agreement between the Parties regarding the subject matter of the Purchase Order and these Terms and Conditions shall have no effect.
- 2.2 The issue of a Purchase Order is deemed to be an acceptance of an offer made by the Supplier and it shall form the Agreement between the parties and shall exclude any terms and conditions which the Supplier may purport to apply upon receipt of a Purchase Order or under any acknowledgement or condition of acceptance or with any delivery note.
- 2.3 Signature of any delivery tickets by Gatwick's representatives accepting delivery does not imply acceptance of the Supplier's terms and conditions.

3 NON-EXCLUSIVE AGREEMENT

- 3.1 The appointment of the Supplier and the rights of the Supplier are non-exclusive and Gatwick may at any time in its absolute discretion appoint any other person, firm or company to provide services similar to the Services.

4 SUPPLY OF GOODS

- 4.1 The Supplier warrants and represents that Goods shall:
 - 4.1.1 correspond with their description and any applicable Goods specification set out in the Specification;
 - 4.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by Gatwick, expressly or by implication, and in this respect, Gatwick relies on the Supplier's skill and judgement; and
 - 4.1.3 free from Defects and remain so for 24 months after delivery.

5 DELIVERY, RISK AND OWNERSHIP

- 5.1 The Supplier shall deliver the Goods on the Delivery Date to the location specified in the Purchase Order or to other such location or in such other format, whether physical or electronic, as may be specified.
- 5.2 The Supplier shall ensure that the Goods are accompanied by a delivery note which shows, inter alia, the Purchase Order and a full and accurate description of the number of packages and the full contents of delivery. This Clause shall apply irrespective of whether the Goods are physically or electronically delivered.
- 5.3 Title and risk in the Goods shall pass to Gatwick:
 - 5.3.1 in the case of physical delivery when the Goods are off loaded at the delivery location; or
 - 5.3.2 in the case of electronic delivery when Gatwick has full accessibility to the Goods through its computer environment;
unless payment for the Goods is made prior to delivery in accordance with this Agreement, in which case title to (but not risk in) the Goods shall pass to Gatwick once Gatwick has made payment for the Goods (risk shall pass once delivery is effected in accordance with Clause 5.3.1 or 5.3.2 (as applicable)). In the event the Supplier does not have title to the Goods when payment is made it shall waive all rights to title to the Goods and shall procure that title to the Goods passes to Gatwick with full title guarantee and free from all encumbrances and other rights of whatever nature exercisable by any third party.
- 5.4 Supplier shall, its sole expense until delivery in accordance with this Agreement insure the Goods against all risks to their full replacement value.

5.5 Gatwick shall not be deemed to have accepted the Goods until it has had 14 days to inspect and/or test them following delivery.

6 SUPPLY OF SERVICES

6.1 The Supplier warrants and represents that it shall:

- 6.1.1 provide the Services in accordance with this Agreement, any GAL Technical Standards and all Applicable Laws for the Term and to the satisfaction of Gatwick;
- 6.1.2 provide the Services with all due skill, care and diligence expected of a competent person providing similar services to the Services provided including but not limited to applying good industry practice;
- 6.1.3 ensure that its Supplier Personnel are appropriately experienced, qualified and trained staff;
- 6.1.4 use the best quality goods, materials, standards and techniques, and ensure that the Materials, and all goods and materials supplied and used in the Services are free of Defects;
- 6.1.5 ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Agreement in respect of the Services;
- 6.1.6 provide the Services in accordance with the Delivery Date;
- 6.1.7 provide all equipment, tools, vehicles, Supplier Personnel and other items required to provide the Services; and
- 6.1.8 not do or omit to do anything which may cause Gatwick to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business.

7 GADs, ENVIRONMENT, HEALTH AND SAFETY

- 7.1 The Supplier shall comply with all relevant GADs and Gatwick's Site Regulations in relation to environmental, health and safety policies which are available upon request.
- 7.2 The Supplier shall notify Gatwick immediately in the event of any incident occurring where it becomes aware of any personal injury or any damage to property which could give rise to personal injury.
- 7.3 The Supplier will ensure that it maintains such records as are necessary to evidence compliance with this Agreement and ensure that all records are fully auditable and information is freely available to support any accreditations that Gatwick has attained or is working towards.
- 7.4 If the Supplier is commissioning the Goods or providing Services which are deemed to be construction works under the CDM Regulations, the CDM Regulations shall apply. The Supplier warrants its competency under the CDM Regulations to provide the Services. If the Supplier uses a third party to provide the construction works then the Supplier shall be the Principal Contractor under the CDM Regulations and Gatwick will be the Principal Designer. Before commencing the construction works the Supplier shall apply for and obtain a permit to work at the Gatwick Contract Support Centre (see Gatwick's website for details).

8 CONFIDENTIALITY

- 8.1 Each Party (the **Receiving Party**) shall treat and keep all Confidential Information which has been disclosed to the Receiving Party by the other Party (the **Disclosing Party**), its employees, agents or subcontractors secret and confidential, and will not, without the Disclosing Party's consent, disclose Confidential Information to any other person other than in accordance with this Agreement.
- 8.2 The foregoing shall not apply to the extent that:
 - 8.2.1 the Receiving Party needs to have or disclose Confidential Information of the Disclosing Party to an affiliate, subcontractor, agent or employee of the Receiving Party in order to fulfil its obligations, exercise its rights under this Agreement or to receive the benefit of the Goods and/or Services, provided always that the Receiving Party shall procure that such person to whom the information is disclosed keeps the Confidential Information secret and confidential;
 - 8.2.2 the Confidential Information is in or enters into the public domain otherwise than in breach of any undertaking of confidentiality; or
 - 8.2.3 any Confidential Information is required to be disclosed pursuant to any Applicable Law or regulatory authority.
- 8.3 In the event the Supplier becomes aware of a security breach that has resulted in Gatwick's Confidential Information becoming available in breach of the Supplier's obligations under this Clause 8, without prejudice to Gatwick's rights and remedies, the Supplier shall immediately notify Gatwick and provide all assistance and information that Gatwick may reasonably require in relation to the security breach.
- 8.4 This Clause 8 shall survive termination of the Agreement.

9 PUBLICITY

- 9.1 No publicity or advertising relating to this Agreement and/or any matter or thing connected with this Agreement shall be released by the Supplier without the prior written consent of Gatwick.

10 SECURITY

- 10.1 The Supplier shall comply with all security requirements and regulations of Gatwick details of which can be obtained from Gatwick.
- 10.2 Gatwick shall have the right to carry out any search of staff or vehicles used by the Supplier.
- 10.3 The Supplier shall not, without the prior written consent of Gatwick, take any photographs or make any other graphical reproduction at or of Gatwick Airport or any premises, property or equipment owned by Gatwick or any third party.

- 10.4 Without prejudice to the generality of the foregoing it is the responsibility of the Supplier to obtain at his own cost and in good time from Gatwick all security passes, Airside or Landside, licenses, and other documents required for Supplier Personnel and Supplier vehicles. The Gatwick Security Pass application process is detailed at: www.gatwickairport.com/idcentre. The Supplier shall allow a period of eight weeks for the process of individuals to obtain Airside passes and two weeks for Landside passes. A charge will be made for replacement of any pass. All security passes and documentation must be returned to Gatwick immediately upon termination of this Agreement or completion of the Services whichever be the earlier, failing which the Supplier shall pay or allow to Gatwick £250.00 for each and every security pass not returned and may be liable to prosecution under the provisions of the Aviation and Maritime Security Act 1990. The theft or loss of any security pass or other documentation referred to herein shall in the first instance be reported by the Supplier to the police and Gatwick.
- 10.5 The Supplier shall procure that all Supplier Personnel's security passes are worn at all times and be visible for inspection while on Gatwick Airport premises. Supplier shall provide appropriate holders to its Supplier Personnel to prevent ID passes from dangling or becoming an entrapment risk.
- 10.6 The Supplier shall bear the cost of any notice, instruction or decision of Gatwick under this Clause 10.

11 INTELLECTUAL PROPERTY RIGHTS

- 11.1 All Intellectual Property Rights belonging to a party prior to the execution of this Agreement shall remain vested in that party.
- 11.2 The Supplier hereby grants to Gatwick and where appropriate and applicable shall procure the grant to Gatwick of a non-exclusive, royalty free, perpetual, irrevocable licence for Gatwick to use the Supplier's Intellectual Property in the Services and Materials for the purpose of this Agreement.
- 11.3 Subject to Clause 11.1, all New IPR shall belong to and vest in Gatwick. The Supplier hereby assigns absolutely (and shall procure that all relevant third parties assign absolutely) to Gatwick by way of present assignment of existing and all future property, rights, title and interest, all New IPR, all of which shall vest in Gatwick immediately upon creation of the same with full title guarantee and free from all encumbrances and other rights of whatever nature exercisable by any third party, together with the right to take action for any past, present and future damages and other remedies in respect of any infringement or alleged infringement of such New IPR.
- 11.4 In respect of the Goods and any goods that are transferred to Gatwick as part of the Services under this Agreement, including without limitation the Materials or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to Gatwick, it will have full and unrestricted rights to sell and transfer all such items to Gatwick
- 11.5 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Materials, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 11.6 Without prejudice to the indemnity in Clause 19.1.2, if any of the Goods and/or Services (or item used in the delivery thereof) becomes, or in the reasonable opinion of Gatwick is likely to become the subject of an infringement claim, the Supplier shall at its own cost and upon Gatwick's request:
- 11.6.1 procure for the Supplier and Gatwick the right to continue to use or receive the relevant Goods and/or Services in accordance with or as contemplated by this Agreement; or
- 11.6.2 modify or substitute the relevant Goods and/or Services so that they are non-infringing, provided that any such modification or substitution shall not degrade the performance or quality of the affected item.

12 BRIBERY, MODERN SLAVERY AND TAX EVASION

- 12.1 Without prejudice to Clause 6.1.1 the Supplier warrants and represent to Gatwick that:
- 12.2 it has put in place and shall maintain throughout the Term all processes, procedures and compliance systems reasonably necessary to ensure that Modern Slavery and/or Bribery and/or Tax Evasion does not occur within the Supplier's business or down its supply chain.
- 12.3 It shall and shall procure that all persons associated with it shall:
- 12.3.1 not engage in any activity, practice or conduct which would constitute Bribery and/or Modern Slavery and/ or Tax Evasion;
- 12.3.2 promptly notify Gatwick (in writing) if the Supplier or other persons associated with it who perform or have performed the Services for and/ or provided Goods on behalf of the Supplier is investigated by any law enforcement agency or customer in relation to Bribery and/or Modern Slavery and/or Tax Evasion;
- 12.3.3 promptly notify Gatwick (in writing) if Bribery and/or Modern Slavery and/or Tax Evasion has occurred, or the Supplier has reasonable cause to believe any have occurred, in the Supplier's business or within the Supplier's supply chain.
- 12.3.4 A breach by the Supplier of any part of this Clause 12 will be a material breach entitling Gatwick to terminate in accordance with Clause 20.2.

13 DATA PROTECTION

- 13.1 The Supplier will comply with the Data Privacy Laws applicable to its activities under or in connection with this Agreement.
- 13.2 The Supplier shall only process Personal Data for the purpose of providing the Goods or Services (or both) to Gatwick and shall not process the Personal Data outside the EEA without Gatwick's prior written consent.
- 13.3 Where each party acts as a separate Data Controller in respect of Personal Data they shall each comply with their respective obligations under Data Privacy Laws.

- 13.4 Where the parties act together as joint Data Controllers they shall enter into appropriate arrangements which determine their respective obligations in respect of the Processing of Personal Data.
- 13.5 Should the performance of the Supplier's obligations under this Agreement require that the Supplier acts as a Data Processor for Gatwick, the provisions of Annex 1 shall apply.

14 RE-TENDERING AND HANDOVER

- 14.1 Within 21 days of being so requested by Gatwick, the Supplier shall provide and thereafter keep updated, in a fully indexed and catalogued format, all the information regarding the provision of the Services which Gatwick may request and which may be necessary to enable Gatwick to issue tender documents for the future provision of Services.

15 PAYMENT

- 15.1 Gatwick shall pay the Supplier the Fee for the Services which shall be inclusive of the costs of packaging, insurance and carriage of the Services, unless otherwise agreed in writing by Gatwick. No extra charges shall be effective unless agreed in writing and signed by Gatwick
- 15.2 In respect of Goods, the Supplier shall invoice Gatwick on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on completion of the Services or on a pro rata basis for any part thereof on a monthly basis.
- 15.3 Fees payable to the Supplier shall become due from Gatwick to the Supplier together with any VAT due thereon not later than the 60 days from the date the invoice was received by Gatwick.
- 15.4 Invoices must only be submitted by the Supplier for Services that are covered by a Purchase Order issued by Gatwick. Invoices are to be submitted via email to: accounts.payable@gatwickairport.com
- 15.5 If the Supplier is unable to submit invoices by email, please contact Accounts Payable on the email above. Do not submit invoices by email and post as this will delay payment.
- 15.6 All Invoices must state the following:
- 15.6.1 the relevant Purchase Order number;
- 15.6.2 the line number and/or item description from the Purchase Order to which the request for payment refers including quantity, price and value;
- 15.6.3 the same Supplier name and address (as notified to Gatwick from time to time).

16 AUDIT

- 16.1 Gatwick may review and/or audit any matter whatsoever related to the performance by the Supplier of its obligations under this Agreement.

17 RECOVERY OF SUMS DUE

- 17.1 Whenever under the Agreement any sum of money is recoverable from, or payable by, the Supplier (including any sum which the Supplier is liable to pay to Gatwick in respect of any breach of this Agreement), Gatwick may unilaterally deduct or set off that sum from any sum then due or which at any later time becomes due to the Supplier under the Agreement or under any other contract with Gatwick.
- 17.2 Any overpayment by Gatwick to the Supplier shall be a sum of money recoverable by Gatwick from the Supplier.
- 17.3 The Supplier shall make any payments due to Gatwick without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise save as required by law.
- 17.4 If a party fails to make any payment due to the other party under the Agreement by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 3% per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This Clause shall not apply to payments that the defaulting party disputes in good faith.

18 INSURANCE

- 18.1 Without prejudice to the liability of the Supplier to indemnify Gatwick under Clause 19 the Supplier shall procure and maintain in force insurance cover in respect of all insurable sums that the Supplier may become liable to pay to Gatwick under this Agreement including the following insurance policies providing the following levels of cover:
- 18.1.1 a third-party liability policy with an indemnity limit of at least £5,000,000, for any one occurrence or series of occurrences arising from any one event, to be maintained in force for the duration of this Agreement;
- 18.1.2 where providing Goods, Product Liability with a limit of indemnity of at least £2,000,000 for any one occurrence or series of occurrences arising from any one event;
- 18.1.3 where providing professional advice or design, a professional indemnity policy with an indemnity limit of at least £2,000,000, for any one occurrence or series of occurrences arising from any one event, to be maintained in force for the duration of this Agreement and for a period of six years following the expiry or termination of this Agreement;
- 18.1.4 if the Supplier needs Airside access, an Airside/public liability policy with an indemnity limit of £5,000,000, for any one occurrence or series of occurrences arising from any one event including coverage for liability for war, terrorism and other perils in accordance with applicable insurance market practice, to be maintained for the duration of the Agreement; and
- 18.1.5 if required by Gatwick, environmental impairment insurance with a limit of indemnity of at least £5,000,000 for each and every event or any other sum as agreed in writing with Gatwick.

18.2 The Supplier shall on request provide Gatwick with evidence of such insurance cover.

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INDEMNITY AND LIABILITY

19.1 The Supplier shall indemnify and keep Gatwick indemnified against all Claims and Losses suffered or incurred by Gatwick arising from or in connection with:

19.1.1 death of or injury to a person; and

19.1.2 any claim that the use by Gatwick of any Materials or Goods or the receipt by Gatwick of any Services infringes the Intellectual Property Rights of any third party.

19.2 Subject to Clause 19.5, the Supplier's total liability to Gatwick in respect of all Losses arising under or connection with this Agreement whether in contract or tort or for breach of statutory duty in respect of:

19.2.1 loss of or damage to the environment shall be the greater of the (a) the limit set out in the Supplier's applicable insurance policy; and (b) £2 million (two million pounds);

19.2.2 loss of or damage to property shall be the greater of (a) the limit set out in the Supplier's applicable insurance policy; and (b) £2 million (two million pounds);

19.2.3 breach of Applicable Laws shall be the greater of (a) the limit set out in the Supplier's applicable insurance policy; and (b) £2 million (two million pounds); and

19.2.4 all other Losses shall not exceed £2 million (two million pounds).

19.3 Subject to Clause 19.5 Gatwick's total liability to the Supplier in respect of all Losses arising under or in connection with this Agreement whether in contract or tort or for breach of statutory duty shall in no circumstances exceed the greater of:

19.3.1 twice the Fees paid in the twelve months preceding the claim; and

19.3.2 £100,000 (one hundred thousand pounds).

19.4 This Clause 19 shall survive termination of this Agreement.

19.5 Nothing in this Clause 19 shall exclude either Party's liability under an indemnity or for death or personal injury arising from a party's negligence, fraudulent misrepresentation or fraud.

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TERMINATION

20.1 Gatwick may in its sole discretion terminate the engagement of the Supplier under this Agreement in whole or in part at any time for any reason by giving to the Supplier not less than one month's written notice.

20.2 Gatwick may terminate the Agreement in whole or in part with immediate effect by giving written notice to the Supplier if:

20.2.1 the Supplier commits a material or repeated breach of any of the terms of this Agreement and (if such a breach is remediable), fails to remedy that breach within 10 days of receipt of notice of the breach;

20.2.2 an Insolvency Event occurs;

20.2.3 the Supplier proposes or undergoes a Change of Control; or

20.2.4 the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or become a patient under any mental health legislation.

20.3 Either Party may terminate the Agreement by giving 7 days prior written notice to the other Party if a Force Majeure Event prevents either Party from performing its obligations under the Agreement for a period of longer than 14 days.

20.4 Any termination or expiry of this Agreement shall be without prejudice to the accrued rights and liabilities of each Party.

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CONSEQUENCES OF TERMINATION

21.1 In the event of termination pursuant to Clause 20.1, Gatwick's liability to the Supplier shall be to pay sums due under this Agreement in respect of any Services performed or Goods delivered at the date of termination. Where any Services are incomplete Gatwick shall pay such a sum as reflects the amount of Services provided at the date of termination. Where Goods are not yet delivered but they are bespoke Goods which have already been manufactured or irrevocably ordered and which cannot be sold to a third party Gatwick will pay the Supplier's costs incurred or alternatively if Gatwick elects it will pay the price of the Goods which shall be delivered to Gatwick.

21.2 In the event of termination pursuant to Clause 20.2, no further sums shall be paid to the Supplier and Gatwick shall be entitled to procure the Services from others and to set off the cost of doing so together with any other Claims and Losses due to or arising from such breach or termination from any sums due to the Supplier at the date of termination. Any sums payable from either Party shall become due after the Services have been completed by others or if Gatwick elects not to complete the procurement of the Services within 6 months of the date of termination.

21.3 The Supplier shall immediately deliver to Gatwick all Materials, information, data and equipment belonging to or provided by Gatwick to the Supplier for the purpose of the Agreement.

21.4 Each Party shall return to the other all Confidential Information of the other which it may have in its possession or destroy the same.

21.5 In the event of the termination or expiry of this Agreement the Supplier shall afford give Gatwick all reasonable co-operation and assistance in implementing an orderly transition of the provision of the Goods and/or Services to Gatwick or to any replacement third party.

22 FORCE MAJEURE

- 22.1 Neither Party shall be liable to the other Party by reason of any failure or delay in performing its obligations under the Agreement, which is due to Force Majeure, where there is no practicable means available to the Party concerned to avoid such failure or delay.
- 22.2 If either Party becomes aware of any circumstances of Force Majeure which give rise to any such failure or delay, or which appear likely to do so, that Party shall promptly give notice of those circumstances as soon as practicable after becoming aware of them and shall inform the other Party of the period for which it estimates that the failure or delay will continue.
- 22.3 Any failure or delay by the Supplier in performing his obligations under the Agreement which results from any failure or delay by Supplier Personnel, shall be regarded as due to Force Majeure only if that Supplier Personnel is itself impeded in complying with an obligation to the Supplier by Force Majeure.

23 NOTICES

- 23.1 Any notice required to be given under this Agreement, shall be in writing and shall be delivered personally, or sent by recorded delivery or by commercial courier, to each party required to receive the notice as set out below:
 - 23.1.1 to Gatwick at: 8th Floor Destinations Place, Gatwick Airport, West Sussex, RH6 0NP and marked for the attention of Head of Procurement.
 - 23.1.2 to the Supplier at its registered address or as otherwise specified by the relevant party by notice in writing to each other party.
- 23.2 Any notice shall be deemed to have been duly received:
 - 23.2.1 if delivered personally, when left at the address and for the contact referred to in this Clause 23; or
 - 23.2.2 if sent by recorded delivery, at 9.00 am on the second working day after posting; or
 - 23.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- 23.3 A notice required to be given under this agreement shall not be validly given if sent by e-mail.
- 23.4 The provisions of this Clause 23 shall not apply to the service of any proceedings or other documents in any legal action.

24 NO PARTNERSHIP OR AGENCY

- 24.1 Nothing in this Agreement shall create or be deemed to create a partnership, joint venture or principal-agent relationship between the parties and neither party shall have authority to bind the other in any way.

25 ASSIGNMENT AND SUB-CONTRACTING

- 25.1 The Supplier shall not without the written prior consent of Gatwick, assign, sub-contract, novate or in any other way dispose of the Agreement or any part of it or any rights in respect of it.

26 AMENDMENTS AND WAIVER

- 26.1 No variation of this Agreement shall be effective unless made in writing and signed by or on behalf of each of the Parties or by their duty authorised representatives.
- 26.2 The failure of either Party to exercise any right or remedy shall not constitute a waiver of that right or remedy.
- 26.3 No waiver shall be effective unless it is communicated to the other Party in writing and expressly identifies the right or remedy which is being waived.
- 26.4 A waiver of any right or remedy shall not constitute a waiver of any right or remedy arising from any breach of this Agreement.

27 RIGHTS OF THIRD PARTIES

- 27.1 It is not intended that this Agreement shall be enforceable by any entity who is not a party to it whether by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

28 LAW AND JURISDICTION

- 28.1 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English Law and each Party irrevocably submits to the exclusive jurisdiction of the Courts of England and Wales to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter.

ANNEX 1

1. The Supplier acknowledges and agrees that nothing in this Agreement relieves the Supplier from its own responsibilities and liabilities under Data Privacy Laws.
2. Supplier shall Process the Personal Data solely in accordance with Gatwick's instructions unless the Supplier is required by Applicable Law to otherwise Process the Personal Data, in which case the Supplier shall inform Gatwick of the legal requirement before such Processing (unless such notification is prohibited by Applicable Laws on the ground of public interest).
3. In the event that the Supplier sub-contracts any aspect of the Processing of the Personal Data to a third party (a "**Sub-Processor**") in accordance with Clause 25 (Assignment and Sub-contracting), the Supplier will ensure that each (if any) Sub-Processor is bound by a written contract binding on it with regard to the data controller and imposing on it obligations which are (at least) equivalent to those imposed on the Supplier by this Annex 1.
4. In relation to any Personal Data, Supplier shall:
 - a. procure that all Supplier Personnel shall:
 - i. comply with the terms of this Agreement; and
 - ii. be engaged under written binding obligations of confidentiality or under an appropriate statutory obligation of confidentiality in respect of the Processing of the Personal Data.
 - b. comply with Data Privacy Laws;
 - c. not itself exercise control, nor will it transfer or purport to transfer control of the Personal Data to a third party;
 - d. not Process Personal Data for its own purposes;
 - e. not include the Personal Data in any product or service offered to third parties;
 - f. not carry out any further research, analysis or profiling activity which involves the use of any part of the Personal Data;
 - g. promptly comply with Gatwick's written instructions in respect of Personal Data (including but not limited to the rectification, erasure or restriction of Personal Data);
 - h. provide reasonable assistance to Gatwick in conducting and privacy impact assessments required in relation to this Agreement;
 - i. ensure that the Personal Data shall be maintained in a format which permits data portability, as required by Data Privacy Laws;
 - j. consent to Gatwick providing details about the Supplier's involvement in the Processing of the Personal Data within Gatwick's privacy notices;
 - k. not transfer or access any of the Personal Data outside the European Economic Area unless Gatwick has given its prior written consent and such transfer complies with Data Privacy Laws;
 - l. inform Gatwick if it considers that it has received an instruction which does not comply with Data Privacy Laws;
 - m. at all times have in place technical and organisational measures to protect the Personal Data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access which are appropriate to the risks of varying likelihood and severity for the rights and freedoms of individuals that are presented by the processing, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing, including in particular:
 - i. any specific security measures required by this Agreement; and
 - ii. where appropriate:
 1. measures for the pseudonymisation and encryption of Personal Data;
 2. the ability to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services;
 3. the ability to restore the availability of and access to Personal Data in a timely manner in the event of a physical or technical incident; and
 4. a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing;
 - n. give to Gatwick such co-operation, assistance and information as it may reasonably request and the Supplier may reasonably be able to provide; and
 - o. deletes all the Personal Data in its possession or under its control as soon as is practicable after the end of the provision of the relevant Services.
5. Supplier shall within three (3) Business Days notify Gatwick if it receives a SAR in relation to Personal Data. The Supplier shall not respond to any such SAR without Gatwick's written consent and shall comply with the written instructions of Gatwick in relation to such SAR.
6. Gatwick shall promptly notify the Supplier of any SAR received that concerns Personal Data Processed by the Supplier in its performance of the Services or provision of the Goods. Within five (5) Business Days of such notification the Supplier shall confirm to Gatwick that it is Processing such Personal Data and shall provide Gatwick with the following:
 - a. the purposes of the Processing and confirmation of whether any profiling is involved in that Processing;
 - b. the format in which the Personal Data is held; and

- c. a description of the relevant Personal Data (e.g. by reference to categories of personal data).
7. Within fifteen (15) Business Days of receipt of the notification provided under either paragraphs 4 or 5 above (as applicable) the Supplier shall provide to Gatwick a copy, in the format and via the medium requested by Gatwick, of the applicable Personal Data.

SECURITY BREACH

8. Supplier shall notify Gatwick at both:
- a. ITOpsCentre@gatwickairport.com ; and
 - b. dpo@gatwickairport.com
- without undue delay of any accidental, unauthorised, or unlawful destruction, loss, alteration, or disclosure of, or access to, Personal Data ("Security Breach") that is being Processed by the Supplier or a Sub-Processor.
9. In the event of a Security Breach Supplier shall also provide Gatwick with a detailed description of the Security Breach, the type of data that was the subject of the Security Breach and the identity of each affected person as soon as such information can be collected or otherwise becomes available, as well as any other information Gatwick may reasonably request in relation to the Security Breach.

DESCRIPTION OF PROCESSING

Supplier's Data Protection Officer	[Name, direct phone number and email required]
Describe the Processing activity i.e. what is the Supplier doing with the Personal Data. Explain the purpose of this Processing activity.	
Duration of the Processing of Personal Data to be undertaken by the Supplier.	
Agreed process for Supplier to delete or return the Personal Data.	
Type(s) of Personal Data to be Processed by the Supplier e.g. names, email addresses, DOB.	
Categories of data subjects which will be subject to the Supplier's processing of Personal Data e.g. Gatwick employees, passengers.	
What technical and organisational measures will be put in place to ensure security of the Processing activity? What are the agreed processes for regularly testing, assessing and evaluating the effectiveness of these security measures?	