



TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

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The Buyer's attention is particularly drawn to the provisions of clause 14 (Limitation of liability).

1. INTERPRETATION

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

Acknowledgment of Order:	written acknowledgment of the Order, issued by the Seller to the Buyer under the terms of this Contract.
Business Day:	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Business Hours:	the period from 9.00 am to 5.00 pm on any Business Day.
Commencement Date:	has the meaning given in clause 2.2.
Conditions:	these terms and conditions as amended from time to time in accordance with clause 19.8.
Contract:	the contract between the Seller and the Buyer for the supply of Goods or Services or Goods and Services in accordance with these Conditions.
Control:	has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be interpreted accordingly.
Buyer:	the person or firm who purchases the Goods or Services or Goods and Services from the Seller.
Deliverables:	the deliverables set out in the Order produced by the Seller for the Buyer.
Delivery Location:	has the meaning given in clause 4.2.
Force Majeure Event:	has the meaning given to it in clause 17.
Goods:	the goods (or any part of them) set out in the Order.
Goods Specification:	any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Buyer and the Seller.
Intellectual Property Rights:	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, 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 which subsist or will subsist now or in the future in any part of the world.

Minimum Order Value: £500.00 (five hundred pounds).

Order: the Buyer's order for the supply of Goods and/or Services, as set out in the Buyer's purchase order form, or the Buyer's written acceptance of the Seller's quotation, or overleaf, as the case may be.

Seller: **Didsbury Engineering Co. Limited** registered in England and Wales with company number 00371191.

Seller Materials: has the meaning given in clause 9.1(h).

Services: the services, including the Deliverables, supplied by the Seller to the Buyer as set out in the Service Specification.

Service Specification: any description or specification for the Services that is agreed in writing by the Buyer and the Seller.

Warranty Period: has the meaning given in clause 5.1.

1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** excludes fax but not email.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Buyer to purchase Goods and/or Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when the Seller issues its written Acknowledgment of Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 Any samples, drawings, descriptive matter or advertising issued by the Seller and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Seller's catalogues or brochures are issued or



published for the sole purpose of giving an approximate idea of the Goods and Services described in them. They shall not form part of the Contract nor have any contractual force.

- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5 Any quotation given by the Seller shall not constitute an offer, and is only valid for a period of 10 Business Days from its date of issue.
- 2.6 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. GOODS

- 3.1 The Goods are described in the Goods Specification.
- 3.2 The Buyer shall indemnify the Seller against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Seller arising out of or in connection with any claim made against the Seller for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the Seller's use of the Goods Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Seller reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Seller shall notify the Buyer in any such event.

4. DELIVERY OF GOODS

- 4.1 The Seller shall ensure that:
 - (a) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - (b) it states clearly on the delivery note any requirement for the Buyer to return any packaging material to the Seller. The Buyer shall make any such packaging materials available for collection at such times as the Seller shall reasonably request. Returns of packaging materials shall be at the Seller's expense. If the Buyer fails to make such packaging material available for collection as reasonably requested by the Seller, any costs incurred by the Seller in connection with the replacement of packaging material shall be reimbursed by the Buyer on demand at the Seller's discretion.
- 4.2 The Seller shall deliver the Goods to the location set out in the Order or such other location as the parties may agree in writing, or (if agreed in writing between the parties) the Buyer shall collect the Goods from the Seller's premises or such other location as may be advised by the Seller prior to delivery (**Delivery Location**), in each case at any time after the Seller notifies the Buyer that the Goods are ready, but no later than within three Business Days of notification where the Buyer is collecting the Goods.

- 4.3 Delivery of the Goods shall be completed and risk in the Goods shall pass to the Buyer on the completion of:
- (a) if the Seller is delivering the Goods, the unloading of the Goods at the Delivery Location (unless any damage to the Goods is caused by the Buyer when unloading the Goods from the delivery vehicle, the Buyer would be liable for the damage and any costs to remedy, plus full payment of the delivered Goods); or
 - (b) if the Buyer is collecting the goods, the loading of the Goods on the delivery vehicle at the Collection Location.
- 4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Seller shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.5 If the Buyer fails to accept delivery of the Goods within three Business Days of the Seller notifying the Buyer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Seller's failure to comply with its obligations under the Contract in respect of the Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Seller notified the Buyer that the Goods were ready; and
 - (b) the Seller shall store the Goods until actual delivery takes place, and charge the Buyer for all related costs and expenses (including insurance).
- 4.6 If ten Business Days after the day on which the Seller notified the Buyer that the Goods were ready for delivery the Buyer has not accepted actual delivery of them, the Seller may resell or otherwise dispose of part or all of the Goods. If the Seller resells or disposes of the Goods in accordance with this clause, the Seller reserves the right to charge the Buyer an administration fee which shall be a minimum of 25% of the original value of the Goods.
- 4.7 The Seller may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

5. QUALITY OF GOODS

- 5.1 Subject to clause 6.2 and the remaining provisions of this clause, the Seller warrants that on delivery, and for a period of 12 months (unless an extended warranty period is offered by the Seller in writing) from the date of delivery (**Warranty Period**), the Goods shall:
- (a) conform with the Goods Specification in all material respects; and
 - (b) be free from material defects in design, material and workmanship.
- 5.2 Subject to clause 5.3, if:
- (a) the Buyer gives notice in writing to the Seller during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;



- (b) the Seller is given a reasonable opportunity of examining such Goods; and
- (c) the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Buyer's cost,

the Seller shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.3 The Seller shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 if:

- (a) the Buyer makes any further use of such Goods after giving a notice in accordance with clause 5.2;
- (b) the Buyer fails to have the Goods serviced regularly, in accordance with clause 6.1;
- (c) the defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, installation, commissioning, use, servicing or maintenance of the Goods or (if there are none) good trade practice regarding the same, with the Goods stored in a safe and clean location, within a suitable environment so as to not cause damage or deterioration to the Goods;
- (d) the defect arises as a result of the Seller following any drawing, design or specification supplied by the Buyer;
- (e) the Buyer alters or repairs such Goods without the written consent of the Seller;
- (f) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
- (g) the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

5.4 Except as provided in this clause 5, the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.5 Subject to clause 6.2, these Conditions shall apply to any repaired or replacement Goods supplied by the Seller.

6. SERVICING

6.1 All Goods supplied under these Conditions require regular servicing by the Seller's approved service technicians. The required frequency of servicing will be determined by the Seller and communicated to the Buyer, and (in the absence of any such communication) shall be a minimum of once every 12 months.

6.2 When a product is returned or submitted by the Buyer for servicing or repair, the Seller's warranty under clause 5.1 shall apply only to the repaired or replaced part or component in respect of which the Seller has carried out the service. The renewed warranty shall not apply to the entire product.

7. TITLE AND RISK

7.1 The risk in the Goods shall pass to the Buyer on completion of delivery.

7.2 Title to the Goods shall not pass to the Buyer until the Seller receives payment in full (in cash or cleared funds) for the Goods.



- 7.3 Until title to the Goods has passed to the Buyer, the Buyer shall:
- (a) store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Seller's behalf from the date of delivery;
 - (d) notify the Seller immediately if it becomes subject to any of the events listed in clause 15.1(b) to 15.1(d); and
 - (e) give the Seller such information as the Seller may reasonably require from time to time relating to:
 - (i) the Goods; and
 - (ii) the ongoing financial position of the Buyer.

7.4 At any time before title to the Goods passes to the Buyer, the Seller may require the Buyer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.

8. SUPPLY OF SERVICES

- 8.1 The Seller shall supply the Services to the Buyer in accordance with the Service Specification in all material respects.
- 8.2 The Seller shall use reasonable endeavours to meet any performance dates for the Services specified in the Acknowledgment of Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 8.3 The Seller reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Seller shall notify the Buyer in any such event.
- 8.4 The Seller warrants to the Buyer that the Services will be provided using reasonable care and skill.
- 8.5 The Buyer acknowledges that the Services may be provided by a third party acting as a sub-contractor for the Seller.

9. BUYER'S OBLIGATIONS

- 9.1 The Buyer shall:
- (a) ensure that the terms of the Order and any information it provides in both the Service Specification and the Goods Specification are complete and accurate;
 - (b) co-operate with the Seller in all matters relating to the Goods and Services;



- (c) provide the Seller, its employees, agents, consultants and subcontractors, with access to the Buyer's premises, office accommodation and other facilities as reasonably required by the Seller to provide the Services;
- (d) provide the Seller with such information and materials as the Seller may reasonably require in order to supply the Goods and Services, and ensure that such information is complete and accurate in all material respects;
- (e) prepare the Buyer's premises for the supply of the Services;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (g) comply with all applicable laws, including health and safety laws;
- (h) keep all materials, equipment, documents and other property of the Seller (**Seller Materials**) at the Buyer's premises in safe custody at its own risk, maintain the Seller Materials in good condition until returned to the Seller, and not dispose of or use the Seller Materials other than in accordance with the Seller's written instructions or authorisation; and
- (i) comply with any additional obligations as set out in the Service Specification or the Goods Specification or both.;

9.2 If the Seller's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Buyer or failure by the Buyer to perform any relevant obligation (**Buyer Default**):

- (a) without limiting or affecting any other right or remedy available to it, the Seller shall have the right to suspend performance of the Services until the Buyer remedies the Buyer Default, and to rely on the Buyer Default to relieve it from the performance of any of its obligations in each case to the extent the Buyer Default prevents or delays the Seller's performance of any of its obligations;
- (b) the Seller shall not be liable for any costs or losses sustained or incurred by the Buyer arising directly or indirectly from the Seller's failure or delay to perform any of its obligations as set out in this clause 9.2; and
- (c) the Buyer shall reimburse the Seller on written demand for any costs or losses sustained or incurred by the Seller arising directly or indirectly from the Buyer Default.

10. DATA PROTECTION

10.1 The following definitions apply in this clause 10:

- (a) **Agreed Purposes** means the performance by each party of its obligations under the Contract.
- (b) **controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures** are as defined in the Data Protection Legislation.
- (c) **Data Protection Legislation** means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*S/2003/2426*).



- (d) **Domestic Law** means the law of the United Kingdom or a part of the United Kingdom.
- (e) **Permitted Recipients:** the parties to the Contract, the employees of each party, any third parties engaged to perform obligations in connection with the Contract.
- (f) **Shared Personal Data:** the personal data to be shared between the parties in connection with the Contract.
- (g) **UK GDPR** means has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

10.2 This clause sets out the framework for the sharing of personal data between the parties as controllers. Each party acknowledges that one party (referred to in this clause as the **Data Discloser**) may disclose to the other party Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

10.3 Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation.

10.4 Each party shall:

- (a) ensure that it has all necessary notices and consents and lawful bases in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;
- (b) process the Shared Personal Data only for the Agreed Purposes;
- (c) ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this agreement;
- (d) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data;
- (e) not transfer any personal data received from the Data Discloser outside the UK unless the transferor ensures that the transfer is in accordance with the Data Protection Legislation;
- (f) assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with the Information Commissioner or other regulators;
- (g) provide the other party with reasonable assistance in complying with any data subject rights request;
- (h) at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this agreement unless required by law to store the Shared Personal Data; and
- (i) notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation.

11. CHARGES AND PAYMENT

11.1 The price for Goods:



- (a) unless otherwise confirmed in writing by the Seller, shall be the price set out in the Seller's published price list as at the date of the order, plus any deposit that the Seller requires; and
- (b) shall be exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be invoiced to the Buyer.

11.2 For each Order placed by the Buyer, the Buyer shall order at least the Minimum Order Value of the Goods or Services. Except to the extent the Buyer's failure to order the Minimum Order Value is caused by a Force Majeure Event, if the Buyer orders less than the Minimum Order Value, the Seller may charge the Buyer for any shortfall between the price of the Goods or Services ordered by the Buyer and the Minimum Order Value.

11.3 The charges for Services shall be calculated on a time and materials basis:

- (a) the charges shall be calculated in accordance with the Seller's daily fee rates, as set out in its current price list from time to time in force;
- (b) the Seller's daily fee rates for each individual person are calculated on the basis of an eight-hour day from 9.00 am to 5.00 pm worked on Business Days;
- (c) the Seller shall be entitled to charge an overtime rate of 20% of the daily fee rate on a pro rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause (b); and
- (d) the Seller shall be entitled to charge the Buyer for any expenses reasonably incurred by the individuals whom the Seller engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Seller for the performance of the Services, and for the cost of any materials.

11.4 The Seller reserves the right to:

- (a) increase the charges for the Goods and/or Services on an annual basis;
- (b) increase the price of the Goods and/or Services, by giving notice to the Buyer, to reflect any increase in the cost of the Goods and/or Services to the Seller that is due to:
 - (i) any factor beyond the control of the Seller (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (ii) any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
 - (iii) any delay caused by any instructions of the Buyer in respect of the Goods or failure of the Buyer to give the Seller adequate or accurate information or instructions in respect of the Goods.

11.5 Unless otherwise agreed in writing between the parties:

- (a) in respect of Goods, the Seller shall invoice the Buyer on or at any time before Delivery; and



(b) in respect of Services, the Seller shall invoice the Buyer before, on or after completion of the Services.

Any deposit payable by the Buyer shall be paid to the Seller in full at the time of the Order.

11.6 The Buyer shall pay each invoice submitted by the Seller:

- (a) within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Seller and confirmed in writing to the Buyer; and
- (b) in full and in cleared funds to a bank account nominated in writing by the Seller, and

time for payment shall be of the essence of the Contract.

11.7 All amounts payable by the Buyer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Seller to the Buyer, the Buyer shall, on receipt of a valid VAT invoice from the Seller, pay to the Seller such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

11.8 If the Buyer fails to make a payment due to the Seller under the Contract by the due date, then, without limiting the Seller's remedies under clause 14, the Buyer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 11.8 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

11.9 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

12. INTELLECTUAL PROPERTY RIGHTS

12.1 All Intellectual Property Rights in or arising out of or in connection with the Goods and Services (other than Intellectual Property Rights in any materials provided by the Buyer) shall be owned by the Seller, or, where appropriate, third party licensors.

12.2 The Seller grants to the Buyer, or shall procure the direct grant to the Buyer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to use the Deliverables (excluding materials provided by the Buyer) for the purpose of receiving and using the Goods, Services and the Deliverables in its business.

12.3 The Buyer shall not sub-license, assign or otherwise transfer the rights granted by clause 10.2.

12.4 The Buyer grants the Seller a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Buyer to the Seller for the term of the Contract for the purpose of providing the Goods and Services to the Buyer.

13. CONFIDENTIALITY

- 13.1 Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, Buyers, clients or Sellers of the other party, except as permitted by clause 12.2.
- 13.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 12; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

14. LIMITATION OF LIABILITY

- 14.1 The restrictions on liability in this clause include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 14.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and
 - (d) defective products under the Consumer Protection Act 1987.
- 14.3 Subject to clause 14.2, the Seller's total liability to the Buyer shall not exceed an amount equal to 50% of the total value of the Seller's quotation for the Goods or Services under the applicable Order or, if no quotation is provided, 50% of the total value of the applicable Order that has been accepted by the Seller.
- 14.4 Subject to clause 14.2, the Seller shall not be liable to the Buyer for any of the following types of loss
- (i) loss of profits;
 - (ii) loss of sales or business;
 - (iii) loss of agreements or contracts;
 - (iv) loss of anticipated savings;



- (v) loss of use or corruption of software, data or information;
- (vi) loss of or damage to goodwill; and
- (vii) indirect or consequential loss.

14.5 Subject to clause 14.2, the Seller shall not be liable to the Buyer for any loss, damages, costs or expenses that arise as a result of any act or omission of the Buyer.

14.6 This clause 14 shall survive termination of the Contract.

15. TERMINATION

15.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 5 Business Days after being notified in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

15.2 Without affecting any other right or remedy available to it, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under the Contract on the due date for payment.

15.3 Without affecting any other right or remedy available to it, the Seller may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Buyer and the Seller if the Buyer carries out any of the actions listed in clauses 15.1 or the Seller reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under the Contract on the due date for payment.

16. CONSEQUENCES OF TERMINATION

16.1 On termination of the Contract:

- (a) the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest and, in respect of (i) Services and Goods supplied; and (ii) work carried out (including preparatory work and part-completed work), and costs or expenses incurred or committed to (including out-of-pocket expenses) in connection with the Contract, but for which no invoice has been



submitted, the Seller shall submit an invoice, which shall be payable by the Buyer immediately on receipt;

- (b) the Buyer shall return all of the Seller Materials and any Deliverables or Goods which have not been fully paid for. If the Buyer fails to do so, then the Seller may enter the Buyer's premises and take possession of them. Until they have been returned, the Buyer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

16.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

16.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

17. FORCE MAJEURE

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 3 months, either party may terminate the Contract by giving 20 days' written notice to the other party.

18. SANCTIONS

18.1 In this Clause, the following definitions will apply:

Sanctions: any laws or regulations relating to economic or financial, trade, immigration, aircraft, shipping or other sanctions, export controls, trade embargoes or restrictive measures from time to time imposed, administered or enforced by a Sanctions Authority.

Sanctions Authority: the UK and the United Nations (UN) and any other governmental authority with jurisdiction the Buyer or any part of its business or operations and in each case their respective governmental, judicial or regulatory institutions, agencies, departments and authorities, including (without limitation) the UN Security Council, His Majesty's Treasury and the UK's Office of Financial Sanctions Implementation and Department of International Trade.

Sanctions List: any of the lists issued or maintained by a Sanctions Authority designating or identifying persons that are subject to Sanctions, in each case as amended, supplemented or substituted from time to time, including (without limitation) the UK Sanctions List, Consolidated List of Financial Sanctions Targets in the UK and the Consolidated United Nations Security Council Sanctions List.



Sanctions Proceedings:

any actual or threatened:

- (a) litigation, arbitration, settlement or other proceedings (including alternative dispute resolution, criminal and administrative proceedings); or
- (b) investigation, inquiry, enforcement action (including the imposition of fines or penalties) by any governmental, administrative, regulatory or similar body or authority,

in each case relating to, or in connection with, any actual or alleged contravention of Sanctions.

Sanctions Target:

a person that is:

- (c) listed on a Sanctions List;
- (d) owned or controlled by a person listed on a Sanctions List;
- (e) resident, domiciled or located in, or incorporated or organised under the laws of, a country or territory that is subject to any Sanctions; or
- (f) otherwise identified by a Sanctions Authority as being subject to Sanctions.

18.2 The Buyer warrants that at the date of this agreement it is not:

- (a) a Sanctions Target and has not been a Sanctions Target at any time and nothing has occurred that could reasonably be expected to result in it becoming a Sanctions Target;
- (b) contravening and has not contravened any Sanctions at any time; or
- (c) and has not in any way been involved in any Sanctions Proceedings (other than for the sole purpose of providing information or evidence in respect of such proceedings) at any time and there are no circumstances likely to give rise to any such Sanctions Proceedings.

18.3 At all times during the term of this agreement, the Buyer shall:

- (a) not contravene any Sanctions;
- (b) not do, or omit to do, any act that will cause or lead the Seller to contravene any Sanctions; and
- (c) implement adequate policies and procedures to ensure compliance with Sanctions.

18.4 If at any time during the term of this agreement, the Buyer becomes a Sanctions Target, is involved in Sanctions Proceedings (other than for the sole purpose of providing information or evidence in respect of such proceedings) or contravenes Sanctions or anything occurs that could reasonably be expected to result in any of these things happening, the Seller may in its absolute discretion and without affecting any other right or remedy available to it:



- (a) treat such event as a force majeure event for the purposes of clause 17; or
- (b) terminate this agreement with immediate effect by written notice to the Buyer, including at any time during or following a suspension of the parties' obligations under Clause 17.

19. GENERAL

19.1 Assignment and other dealings

- (a) The Seller may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- (b) The Buyer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Seller.

19.2 Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) sent by email to the primary email address for each party used in connection with the contract (or an address substituted in writing by the party to be served).
- (b) Any notice shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

19.3 **Severance.** If any provision or part-provision of the Contract 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 the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 19.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

19.4 Waiver.

- (a) A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.



- 19.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 19.6 **Entire agreement.**
- (a) The Contract constitutes the entire agreement between the parties.
 - (b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 19.7 **Third party rights.**
- (a) The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
 - (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 19.8 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 19.9 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 19.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.