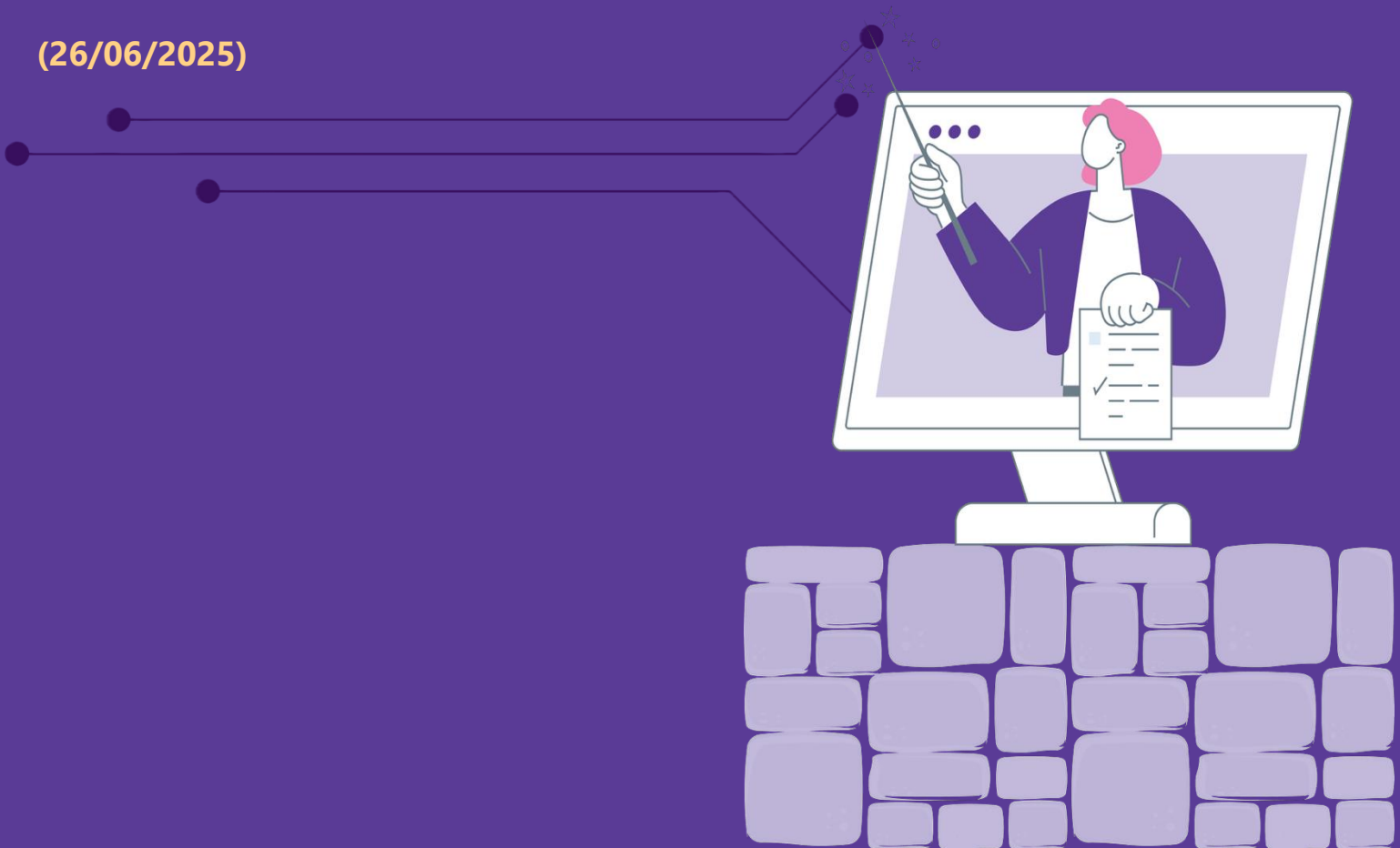


# General

## Terms and Conditions

Version 1.20

(26/06/2025)



# 1. INTERPRETATIONS

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

## 1.1 Definitions:

**Additional Project Charge(s):** the cost of additional **Equipment, Project Labour,** and/or **Expenses** that were not anticipated in the original Proposal.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Commencement Date:** has the meaning given in clause 2.3.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 17.8.

**Contract:** the contract between the **Supplier** and the **Customer** for the supply of **Equipment** and/or **Services** in accordance with the following:

- a) the Conditions; and
- b) any Services Agreement; and
- c) any applicable Specific Terms and Conditions.

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

**Customer:** the person or firm who purchases the **Equipment** and/or **Services** from the **Supplier**.

**DPA:** means the Data Protection Act 2018 (2018 c.12). **Controller, Processor, Data Subject** and **Personal Data, Sensitive Data, processing** and **appropriate technical and organisational measures** shall have the meanings given to them in the DPA.

**Data Protection Laws:** means: (a) the **GDPR**; (b) the DPA; and (c) any laws that implement, replace, extend, re-enact, consolidate or amend the **GDPR** or DPA.

**Data Security Breach:** a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to **Protected Data**.

**Deliverables:** the deliverables set out in the Order produced by the Supplier for the Customer.

**Delivery Location:** has the meaning given in clause **Error! Reference source not found.**

**Distributor:** the third-party entity that dispenses equipment that it has not itself manufactured. This does not encompass the Supplier, but a body the Supplier engages with on the Customer's behalf.

**Equipment:** the Equipment (or any part of it) set out in the Order.

**Equipment Specification:** the technical and functional description of any Equipment to be supplied by the Supplier, including but not limited to model, configuration, quantity, and any customisation requirements, as set out in the relevant Quote or Proposal agreed in writing by the Customer and the Supplier. This does not include Services, Services are described in the **Service Specification**.

**Expenses:** the cost incurred in or required for something, which may include but is not limited to, travel costs, accommodation, and food.

**Force Majeure Event:** has the meaning given in clause 16.

**GDPR:** means the General Data Protection Regulation.

**General Terms and Conditions:** this document.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks 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, rights in computer software, 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.

**Manufacturer:** the entity responsible for designing, manufacturing, packaging, and labelling a product or device before it is placed on the market.

**Minimum Cancellation Notice Period:** the minimum period of notice that the Customer must give to the **Supplier** to terminate the **Services** or any part of them or this Contract.

**Order:** the Customer's final written offer to purchase Equipment and/or Services from the Supplier, made by signing a Quote, Proposal, or Service Agreement that references these Terms and Conditions. The Order shall become binding upon written acceptance by the Supplier.

**Project(s):** an individual or collaborative enterprise that is previously planned to achieve a particular aim, in relation to the relevant **Proposal**.

**Proposal:** initial scoping, recommendation, and pricing document before a Project commences.

**Protected Data:** means Personal Data received from or on behalf of the Customer in connection with the performance of the **Supplier's** Obligations under the Contract.

**Quote:** a price given for Equipment or Services communicated from the Supplier to the Customer in writing or verbally.

**Representatives:** means in relation to the **Supplier** its officers, employees, professional advisers, consultants and contractors that need to know the Confidential Information to enable the **Supplier** to comply with the terms of the Contract.

**Restricted Person:** means any person employed or engaged by the **Supplier** during the term of the Contract who has been engaged in the provision of the **Services** or the management of the Contract either as principal, agent, employee, independent contractor or in any other form of employment or engagement.

**Service Agreement:** the agreement signed by the Customer that sets out the Specific Terms and Conditions for the supply of Services and references the General Terms and Conditions. A Service Agreement may include a Service Specification or other schedules as applicable, but does not include Equipment unless expressly stated otherwise.

**Service Specification:** the description of the Services to be provided by the Supplier, including but not limited to scope, deliverables, performance expectations, timelines, and any other relevant service details, as set out in the relevant Quote, Proposal, or Service

Agreement. This does not include Equipment, Equipment is described in the Equipment Specification.

**Services:** the services, including Deliverables, supplied by the **Supplier** to the Customer as set out in the Service Specification.

**Specific Terms and Conditions:** the Supplier's specific terms and conditions (if any) applicable to the Services (or any part of them) referred to in the Order.

**Supervisory Authority:** means any regulator, authority or body responsible for administering Data Protection Laws.

**Supplier:** TechWizard IT Services Ltd at Unit 4c, Rumbush Farm, Rumbush Ln, Earlswood, Solihull, West Midlands, B94 5LW.

**Vendor** means any third-party company, firm, or individual engaged by the Supplier to provide Equipment and/or Services that are resold or delivered to the Customer under the Order. This may include Manufacturers or Distributors. Vendors may deliver Equipment directly to the Customer on behalf of the Supplier.

**Warranty:** this includes the period and, the terms set in the Manufacturer's Warranty.

## 1.2 Interpretation:

- a) a person includes a natural person, corporate or unincorporated body (whether having separate legal personality).
- b) a reference to a party includes its personal representatives, successors, and permitted assigns.
- c) a reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- d) 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.
- e) a reference to 'writing', or any other terms of substantially the same meaning, constitutes emails to the relevant contact in the relevant Service Agreement or Proposal.

## 2. BASIS OF CONTRACT

- 2.1 The provision of a Proposal, Quote, or Service Agreement from the Supplier does not constitute an offer by the Supplier.
- 2.2 The Order constitutes an offer by the Customer to purchase Equipment and/or Services in accordance with the Contract.
- 2.3 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point, and on which date the Contract shall come into existence (Commencement Date). The Order shall only become binding once the Supplier issues unconditional written acceptance. Time shall not be of the essence for the Supplier issuing written acceptance.
- 2.4 Any samples, drawings, descriptive matter, or advertising issued by the Supplier and any descriptions of the Equipment, illustrations, or descriptions of the Services contained in the Supplier's catalogues, brochures, or other shared materials are issued or published for the sole purpose of giving an approximate idea of the Services and/or Equipment described in them shall not form part of the Contract or have any contractual force unless stated otherwise in the Contract.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 All these Conditions shall apply to the supply of both Equipment and Services except where application to one or the other is specified.

### 3. SUPPLY OF EQUIPMENT

- 3.1 Equipment is described in the Equipment Specification.
- 3.2 To the extent that the Equipment (or part of it) is to be manufactured in accordance with an Equipment Specification supplied by the Customer, the Customer shall indemnify the Supplier 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 Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Equipment Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Supplier reserves the right to amend the Equipment Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

### 4. DELIVERY OF EQUIPMENT

- 4.1 The Supplier shall ensure that:
  - a) each delivery of Equipment by the Supplier is accompanied by a packing slip which shows all relevant Customer information, the name and quantity of the Equipment (including the code number of the Equipment, where applicable), special storage instructions (if any); and
  - b) it states clearly on the packing slip any requirement for the Customer to return any packaging material to the Supplier. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

4.2 The parties agree either that:

- a) the Supplier shall deliver the Equipment to the location set out in the Order or such other location as the parties may agree (Delivery Location) at any time after the Supplier notifies the Customer that the Equipment is ready; or
- b) the Vendor shall deliver the Equipment to the Delivery Location and the Supplier shall share any relevant delivery information, if provided by the Vendor; or
- c) the Customer shall collect the Equipment from the Delivery Location within five Business Days of the Supplier notifying the Customer that the Equipment is ready.

4.3 Delivery of the Equipment shall be completed on the completion of unloading or loading (as may be appropriate) of the Equipment at the Delivery Location.

4.4 Upon delivery, the Customer must ensure they sign and date the packing slip to confirm that delivery has been successful.

4.5 Any dates quoted for delivery of the Equipment are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure Event (in accordance with clause 16) or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.

4.6 If the Supplier and/or Vendor fails to deliver the Equipment, the Supplier's liability shall be limited to the reimbursement of costs of the undelivered Equipment. Where Equipment is delivered directly to the Customer by a Vendor on behalf of the Supplier, the Supplier shall remain responsible for coordinating delivery but shall not be liable for any delay or failure caused by the Vendor, provided the Supplier has taken reasonable steps to facilitate fulfilment. The Supplier shall have no liability for any failure to deliver the Equipment to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide adequate delivery instructions or other relevant information.

- 4.7 If the Customer fails to take or accept delivery of the Equipment within **five** Business Days of the Supplier notifying the Customer that the Equipment is ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Equipment:
- a) delivery of the Equipment shall be deemed to have been completed at 9.00 am on the **fifth** Business Day following the day on which the Supplier notified the Customer that the Equipment was ready; and
  - b) the Supplier shall store the Equipment until delivery takes place and charge the Customer for all related costs and expenses (including insurance).
- 4.8 If **ten** Business Days after the Supplier notified the Customer that the Equipment was ready for delivery the Customer has not taken or accepted delivery of it, the Supplier may resell or otherwise dispose of part or all of the Equipment and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Equipment or charge the Customer for any shortfall below the price of the Equipment.
- 4.9 The Supplier and/or Vendor may deliver the Equipment by instalments. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## 5. QUALITY OF EQUIPMENT

- 5.1. The Supplied Equipment is subject to the **Warranty** specified by the manufacturer. The supplier does not provide their own Warranty.
- 5.2. Subject to clause 0, the Supplier shall, at its option, repair or replace the defective Equipment, or refund the price of the defective Equipment in full if:
- a) the Customer gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Equipment does not comply with the warranty set out by the manufacturer;
  - b) the Supplier is given a reasonable opportunity of examining such Equipment; and
  - c) the Customer (if asked to do so by the Supplier) returns such Equipment to the Supplier's place of business at the Customer's cost.

- 5.3. The Supplier shall not be liable for the Equipment's failure to comply with the manufacturer's warranty if:
- a) the Customer makes any further use of such Equipment after giving a notice in accordance with clause 5.2;
  - b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment or (if there are none) best practice;
  - c) the defect arises as a result of the Supplier following any drawing, design or Equipment Specification supplied by the Customer;
  - d) the Customer alters or repairs such Equipment without the written consent of the Supplier;
  - e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
  - f) the Equipment differs from the Equipment Specification as a result of changes made to ensure that it complies with applicable statutory or regulatory standards.
- 5.4. Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Equipment's failure to comply with the manufacturer's warranty.
- 5.5. The terms of these Conditions shall apply to any repaired or replacement Equipment supplied by the Supplier.

## 6. TITLE AND RISK

- 6.1 The risk in the Equipment shall pass to the Customer on completion of delivery.
- 6.2 Title to the Equipment shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Equipment.
- 6.3 Until title to the Equipment has passed to the Customer, the Customer shall:
- a) store the Equipment separately from all other equipment held by the Customer so that they remain readily identifiable as the Supplier's property;
  - b) not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment;

- c) maintain the Equipment in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
  - d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 14.2.b); and
  - e) give the Supplier such information relating to the Equipment as the Supplier may require from time to time.
- 6.4 If before title to the Equipment passes to the Customer the Customer becomes subject to any of the events listed in clause 14.2.b) to clause 14.2.d) then, without limiting any other right or remedy the Supplier may have:
- a) the Customer's right to use the Equipment in the ordinary course of its business shall cease immediately; and
  - b) the Supplier may at any time:
    - i. require the Customer to deliver up the Equipment; and
    - ii. if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Equipment is stored in order to recover it.

## 7. SUPPLY OF SERVICES

- 7.1 The Supplier shall supply the Services to the Customer in accordance with any relevant Service Agreement, and/or any **Specific Terms and Conditions** as applicable. The Services may include applications or other services provided by a Vendor.
- 7.2 The Supplier shall assist the Customer in the set-up of the Services.
- 7.3 The Supplier shall provide technical assistance and training (which may incur a reasonable additional charge depending on requirements unless set out in any Service Specification or Specific Terms and Conditions) for the set-up and provision of the Services when the Supplier deems it reasonable to do so. The Supplier shall use reasonable endeavours to meet any performance dates for the Services specified (including any Project work that is time and materials charged) but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.4 The Supplier reserves the right to amend any Service Agreement or Proposal 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 Supplier shall notify the Customer in any such event.

- 7.5 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill by personnel employed by the Supplier.
- a. The Customer understands the Supplier is not responsible for the care and skill exercised by Vendors, but the Customer agrees that the Supplier may still liaise with those providers on the Customer's behalf.
- 7.6 Unless stated in any Service Specification or Specific Terms and Conditions, the Supplier does not warrant that the Services will be error-free or uninterrupted.
- 7.7 The Supplier shall co-operate with the Customer in all matters relating to the supply of Services subject to the Order it relates to.
- 7.8 The Supplier will maintain all necessary statutory and regulatory license and permits to provide the Services within the Order.
- 7.9 The Supplier shall maintain appropriate insurance coverage in respect of any liability arising from its breach of obligations under the Order, including but not limited to professional indemnity, public liability, and cyber liability insurance, where applicable.

## 8. CUSTOMER'S OBLIGATIONS

- 8.1 The Customer shall:
- a) ensure that the terms of the Order are complete and accurate, and ensure that any information the Customer provides in the Service Specification and Equipment Specification is also complete and accurate.
  - b) co-operate with the Supplier as far as reasonable in all matters relating to the Services;
  - c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
  - d) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
  - e) prepare the Customer's premises for the supply of the Services;
  - f) comply with all applicable laws, including health and safety laws;

- g) comply with any policies issued by the Supplier including (but not limited to) acceptable use, security, and disaster recovery;
- h) respond to Supplier enquiries in a professional and timely manner;
- i) provide the Supplier with remote and (if requested) physical access to any systems that the Supplier supports;
- j) comply with the terms of any licence(s) applicable to the Services;
- k) keep all contact information provided to the Supplier up to date and correct in order to enable account management and technical notifications about the Services;
- l) if the Services include VoIP services, to keep the Supplier of any phone location changes in order to ensure details are correct for the use of 999 emergency services;
- m) keep the Supplier up to date with any changes to the infrastructure or environment relating to the Services that might impact on the performance of the Services;
- n) maintain any Equipment and insure any rented or loaned Equipment against all risks for its full value on the Suppliers behalf from the date of delivery;
- o) maintain any Equipment and ensure any rented or loaned Equipment from the Supplier is kept in good condition from the date of delivery;
- p) notify the Supplier as soon as reasonably possible of any loss of or damage to rented or loaned Hardware (fair wear and tear excepted) and, on request, reimburse the Supplier for the full price for any loss or damage to it;
- q) establish, maintain and monitor adequate internal security measures for the Customer's access and use of the Services including the confidentiality and safe storage of all login details, usernames and passwords and updating them regularly;
- r) use the Services for the Customer's business purposes only; and
- s) comply with any additional obligations as set out in any applicable Service Agreement and/or Service Specification and/or Equipment Specification associated with the relevant Order and any applicable Specific Terms and Conditions.

- t) return any loaned or rented Equipment to the Supplier well-packaged and in good condition (fair wear and tear excepted) within thirty (30) days of termination of Contract; and
  - u) where the Services include applications or other services provided by a Vendor, to comply with any terms, conditions and instructions issued by the Vendor.
- 8.2 The Customer shall not access or use the Services for any unlawful purpose including but not limited to:
- a) in any way which is likely to infringe the Intellectual Property Rights of a third party;
  - b) for the transmission, display, downloading or uploading of any material which is or could potentially be construed as defamatory, threatening, offensive, abusive, obscene or which will or is likely to cause unnecessary anxiety or inconvenience to a third party or which is otherwise unlawful;
  - c) attempting to gain unauthorised access to the Services;
  - d) attempting to modify, distribute, reverse engineer or otherwise attempting to decipher any code in connection with the Services and/or any other aspect of the Supplier's or the Supplier's licensor's technology;
  - e) in any way that is likely to cause damage or adversely affect the operation of the Services or interfere with or disrupt the Customer's website, other websites, servers or networks; and
  - f) in any way that will or could potentially interfere with the use and enjoyment of the Services for other users.
- 8.3 The Customer agrees that it will not market, offer to sell or resell the Supplier's Services to any third party.
- 8.4 If the Services include any services from a Vendor, the Customer agrees to be bound by the Vendor's terms and conditions applicable to such services.
- 8.5 If the Services include any Project work that is time and material charged the Customer accepts that:
- a) any failure by the Customer to adhere to the terms of this Contract and any other relating signed document, including but not limited to the Service Agreement and Specific Terms and Conditions, that leads to delays will result in target dates being extended and must accommodate fully the effects of such delay; and

- b) any delay that is directly or indirectly caused by any act or omission by the Customer may result in the Supplier charging the Customer for the effects of such a delay on a time and materials basis at its standard published day billing rates.
- 8.6 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):
  - a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
  - b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 8.6; and
  - c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.
- 8.7 To protect the legitimate business interests of the Supplier, the Customer covenants with the Supplier that it shall not (except with the prior written consent of the Supplier):
  - a) solicit or entice away or attempt to solicit or attempt to entice away from the employment or service of the Supplier the services of any Restricted Person other than by means of a national advertising campaign open to all-comers and not specifically targeted at such staff of the Supplier.
- 8.8 The Customer further covenants with the Supplier that it shall not, except with the prior written consent of the Supplier, employ or engage or otherwise facilitate the employment or engagement of any Restricted Person.
- 8.9 The Customer shall be bound by the covenants set out in clauses 8.7 and 8.8 during the term of the Contract, and for a period of 12 months after its termination or expiry.

8.10 If the Customer commits any breach of clause 8.7 or clause 8.8 the Customer shall, on demand, pay to the Supplier a sum equal to one year's basic salary or the annual fee that was payable by the Supplier to the Restricted Person plus the recruitment costs incurred by the Supplier or relevant in replacing such person. The Customer acknowledges that it has had the opportunity to obtain independent legal advice on the implications of this clause and agrees to be bound by it.

## 9. CHARGES AND PAYMENT

9.1 The price for Equipment:

- a) shall be the price set out in the relevant Quote or Proposal provided by the Supplier. If no such price is quoted, the price shall be the Supplier's published list price as at the date the Customer places the Order; and
- b) unless otherwise stated, shall be exclusive of all costs and charges of packaging, insurance, and transport of the Equipment.
- c) does not include Services relating to the Equipment, including but not limited to Services mentioned in the Service Agreement and/or Proposal.

9.2 The Supplier reserves the right to:

- a) Increase the charges for the Services on written notice to the Customer:
  - i. in line with the percentage increase in the Retail Prices Index, in the preceding 12-month period, the first such increase shall take effect on the first anniversary of the Commencement Date and shall be based on the latest available figure for the percentage increase in the Retail Prices Index or Average Earnings Index; and/or
    1. if the contract term is longer than 12 months, at the end of the agreement, the Supplier may increase the price by multiple percentage increases in the Retail Prices Index for each year the contract has been active.
  - ii. in line with any price increase levied upon the Supplier by a Vendor.

- b) increase the price of the Equipment, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Equipment to the Supplier that is due to:
    - i. any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
    - ii. any request by the Customer to change the delivery date(s), quantities or types of Equipment ordered, or the Equipment Specification;
    - iii. any delay caused by any instructions of the Customer in respect of the Equipment or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Equipment; or
    - iv. any price increase levied upon the Supplier by a Vendor.
- 9.3 Unless the parties otherwise agree, the following shall apply:
- a) the Supplier shall invoice the Customer on or at any time after the completion of the services, excluding Projects.
  - b) for recurring Services, fees payable by the Customer shall be as set out in the relevant Service Agreement.
  - c) where the Services include applications or other services provided by third parties, the Customer shall be liable for the full payment in respect to the entire term of each service, even where the term of that service exceeds the term of the Contract;
  - d) For the avoidance of doubt, the Customer acknowledges that termination of the Contract for any reason will not avoid its liability under clause **Error! Reference source not found.**
- 9.4 The Customer shall pay each invoice submitted by the Supplier:
- a) within fifteen (15) days of the invoice issue date or in accordance with any credit terms agreed by the Supplier and Customer in the relevant Service Agreement; and
  - b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract.
  - c) in accordance with the terms in the Proposal or relevant invoice in relation to a Project.

- 9.5 All amounts payable by the Customer 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 Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Equipment at the same time as payment is due for the supply of the Services or Equipment.
- 9.6 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 14 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment each month at a rate of 5.35% per thirty (30) days.
- a) this clause 9.6 shall survive the termination of the contract.
- 9.7 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).
- a) if the Customer has expressions of dissatisfaction, the Supplier shall address, at its sole discretion, after the Customer has paid, any remedies or resolution including, but not limited to, credit, refunds, or root cause analysis.

## 10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 Unless stated otherwise, all Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier or a third-party licensor.
- 10.2 The Customer acknowledges that it has no right, title, or interest in or to such Intellectual Property Rights other than as expressly set out in the Contract or as permitted by law.
- 10.3 The Customer shall indemnify and hold the Supplier harmless against any costs, liabilities, losses, and expenses including reasonable legal costs arising from any claim relating to the infringement of any third-party Intellectual Property Rights provided that:
- a) the Supplier gives notice of the claim;
  - b) the Customer has sole control and defence of the claim; and

- c) the Supplier provides reasonable cooperation in the defence and settlement of the claim.
- 10.4 The supplier shall grant the customer royalty free license to use any documents provided as part of the Service Agreement.
  - a) unless granted permission by the Supplier, the Customer shall not distribute documents externally.

## 11. DATA PROTECTION

- 11.1 The Customer and the Supplier acknowledge that the Customer is the Controller and the Supplier is a Processor, for the purposes of processing Protected Data pursuant to these Conditions. The Customer shall at all times comply with all Data Protection Laws in connection with the processing of Protected Data. The Customer shall ensure that all instructions that it gives to the Supplier in respect of Protected Data are in accordance with Data Protection Laws.
- 11.2 The Supplier shall process Protected Data in compliance with the obligations placed on it under Data Protection Laws and these Conditions.
- 11.3 The Supplier confirms that it has a valid registration with the Supervisory Authority. A copy of the Supplier's registration certificate is available for inspection on request.
- 11.4 The Supplier shall process Protected Data fairly and lawfully in accordance with clauses 11.5 and 11.6.
- 11.5 The Supplier shall ensure that it processes Protected Data on the basis of one or more of the following legal grounds:
  - a) the Data Subject has unambiguously given his or her consent;
  - b) processing is necessary for the performance of a Contract to which the Data Subject is a party of or in order to take steps at the request of the Data Subject prior to entering into a Contract;
  - c) processing is necessary for compliance with a legal obligation to which the parties are subject, other than an obligation imposed by Contract;
  - d) processing is necessary in order to protect the vital interests of the Data Subject;

- e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the parties; and/or
  - f) processing is necessary for the purposes of the legitimate interests pursued by the parties except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the Data Subject.
- 11.6 In addition to its obligations of at least one ground under clause 11.5 the Supplier shall ensure that it processes Sensitive Data on the basis of one or more of the following legal grounds:
- a) the Data Subject has given his or her explicit consent to the processing of the Sensitive Data;
  - b) processing is necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by law on the Controller in connection with employment;
  - c) processing is necessary to protect the vital interest of the Data Subject or of another person where the Data Subject is physically or legally incapable of giving his or her consent or the Controller cannot reasonably be expected to obtain the Data Subject's consent;
  - d) processing relates to data which has been made public as a result of steps taken by the Data Subject;
  - e) processing is for the purpose of or in connection with legal proceedings (including prospective legal proceedings), for obtaining legal advice or is otherwise necessary for the purpose of establishing, exercising, or defending legal rights;
  - f) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the parties;
  - g) processing is necessary for the purposes of preventing fraud; and/or
  - h) processing relates to racial or ethnic origin and is necessary to review the existence or absence of equality of opportunity or treatment with a view to enabling such equality to be promoted or maintained.

- 11.7 The Customer shall, in respect of Protected Data, ensure that their privacy notices are clear and provide sufficient information to the Data Subjects for them to understand what of their Protected Data the Customer is sharing with the Supplier, the circumstances in which it will be shared, how such data will be processed and either the identity of the Supplier or a description of the type of organisation that will receive the Protected Data.
- 11.8 The Customer and the Supplier both acknowledge that Data Subjects have the right to obtain certain information about the processing of their Personal Data through a Subject Access Request. In circumstances where the processing of a Data Subject's Personal Data is not in compliance with Data Protection Laws, Data Subjects may also request rectification, erasure or blocking of their Personal Data. Where the Supplier receives a Subject Access Request as a result of its processing Protected Data, the Customer shall provide all reasonable assistance at its own cost to enable the Supplier to respond to the Subject Access Request.
- 11.9 The Supplier shall not retain or process Protected Data for longer than is necessary. Any Protected Data in the Supplier's possession on the termination or expiry of the Contract will be returned to the Customer, upon request, within a reasonable amount of time, unless the Supplier is required by law to retain such Protected Data for a specified period.
- 11.10 The Supplier shall take reasonable steps to ensure the reliability of all its employees who have access to the Protected Data.
- 11.11 Each party warrants to the other that it will process the Protected Data in compliance with the Data Protection Laws and all codes, recommendations, and advice issued by the Supervisory Authority.
- 11.12 The Supplier warrants that, having regard to the state of technological development and the cost of implementing any measures, it will:
- a) take appropriate technical and organisational measures against the unauthorised or unlawful processing of Protected Data and against the accidental loss or destruction of, or damage to, Protected Data to ensure a level of security appropriate to:
    - i. the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
    - ii. the nature of the data to be protected; and
  - b) take reasonable steps to ensure compliance with those measures.

- 11.13 Subject to clause 13, each party agrees to indemnify and keep indemnified and defend at its own expense, the other party against all costs, claims, damages or expenses incurred by the other party or for which the other party may become liable due to any failure by the first party or its employees or agents to comply with any of its obligations under this clause 11.
- 11.14 The Customer acknowledges that, subject to clauses 11.5 and 11.6, the Supplier is reliant on the Customer for direction as to the extent to which the Supplier is entitled to use and process the Protected Data. Consequently, the Supplier will not be liable for any claim brought by a Data Subject arising from any action or omission by the Supplier, to the extent that such action or omission resulted directly or indirectly from the Customer's instructions or lack thereof.
- 11.15 The Supplier may authorise with the Customer's prior written consent (but not otherwise) a third party (subcontractor) to process the Personal Data, provided that the subcontractor's contract:
- a) is on terms which are substantially the same as those set out in these Conditions;
  - and
  - b) terminates automatically on termination of the Contract for any reason.
- 11.16 The Supplier will notify the Customer promptly of any Data Security Breach involving the Customer and use all reasonable endeavours to rectify it or mitigate against its effects. The Supplier will also report such Data Security Breach to the Supervisory Authority where required by Data Protection Laws. The Customer agrees to provide all necessary assistance at its own expense to the Supplier to facilitate the handling and resolution of the Data Security Breach in an expeditious and compliant manner.
- 11.17 In the event of a dispute or claim brought by a Data Subject or the Supervisory Authority concerning the processing of Protected Data against either or both parties, the parties will inform each other about any such disputes or claims and will cooperate with a view to settling them amicably in a timely fashion.
- 11.18 The parties agree to respond to any generally available non-binding mediation procedure initiated by a Data Subject or by the Supervisory Authority. If they do participate in the proceedings, the parties may elect to do so remotely (such as by telephone or other electronic means). The parties also agree to consider participating in any other arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.

- 11.19 The Supplier may without the consent of but by written notice to the Customer unilaterally amend this clause 11 to comply with changes in Data Protection Laws.
- 11.20 The Customer agrees that the Supplier may provide the Customer's contact details to any company that it uses to provide the Services solely for the purpose of delivering the Services.
- 11.21 The Customer agrees that the Supplier may store personal information for Customer relation purposes.
- a) After written request from the Customer, the Supplier shall remove all personal information stored for Customer relation within a reasonable time, considering the Supplier's existing workload and any additional or unforeseen Projects being undertaken by the Supplier.
  - b) This request shall be subject to limitations as defined in clause 12.8.

## 12. CONFIDENTIALITY

- 12.1. Confidential Information means all confidential information that the Customer discloses or makes available to the Supplier before, on, or after the date of this agreement. This includes:
- a) the fact that discussions and negotiations are taking place and the status of those discussions and negotiations;
  - b) the existence and terms of this agreement;
  - c) all confidential or proprietary information relating to:
    - i. the business, affairs, customers, clients, suppliers, plans, intentions, or market opportunities of the Customer; and
    - ii. the operations, processes, product information, know-how, technical information, designs, trade secrets or software of the Customer;
  - d) any information, findings, data or analysis derived from Confidential Information; and
  - e) any other information that is identified as being of a confidential nature; but excludes any information referred to in clause 12.2.

12.2. Information is not Confidential Information if:

- a) it is, or becomes, generally available to the public other than as a direct or indirect result of the information being disclosed by the Supplier in breach of this agreement;
- b) it was available to the Supplier on a non-confidential basis prior to disclosure by the Customer;
- c) it was, is, or becomes available to the Supplier on a non-confidential basis from a person who, to the Supplier's knowledge, is not under any confidentiality obligation in respect of that information;
- d) it was lawfully in the possession of the Supplier before the information was disclosed by the Customer;
- e) it is developed by or for the Supplier independently of the information disclosed by the Customer; or
- f) the parties agree in writing that the information is not confidential.

12.3. In return for the Customer making Confidential Information available to the Supplier, the Supplier undertakes to the Customer that it shall:

- a) keep the Confidential Information secret and confidential;
- b) not use or exploit the Confidential Information in any way except for complying with its obligations under the Contract;
- c) not directly or indirectly disclose or make available any Confidential Information in whole or in part to any person, except as expressly permitted by, and in accordance with, this agreement; and
- d) not copy, reduce to writing or otherwise record the Confidential Information except as necessary for complying with its obligations under the Contract.

12.4. The Supplier shall establish and maintain adequate security measures to safeguard the Confidential Information from unauthorised access or use.

12.5. The Supplier may disclose the Confidential Information to its **Representatives** on the basis that it:

- a) informs those Representatives of the confidential nature of the Confidential Information before it is disclosed; and
- b) procures that those Representatives comply with the confidentiality obligations in clause 12.3 as if they were the Supplier.

- 12.6. The Supplier shall be liable for the actions or omissions of employees, while acting within the course of employment, in relation to the Confidential Information as if they were the actions or omissions of the Supplier.
- 12.7. If so requested by the Customer, where practicable, at any time by notice in writing to the Supplier, the Supplier shall within a reasonable time, considering the Supplier's existing workload and any additional or unforeseen Projects being undertaken by the Supplier:
- a) destroy or return to the Customer all documents and materials (and any copies) containing, reflecting, incorporating, or based on the Customer's Confidential Information;
  - b) erase all the Confidential Information from its computer and communications systems and devices used by it, or which is stored in electronic form;
  - c) to the extent technically and legally practicable, erase all the Confidential Information which is stored in electronic form on systems and data storage services provided by third parties; and
  - d) certify in writing to the Customer that it has complied with the requirements of this clause 12.7.
- 12.8. Nothing in clause 12.7 shall require the Supplier to return or destroy any documents and materials containing or based on the Confidential Information that the Supplier is required to retain by applicable law, or to satisfy the requirements of a regulatory authority or body of competent jurisdiction or the rules of any listing authority or stock exchange, to which it is subject. The provisions of this agreement shall continue to apply to any documents and materials retained by the Supplier pursuant to this clause 12.8. Additionally, the Supplier shall not be required to delete specific customer data from backup sets where such deletion is technically impracticable without compromising the integrity of the entire backup set, provided that such data is securely stored and not used for any other purpose.
- 12.9. The Customer reserves all rights in its Confidential Information. The disclosure of Confidential Information by the Customer to the Supplier does not give the Supplier or any other person any licence or other right in respect of any Confidential Information beyond the rights expressly set out in this agreement.
- 12.10. Except as expressly stated in this agreement, the Customer makes no express or implied warranty or representation concerning its Confidential Information including, but not limited to, the completeness of the Confidential Information.

12.11. Without prejudice to any other rights or remedies that the Customer may have, the Supplier acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this agreement. Accordingly, the Customer shall be entitled to the remedies of injunctions, specific performance or other equitable relief for any threatened or actual breach of this agreement by the Supplier.

## 13. LIMITATION OF LIABILITY

13.1. Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- b) fraud or fraudulent misrepresentation;
- c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession).

13.2. Subject to clause 13.1, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for any of the following losses, whether direct or indirect, and whether or not such losses were reasonably foreseeable:

- a) pure economic loss;
- b) loss of profits;
- c) loss of sales or business;
- d) loss of agreements or contracts;
- e) loss of anticipated savings;
- f) loss of use or corruption of data;
- g) loss of or damage to goodwill;
- h) any indirect loss;
- i) loss of chance; or

- j) any consequential loss.
- 13.3. The Customer acknowledges that its use of the internet to access the Services (or part of the Services) is at its own risk and that the Supplier shall not be liable in respect of any goods, services, information, software or other material that the Customer may obtain from a third party when using the internet.
- 13.4. Subject to clause 13.1, the Supplier's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, arising under or in connection with the Contract (including any indemnity under it), shall be limited to:
  - a) in any Minimum Cancellation Notice Period, 100% of the charges paid in respect of such period; or
  - b) in all other cases, 100% of the total charges paid under the Contract.
- 13.5. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 13.6. The Customer acknowledges that it has read and understood this clause 13.
- 13.7. This clause 13 shall survive termination of the Contract.

## 14. TERMINATION

- 14.1. Unless otherwise stated in a Service Agreement or any Specific Terms and Conditions, the Contract shall continue until the Services and/or Equipment have been delivered in full, or until terminated by either party giving not less than thirty (30) days' written notice to the other. The Customer may not terminate individual Services separately from the Contract unless expressly permitted in a Service Agreement or any Specific Terms and Conditions.
- 14.2. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice:
  - a) the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within five Business Days after confirmed receipt by the recipient of notice in writing to do so;

- i. confirmed receipt includes but is not limited to email read receipt and written acknowledgment.
  - 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), 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 or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - 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 to such an extent that in the terminating party's reasonable opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 14.3. Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:
  - a) the Customer fails to pay any amount due under the Contract on the due date for payment; or
  - b) there is a change of control of the Customer.
- 14.4. Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Equipment under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 14.2.b) to clause 14.2.d), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

## 15. CONSEQUENCES OF TERMINATION

15.1. On termination of the Contract:

- a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Equipment for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
  - i. Equipment supplied shall be valued as it was first given in the original Quote or Proposal.
- b) the Customer shall return any Deliverables or Equipment which have not been fully paid for or loaned. If the Customer fails to do so, then the Supplier may, on giving reasonable notice, without force or causing damage, enter the Customer's premises and take possession of them. Until the Equipment has been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract

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

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

## 16. FORCE MAJEURE

16.1. Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure results from events, circumstances, or causes beyond its or, in the case of the Supplier, its own suppliers' reasonable control. These include: (a) natural disasters or "acts of God," such as lightning, tornadoes, hurricanes, tsunamis, floods and earthquakes; (b) manmade disasters, such as plant fires or floods; (c) war and civil issues, such as riots, civil unrest, acts of terrorism; (d) labour disputes or strikes; (e) government embargoes or other government actions affecting the supply chain; and (f) power outages or transportation issues.

- 16.2. Clause 16.1 above shall not apply in respect of any failure or delay by the Customer to make any payment to the Supplier that falls due under the Contract.
- 16.3. The affected party shall notify the other party as soon as reasonably practicable of the occurrence of a force majeure event and its expected duration.

## 17. GENERAL

### 17.1. Assignment and other dealings

- a) The Supplier shall not assign or transfer its rights or obligations under the Contract without the prior written consent of the Customer, except that the Supplier may subcontract or delegate performance of its obligations to third parties.
- b) the Customer shall not assign, transfer, mortgage, charge, subcontract, 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 Supplier which shall not be unreasonably withheld, conditioned or delayed.

### 17.2. Notices

- a) any notice or other communication given to the Supplier in connection with the Contract shall be sent by email to the relevant contact(s) within the Service Agreement, or if no Service Agreement is provided, the Partner Management email address as defined in the relevant Order.
- b) any notice or other communication given to the Customer in connection with the Contract shall be sent by email to the Customer contact(s) as defined in the relevant Order, or, where applicable, the relevant contact(s) in a Service Agreement.
- c) any notice or other communication shall be deemed to have been received upon confirmation of receipt. This takes the form of email read receipts or written confirmation.
- d) this clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

- 17.3. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal, or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal, and enforceable. If such modification is not possible, the relevant provision or part-provision, shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 17.4. **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not 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 the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 17.5. **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.
- a) the Supplier may use the word "Partner" to refer to the Customer, whilst continuously giving full effect to clause 17.5, but instead referring to the nature of the Supplier's etiquette and behaviour toward the Customer.
- 17.6. **Entire agreement.**
- a) the Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
  - b) each party acknowledges that in entering into the Contract 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 the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Contract.
  - c) nothing in this clause shall limit or exclude any liability for fraud.
  - d) The Customer acknowledges that it has had the opportunity to review this Agreement and, if desired, to seek independent legal advice before entering into it.

- 17.7. **Third parties' rights.** 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.
- 17.8. **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).
- a) upon the event of any documents within the Contract being updated, all previous versions of the updated document become unenforceable.
- 17.9. **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.
- 17.10. **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.
- 17.11. **Execution.** Both parties agree that the signing of the Contract and/or Order electronically shall be as valid as if signed in manuscript.