

M.H.T. TECHNOLOGY LIMITED'S TERMS AND CONDITIONS OF SALE AND SUPPLY

The Buyer's attention is in particular drawn to the provisions of Condition 10 (Limitation of liability).

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these Conditions.

Business Day: a day, other than a Saturday, Sunday or public holiday in England, when clearing banks are open for non-automated commercial business in the City of London.

Buyer: the person, firm or company who purchases the Products and/or Services from the Company.

Buyer Default: has the meaning given in Condition 7.2.

Company: M.H.T. Technology Limited registered in England and Wales under company number 2920632.

Company Materials: has the meaning given in Condition 7.1(f).

Conditions: the Company's terms and conditions of sale and supply set out in this document.

Contract: the contract between the Company and the Buyer for the sale and purchase of Products and/or Services, incorporating these Conditions.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.

Data Protection Legislation: the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data.

Deliverables: the Services deliverables set out or referred to in the Sales Order Confirmation produced by the Company for the Buyer.

Delivery Location: has the meaning given in Condition 4.1.

EULA: the Company's end user licence agreement as at the date of the Contract upon which the Software which forms part of the Products is licensed to the Buyer.

Force Majeure Event: has the meaning given in Condition 15.4.

Incoterms 2010: the 2010 version of the international trade terms of the International Chamber of Commerce.

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, 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.

Products: any goods or products (including hardware, equipment and Software) agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).

Sales Order Confirmation: the sales order confirmation form provided in writing by the Company to the Buyer and which incorporates these Conditions by reference.

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

Service Specification: the description or specification for the Services set out or referred to in the Sales Order Confirmation.

Software: the computer programmes in the form of a set of operating instructions and data which may be coded into micro-electronic machine readable form for the purpose of processing data, self verification and the control of associated Products in response to such data.

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

Warranty Period: has the meaning given in Condition 9.2.

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular. A reference to one gender includes a reference to the other genders.

1.4 Any words following the terms **including, include, in particular** 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.

1.5 Condition headings do not affect the interpretation of these Conditions.

2. APPLICATION OF TERMS

2.1 Subject to any variation under Condition 2.4 or Condition 2.11, the Contract shall be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer seeks to impose or purports to apply under any purchase order, confirmation of order, specification or other document and any terms and conditions which are implied by trade, custom, practice or course of dealing).

2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

- 2.3 All of these Conditions shall apply to the supply of both Products and Services except where application to one or the other is specified.
- 2.4 Except as set out in these Conditions, no variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, the Company.
- 2.5 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.
- 2.6 That Buyer 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 made or given by or on behalf of the Company (whether made or given innocently or negligently) that is not set out in the Contract. The Buyer agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Contract
- 2.7 Each order or acceptance of a quotation for Products and/or Services by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Products and/or Services subject to these Conditions.
- 2.8 No order placed by the Buyer shall be deemed to be accepted by the Company until a Sales Order Confirmation is issued by the Company or (if earlier) the Company delivers the Products to the Buyer or begins performance of the Services, at which point and on which date the Contract shall come into existence.
- 2.9 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate and shall indemnify the Company against any losses caused as a result of a breach of this Condition 2.9.
- 2.10 Any quotation given by the Company shall not constitute an offer to supply Products and/or Services and is incapable of being accepted by the Buyer. Any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.
- 2.11 The Software is licensed subject to these terms and the EULA. Where there is any conflict between the terms of these conditions and the EULA, the EULA shall prevail.

3. SPECIFICATION

- 3.1 The specification, quantity and description of the Products shall be as set out in or referred to in the Sales Order Confirmation.
- 3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Products and/or Services described in them. They shall not form part of the Contract and this is not a sale by sample. The Company gives no warranties and makes no representations to the Buyer in relation to the country of origin of the Products or Services, unless confirmed in writing by a director of the Company.
- 3.3 If any specification, process or materials supplied by the Buyer are applied to or used in connection with the Products and/or Services, the Buyer shall indemnify the Company against all liabilities, costs, expenses, damages and losses whatsoever suffered by the Company as a result of the use of that specification, process or materials. On termination or expiry of the Contract, howsoever caused, the Company's rights contained in this Condition 3.3 shall remain in effect.
- 3.4 The Company may change the specification or design of the Products and/or Services where such changes are required to conform with any applicable statutory, regulatory or European Union requirements.

4. DELIVERY

- 4.1 Delivery of the Products shall be ex-works (as defined in the Incoterms 2010) and shall take place at the Company's place of business or at such other location as the Company and the Buyer may agree (**Delivery Location**). The Buyer shall collect the Products from the Delivery Location within five Business Days of the Company notifying the Buyer that the Products are ready.
- 4.2 Any dates specified by the Company for delivery of the Products are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 4.3 If for any reason the Buyer fails to take delivery of any of the Products within three Business Days of the Company notifying the Buyer that the Products are ready for delivery:
- the Products shall be deemed to have been delivered at 9.00am on the third Business Day following the day on which the Company notified the Buyer that the Products were ready for delivery;
 - the Company may store the Products until delivery takes place and charge the Buyer for all related costs and expenses (including, without limitation, storage and insurance); and
- 4.4 If, ten Business Days after the Company notified the Buyer that the Products were ready for delivery the Buyer has not taken delivery of them, the Company may sell the Products at the best price readily available and (after deducting all reasonable expenses) account to the Buyer for the excess over the price of the Products or charge the Buyer for any shortfall below the price of the Products.
- 4.5 The Buyer shall provide at the Delivery Location and at its expense adequate and appropriate equipment and manual labour for loading the Products.
- 4.6 The Company may deliver the Products by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 4.7 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.
- 4.8 The quantity of any consignment of Products as recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

- 4.9 The Company shall have no liability for any failure to deliver the Products to the extent that the failure to deliver the Products is caused by a Force Majeure Event or because the Buyer has not provided appropriate instructions, documents, licences or authorisations. The Company shall not be liable for any other non-delivery of Products (even if caused by the Company's negligence) unless the Buyer gives written notice to the Company of the non-delivery within 14 days of the date when the Products would in the ordinary course of events have been delivered.
- 4.10 Any liability of the Company for non-delivery of the Products shall be limited to replacing the Products within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Products.
- 4.11 Where Products are to be exported:
- (a) The Buyer is responsible for satisfying itself that the Products comply with all laws and regulations applicable to their intended use in the country to which they are exported; and
 - (b) the Buyer is responsible at its own cost for the procurement of any import or export licence or other consent required in relation to the Products.
- 4.12 If the Contract provides for testing or inspection of the Products by or on behalf of the Buyer prior to delivery, whether at the Company's premises or elsewhere, the Company shall give the Buyer notice that the Products are available for testing and the Buyer shall have 7 days to perform such inspections. If the Buyer fails to do so, or within 14 days of the Buyer having carried out the inspection, the Buyer does not notify the Company in writing that the Products are not in accordance with the Contract and detailing the discrepancy complained of, then the Buyer shall be conclusively deemed to have accepted the Products and shall not be entitled to reject the Products or claim damages or compensation from the Company on the grounds of any loss or defect which such testing or inspection revealed or would have revealed had the testing or inspection been carried out.
- 5. RISK/TITLE**
- 5.1 The Products are at the risk of the Buyer from the time of delivery.
- 5.2 Ownership of the Products shall not pass to the Buyer until the earlier of:
- (a) the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
 - i. the Products; and
 - ii. all other sums which are or which become due to the Company from the Buyer on any account; and
 - (b) the Buyer resells the Products, in which case ownership of the Products shall pass to the Buyer at the time specified in Condition 5.7.
- 5.3 Until ownership of the Products has passed to the Buyer, the Buyer shall:
- (a) store the Products (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
 - (b) not remove, destroy, deface or obscure any identifying mark or packaging on or relating to the Products;
 - (c) maintain the Products in satisfactory condition and keep them insured on the Company's behalf from the date of delivery for their full price against all risks to the reasonable satisfaction of the Company. On the Company's request, the Buyer shall produce the policy of insurance to the Company;
 - (d) notify the Company immediately if it becomes subject to any of the events listed in Condition 5.4; and
 - (e) give the Company such information relating to the Products as the Company may require from time to time.
- 5.4 The Buyer's right to possession of the Products shall terminate immediately if:
- (a) the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or
 - (b) the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or
 - (c) the Buyer encumbers or in any way charges any of the Products.
- 5.5 The Company shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed from the Company.
- 5.6 The Buyer grants the Company, its agents and employees an irrevocable licence at any time before ownership of the Products has passed to the Buyer to enter any premises where the Products are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.
- 5.7 Subject to Condition 5.8, the Buyer is entitled to use or resell the Products in the ordinary course of its business before ownership has passed. However, if the Buyer resells the Products before ownership has passed:
- (a) the Buyer does so as principal and not as the Company's agent; and
 - (b) ownership of the Products shall pass from the Company to the Buyer immediately before the time at which resale by the Buyer occurs.
- 5.8 If before ownership of the Products passes to the Buyer, the Buyer becomes subject to any of the events listed in Condition 5.4, then, without limiting any other right or remedy the Company may have:

- (a) the Buyer's right to resell Products or use them in the ordinary course of its business ceases immediately; and
 - (b) the Company may at any time:
 - i. require the Buyer to deliver up all Products in its possession which have not been resold, or irrevocably incorporated into another product; and
 - ii. if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Products are stored in order to recover them.
- 5.9 On termination or expiry of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this Condition 5 shall remain in effect.

6. SUPPLY OF SERVICES

- 6.1 The Company shall use reasonable endeavours to supply the Services to the Buyer in accordance with the Service Specification in all material respects.
- 6.2 The Company shall use reasonable endeavours to meet any performance dates for the Services specified or referred to in the Sales Order Confirmation, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 6.3 The Company may amend the Service Specification if the amendment will not materially affect the nature or quality of the Services.
- 6.4 The Company warrants to the Buyer that the Services will be provided using reasonable care and skill.

7. BUYER'S OBLIGATIONS IN RELATION TO SERVICES

7.1 The Buyer shall:

- (a) co-operate with the Company in all matters relating to the Services;
- (b) provide the Company, its employees, agents, consultants and subcontractors, with access to the Buyer's premises, office accommodation and other facilities as reasonably required by the Company to provide the Services;
- (c) provide the Company with such information and materials as the Company may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (d) prepare the Buyer's premises for the supply of the Services;
- (e) 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;
- (f) comply with all applicable laws, statutes, regulations and codes from time to time in force, including all applicable requirements of Data Protection Legislation;
- (g) keep all materials, equipment, documents and other property of the Company (**Company Materials**) at the Buyer's premises in safe custody at its own risk, maintain the Company Materials in good condition until returned to the Company, and not dispose of or use the Company Materials other than in accordance with the Company's written instructions or authorisation; and
- (h) comply with any additional obligations as set out in the Service Specification.

7.2 If the Company's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Buyer its agents, subcontractors, consultants or employees or by any 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 Company 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 Company's performance of any of its obligations;
- (b) the Company shall be entitled to payment of the charges for the Services despite any such Buyer Default;
- (c) the Company shall not be liable for any costs or losses sustained or incurred by the Buyer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this Condition 7.2; and
- (d) the Buyer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Buyer Default.

8. PRICE AND PAYMENT

- 8.1 Unless otherwise agreed by the Company in writing, the price for the Products shall be the price set out in the Sales Order Confirmation and all prices shall be on an EXW (as defined in Incoterms 2010) basis.
- 8.2 The price for the Products shall be exclusive of all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Products.
- 8.3 The charges for Services shall be the charges set out in the Sales Order Confirmation, and if no charges are set out in the Sales Order Confirmation or additional charges are payable under the Contract, the charges or additional charges shall be calculated in accordance with the Company's service rates, as set out in the Company's "Price Book Schedule of Service Charges" at the date of the Contract.
- 8.4 The Company is entitled to charge the Buyer for any expenses incurred by the individuals whom the Company engages in connection with the Services, including travelling expenses, hotel costs, subsistence and any associated expenses, calculated in accordance with the Company's service rates as set out in the Company's "Price Book Schedule of Service Charges" at the date of the Contract, and for the cost of services provided by third parties and required by the Company for the performance of the Services, and for the cost of any materials.

- 8.5 All amounts payable by the Buyer under the Contract are exclusive of any amounts in respect of value added tax, any similar sales tax or any tax that replaces such value added tax, sales taxes and other taxes and exclusive of any duties, all of which amounts the Buyer shall pay in addition at the same time as payment is due for the supply of Products or Services.
- 8.6 In respect of Products, the Company may invoice the Buyer once the Products are available for delivery. In respect of Services, the Company shall invoice the Buyer at the times and/or intervals set out in the Sales Order Confirmation, and if no such times or intervals are set out in the Sales Order Confirmation, weekly or monthly in arrear at the Company's sole discretion.
- 8.7 Subject to Condition 8.9 and unless otherwise set out in the Sales Order Confirmation, the Buyer shall pay each invoice submitted by the Company in pounds sterling within 30 days of the date of the invoice. Time for payment shall be of the essence. The Company may set and vary credit limits from time to time and withhold all further supplies if the Buyer exceeds such credit limit. The payment terms in this Condition 8.7 and the Contract may be reduced or withdrawn by the Company at any time without notice upon any failure by the Buyer to pay any sum due pursuant to the Contract by the due date of payment.
- 8.8 No payment shall be deemed to have been received until the Company has received cleared funds.
- 8.9 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.
- 8.10 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, withholding, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.
- 8.11 If the Buyer fails to pay the Company any sum due pursuant to the Contract by the due date for payment, then, without limiting the Company's remedies under Condition 13 (Termination), the Buyer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Barclays Bank plc and at 4% a year for any period when that base rate is below 0%, accruing on a daily basis until payment is made, whether before or after any judgment. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

9. QUALITY OF PRODUCTS

- 9.1 Where the Company is not the manufacturer of the Products, the Company shall endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Company.
- 9.2 The Company warrants that (subject to the other provisions of these Conditions) on delivery and for a period of 12 months thereafter (**Warranty Period**) the Products shall:
- (a) be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
 - (b) be reasonably fit for the purpose for which they were designed.
- 9.3 The Company shall not be liable for a breach of any of the warranties in Condition 9.2 unless:
- (a) the Buyer gives written notice of the defect to the Company within 12 months of delivery, and, if the defect is as a result of damage in transit to the carrier, within 14 days of the time when the Buyer discovers or ought to have discovered the defect; and
 - (b) the Company is given a reasonable opportunity after receiving the notice of examining such Products and the Buyer (if asked to do so by the Company) returns such Products to the Company's place of business at the Buyer's cost for the examination to take place there.
- 9.4 If after investigation the defect is found not to be the Company's responsibility under this Condition 9, the Company may charge the Buyer for all reasonable expenses incurred by the Company in relation to the investigation of the defect.
- 9.5 The Company shall not be liable for a breach of any of the warranties in Condition 9.2 if:
- (a) the Buyer makes any further use of such Products after giving such notice; or
 - (b) the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products or (if there are none) good trade practice; or
 - (c) the Buyer alters or repairs such Products without the written consent of the Company or, having received such consent, not in accordance with the Company's instructions; or
 - (d) the defect arises as a result of fair wear and tear, wilful damage, negligence on the part of the Buyer, or abnormal working conditions.
- 9.6 Subject to Condition 9.3 and Condition 9.5, if any of the Products do not conform with any of the warranties in Condition 9.2 the Company shall at its option repair or replace such Products (or the defective part) or refund the price of such Products at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Buyer's expense, return the Products or the part of such Products which is defective to the Company.
- 9.7 If the Company complies with Condition 9.6 it shall have no further liability for a breach of any of the warranties in Condition 9.2 in respect of such Products.
- 9.8 The terms of these Conditions shall apply to any repaired or replacement Products supplied by the Company, save that the Warranty Period in respect of such repaired or replacement Products shall be the balance remaining of the Warranty Period for the original Products which they repaired or replaced.

10. LIMITATION OF LIABILITY

- 10.1 Subject to Condition 4 and Condition 9, the following provisions of this Condition 10 set out the extent of the Company's liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation).
- 10.2 The Company shall have 28 days to remedy any breach of these Conditions and if done so, the Company shall have no further liability to the Buyer.

- 10.3 Except as set out in these Conditions, all warranties, conditions and other terms, whether express or implied by statute, common law or otherwise (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 10.4 Nothing in these Conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence, or under section 2(3), Consumer Protection Act 1987, or for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or for fraud or fraudulent misrepresentation.
- 10.5 Subject to Conditions 10.2, 10.3 and 10.4:
- (a) the Company's total liability in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise, arising under or in connection with the Contract shall not exceed the aggregate sums paid by the Buyer and all sums payable under the Contract in respect of Products and Services actually supplied by the Company, whether or not invoiced to the Buyer; and
 - (b) the Company shall not be liable to the Buyer for any of the following:
 - i. loss of profit;
 - ii. loss of use or corruption of software, data or information;
 - iii. loss of production;
 - iv. loss of sales or business or opportunity;
 - v. loss of agreements or contracts;
 - vi. loss of savings, discount or rebate (whether actual or anticipated);
 - vii. damage to or depletion of goodwill;
 - viii. indirect, special or consequential loss.
- 10.6 The Company shall make every effort to ensure the accuracy of all documentation associated with the Products and Services, however, accepts no liability in contract, tort, under statute or otherwise for any loss or damage suffered arising directly or indirectly from any error or omission in such documentation, technical data or literature.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 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 Buyer) shall be owned by the Company.
- 11.2 The Company grants to the Buyer, or shall procure the direct grant to the Buyer, of, a worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy the Deliverables (excluding materials provided by the Buyer) for the purpose of receiving and using the Services and the Deliverables in its business.
- 11.3 The Buyer shall not sub-license, assign or otherwise transfer the rights granted by Condition 11.2.
- 11.4 The Buyer grants the Company a worldwide, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Buyer to the Company for the term of the Contract for the purpose of providing the Services to the Buyer.

12. CONFIDENTIALITY

- 12.1 Each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by Condition 12.2. For the purposes of this Condition 12, **group** means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.
- 12.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Condition 12; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
- 12.4 This Condition 12 shall survive termination or expiry of the Contract.

13. TERMINATION

- 13.1 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 its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice 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), 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 opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 13.2 Without affecting any other right or remedy available to it, the Company may terminate the Contract with immediate effect by giving written notice to the Buyer if:
- (a) the Buyer 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 Buyer.
- 13.3 Without affecting any other right or remedy available to it, the Company may suspend the supply of Services or all further deliveries of Products under the Contract or any other contract between the Company and the Buyer if the Buyer fails to pay any amount due under the Contract on the due date for payment, the Buyer becomes subject to any of the events listed in Condition 13.1(b) to Condition 13.1(d) inclusive, or the Company reasonably believes that the Buyer is about to become subject to any of them.
- 14. CONSEQUENCES OF TERMINATION**
- 14.1 On termination of the Contract:
- (a) the Buyer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services and Products supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Buyer immediately on receipt;
 - (b) the Buyer shall return all of the Company Materials and any Deliverables or Products which have not been fully paid for. If the Buyer fails to do so, then the Company 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.
- 14.2 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.
- 14.3 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.
- 15. GENERAL**
- 15.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 15.2 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 Condition shall not affect the validity and enforceability of the rest of the Contract..
- 15.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 15.4 The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Products or Services ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials (a **Force Majeure Event**), provided that, if the event in question continues for a continuous period in excess of 30 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.
- 15.5 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 15.6 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 15.7 The Company may at any time assign, transfer, 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. 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 Company.
- 15.8 A notice or communication given to a party under or in connection with these Conditions shall be in writing in English and sent to the party at the address set out in the Contract or as otherwise notified in writing to the other party.
- 15.9 This Condition 15.9 sets out the delivery methods for sending a notice to a party under these Conditions and, for each delivery method, the date and time when the notice is deemed to have been received or given (provided that all other requirements of this Condition and Condition 15.8 have been satisfied and subject to the provision in Condition 15.10):
- (a) if delivered by hand, at the time the notice is left at the address;
 - (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00am on the second Business Day after posting;
 - (c) if sent by pre-paid airmail, at 9.00am on the fifth Business Day after posting; or
 - (d) if sent by email, at the time of transmission.

- 15.10 If deemed receipt under Condition 15.9 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this Condition 15.10, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 15.11 The notice provisions in these Conditions do 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.
- 15.12 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law, and the parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).