

KAJIMA PARTNERSHIPS LIMITED

TERMS AND CONDITIONS

FOR THE

PROCUREMENT OF GOODS AND SERVICES

1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

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

Commencement Date: has the meaning set out in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 19.7.

Contract: the contract between the Customer and the Supplier for the supply of Goods and/or Services in accordance with these Conditions.

Customer: Kajima Partnerships Ltd registered in England and Wales with company number 03841821. and whose registered office is at 55 Baker Street London W1U 8EW

Customer Materials: has the meaning set out in clause 5.5(i).

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Force Majeure Event: means and shall be limited to the following but no further or otherwise:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- (f) collapse of buildings, fire, explosion or accident; and
- (g) interruption or failure of utility service.

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any related plans and drawings, that are agreed in writing by the Customer and the Supplier.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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.

Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's specific purchase order form that must contain a specific order number.

Services: the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

Service Specification: the description or specification for Services agreed in writing by the Customer and the Supplier.

Supplier: the person or firm from whom the Customer purchases the Goods and/or Services.

1.2 **Construction.** In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a references to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to **writing** or **written** includes faxes and e-mails.

2. **BASIS OF CONTRACT**

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

2.2 The Order shall be deemed to be accepted on the earlier of:

- (a) the Supplier issuing written acceptance of the Order; or
- (b) any act by the Supplier consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

3. SUPPLY OF GOODS

3.1 The Supplier shall ensure that the Goods shall:

- (a) correspond with their description and any applicable Goods Specification;
- (b) conform with any sample, pattern, mock-up, drawing or design approved or supplied by the Customer;
- (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgment including in respect of quality in terms of materials, manufacture and workmanship;
- (d) meet any standard of inspection or of performance stated or referred to in this Order or otherwise communicated by the Customer to the Supplier;
- (e) where applicable, be free from defects in design, materials and workmanship; and
- (f) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods;
- (g) where the Goods are intended for use at work within the scope of the provisions of the Health and Safety At Work, etc., Act 1974, the Supplier shall ensure that, where the Supplier is a manufacturer, it complies with all its duties and obligations under such Act and further shall be responsible for ensuring that any applicable statutory, safety and environmental requirements which relate to the use of the Goods by the Customer are satisfied;

3.2 No provision of the Order shall operate to exclude limit or restrict the liability of the Supplier under statute or at common law in respect of the design, manufacture or supply of the Goods and/or for any defects in them

3.3 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

3.4 The Customer shall have the right to inspect and test the Goods at any time before delivery.

3.5 If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall (but without prejudice to the Customer's rights and remedies under clause 6) inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

3.6 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Customer shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

4. DELIVERY OF GOODS

4.1 The Supplier shall ensure that:

- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
- (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any), , details of the contents of each such container or package in which the Goods are delivered and such container or package shall be marked to show the correct side up and the slinging point and if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- (c) if the Supplier requires the Customer to return any packaging material for the Goods to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.

4.2 The Supplier shall deliver the Goods:

- (a) on the date and time specified in the Order or, if no such date is specified, then within 10 days of the date of the Order, and time shall be of the essence relation to dates or times for delivery specified in the Order;
- (b) to the Customer's premises at 55 Baker Street London W1U 8EW or such other location as is set out in the Order or as instructed by the Customer before delivery (**Delivery Location**);
- (c) during the Customer's normal hours of business on a Business Day, or as instructed by the Customer.

4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

4.4 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 6.1.

4.5 Testing

The Customer shall have the general right to inspect the Goods and require the Supplier to test and/or prove to the satisfaction of the Customer the suitability of the Goods at any stage or place of production, assembly, manufacture, transportation or delivery.

4.6 Design

Where the Supplier is to design, specify or select materials in the performance of the Order, the Supplier shall furnish the Customer with a single reproducible copy of all drawings, details, documentation or information ("the Supplier Materials") which subject to Customer approval may be reasonably necessary to enable the Supplier to develop or complete such design, specification or selection. The Supplier hereby grants to the Customer an irrevocable royalty-free licence to use and copy the Supplier Materials for all purposes in connection with the Goods or this Contract.

4.7 Risk in the Goods shall pass to the Customer on completion of delivery

4.8 Title in the Goods shall pass to the Customer on the earlier of completion of delivery or payment of the price for the Goods.

5. SUPPLY OF SERVICES

5.1 The Supplier shall from the date set out in the Order and for the duration of the Contract provide the Services to the Customer in accordance with the terms of the Contract.

5.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Customer.

5.3 The Services and the performance of the Services shall: -

- (a) correspond as to description, quantity, quality and time with the express requirements of this Contract;
- (b) conform with any with any Service Specification ;
- (c) conform with any requirements approved or supplied by the Customer;
- (d) meet any standard of inspection or of performance stated or referred to in this Contract or otherwise communicated by the Customer to the Supplier;
- (e) be fit for any purpose expressly or impliedly made known to the Supplier or otherwise for their ordinary purposes.

5.4 Where any goods are provided as part of the Services the provisions of clause 3.1 shall apply to such goods.

5.5 In providing the Services, the Supplier shall:

- (a) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
- (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;
- (d) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in any Service Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Customer;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
- (g) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
- (h) observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;
- (i) hold all materials, equipment and tools, drawings, specification, data and (if applicable) goods supplied by the Customer to the Supplier (**Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation; and
- (j) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services.

5.6 Without prejudice to its other obligations the Supplier warrants that it will use the skill, care and diligence to be expected of a competent Supplier experienced in providing services of similar nature and scale to those being provided under the Contract.

5.7 The Supplier shall make all applications, give all notices and pay all fees required by and shall fully comply with the provisions of any Act of Parliament, any instrument, rule or order made under any Act of Parliament or any regulation or bye-law of any local authority or of any statutory undertaken or any conditions attached to any notice served under such Act, instrument sale or order, regulation or bye-law or any codes of practice, guidance notes and recommendations for the time being in force and approved by the Health and Safety Commission or published by the Health and Safety Executive as may be reasonably required in the provision of the Services..

5.8 **Performance**

Performance of the Services shall be at the times so specified subject only to any extension granted under clause 9 and time shall be of the essence in relation to performance of the Services under the Contract.

5.9 **Property**

Title in any goods provided as part of the Services shall pass to the Customer as soon as such goods have been incorporated in the property of the Customer or upon payment of the Price whichever is earlier.

5.10 **Risk**

The work done and goods supplied in the course of the Services and each part of them shall be at the risk of the Supplier until completion of the Services and the Supplier shall protect the Services as may be reasonably necessary to prevent damage to them until completion of the Services.

6. CUSTOMER REMEDIES

6.1 In respect of Goods and/or Services

If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, the Customer shall, without limiting its other rights or remedies, have one or more of the following rights:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
- (c) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods and/or services from a third party;
- (d) where the Customer has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and
- (e) to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

6.2 In respect of Goods

6.2.1 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting its other rights or remedies, the Customer shall have one or more of the following rights, whether or not it has accepted the Goods:

- (a) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- (b) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure or loss incurred by the Customer in obtaining substitute goods from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 3.1.

6.2.3 The Customer shall not be liable for loss or damage to or return of any packages, pallets, casks or other packaging or handling materials in the return of any Goods in exercise of the foregoing rights.

6.2.3 In the event of the Customer exercising any one of the rights set out in clause 3.1, the Customer shall be entitled so notify the Supplier in writing and, upon despatch of such notification, risk in the Goods to which such notification applies shall revert to the Supplier.

6.3 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

6.4 The Customer's rights under the Contract are in addition to its rights and remedies implied by statute and common law.

7. CUSTOMER'S OBLIGATIONS

The Customer shall:

- (a) provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services and such access will be in common with other persons on the premises and will not be exclusive to the Supplier;
- (b) provide such information as the Supplier may reasonably request for the provision of the Services and the Customer considers reasonably necessary for the purpose of providing the Services; and
- (c) Provide any Customer Materials to the Supplier in sufficient time as agreed between the Customer and Supplier to enable the Supplier to meet its obligations under the Contract

8. CHARGES AND PAYMENT

8.1 The price for the Goods:

- (a) shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date;
- (b) shall be inclusive of the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by the Customer. No extra charges shall be effective unless agreed in writing and signed by the Customer; and
- (c) shall not in any circumstances be subject to any increase unless agreed by way of variation pursuant to clause 9

8.2 The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

8.3 Invoicing

8.3.1 In respect of Goods, the Supplier shall, on or at any time after completion of delivery or cancellation of the Order, provide the Customer with an invoice indicating: -

- (i) details of the Goods delivered and prices;
- (ii) any amounts due in respect of modifications or variations to the Goods pursuant to clause 9 delivered in the preceding month;
- (iii) the amount of value added tax properly chargeable by the Supplier; and
- (iv) the number of the Order;

such invoices to be supported by such documents, vouchers or receipts as may be required by the Customer.

8.3.2 In respect of Services the Supplier shall at monthly intervals or as stated on Order, provide the Customer with an invoice indicating: -

- (a) details of the Services properly performed and prices for the same, calculated on the basis of any pricing information set out or referred to in the Order or the Services Specification (as the case may be), failing which on a fair and reasonable basis having regard to the nature of and market rate for the Services;
- (b) any amounts due in respect of modifications or variations to the Services performed pursuant to clause 9 in the preceding month;
- (c) the amount of value added tax properly chargeable by the Supplier; and
- (d) the Contract number;

8.3.3 Such invoices to be supported by such documents, vouchers or receipts as may be required by the Customer. Payment of amounts properly included in such invoices shall become due upon receipt by the Customer of a properly submitted invoice

8.4 Payment

8.4.1 For Goods

The Customer shall pay to the Supplier the amount properly due to the Supplier under Contract not later than the last day of the month following that in which the invoice was properly submitted, provided that the Customer may make any deduction or deferment or set-off against the amount stated on any invoice permitted by the Contract or by any statute or at common law;

8.4.2 For the Services

Payments shall be made not later than the last day of the calendar month following that in which they become due. The Customer may, by notice in writing to the Supplier of not less than five days before the latest date for making any payment, state its intention to withhold or deduct any sum from such payment, the grounds for doing so and the amount attributable to each ground. Provided it serves such a notice the Customer may make any deduction or deferment or set-off permitted by this Contract, statute or common law, against the sum otherwise payable to the Supplier.

8.4.3 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 Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

8.5 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 4% per annum above HSBC Plc base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments that the defaulting party disputes in good faith.

8.6 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.

8.7 The Customer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

9. VARIATIONS

9.1 As relates to the Goods

(i) Right to vary

The Customer may at any time prior to despatch or shipment of any of the Goods by notice in writing require the Supplier to carry out any modifications or variation to the Goods. Provided that the necessity for the same shall not have arisen because of any breach of the Contract by the Supplier.

(ii) Time for Delivery

Where, in the opinion of the Customer, any such modification or variation required under this clause 9.1 shall prevent the Supplier from delivering any of the Goods in accordance with the delivery dates specified, the Customer shall, by notice in writing to the Supplier, grant a fair and reasonable extension to any of the delivery dates affected.

(iii) Price

The Supplier and the Customer shall endeavour to agree in advance a fixed change to the Price in respect of any variation instructed pursuant to this clause 9.1. In the absence of such agreement, and provided:

(aa) the Supplier has notified the Customer in writing of any extra cost outlined by the Supplier as a result of such variation prior to incurring such cost; and

(bb) that the necessity for the same shall not have arisen because of any breach of the Contract, negligence, omission or default by the Supplier, its servants, agents, sub-contractors or other persons engaged by the Supplier upon this Order;

the reasonable cost of giving effect to such modification or variation shall be payable by the Customer to the Supplier.

9.2 As relates to Services

(a) Right to vary

The Customer may by notice in writing vary the Services or the time for their performance at any time..

(b) Variation of Completion Date

Where, in the opinion of the Customer any such variation or any breach of this Contract by the Customer shall prevent the Supplier from performing the Services in accordance with the completion dates stated in this Contract, the Customer shall, by notice in writing to the Supplier, grant a fair and reasonable extension to the completion dates.

(c) Variation to Price

If any notice issued under this Contract shall require the Supplier to undertake work not provided for in, or reasonably inferred from, this Contract and provided that such instruction has not arisen from, and compliance with it does not reveal any negligence,

omission or default of the Supplier his servants, agents, sub-contractors, suppliers or other persons engaged by the Contractor upon the Services, the Price shall be adjusted by a fair and reasonable additional amount to be agreed with the Customer in writing. Otherwise, the Supplier shall not be entitled to any additions to the Price nor to claim, whether as damages or otherwise, any additional payment in respect of compliance by the Supplier with any such instruction.

10. SUSPENSION AND CANCELLATION

10.1 The Customer shall be entitled by written notice to the Supplier: -

- (a) to suspend or postpone the delivery of any of the Goods and postpone the Services (as the case may be);
- (b) to cancel this Contract in whole or in part at any time and the Customer shall be liable to pay the Supplier in accordance with this Contract for Goods or Services (as the case may be) which have been delivered or performed up to the date of such cancellation and (provided the Supplier was not in breach of the Contract at the time of such cancellation) shall also pay the Supplier its reasonable compensation incurred by the cancellation of the Contract provided such compensation shall not include loss of anticipated profits or any consequential loss and shall not include costs other than have been wholly incurred by the Supplier in the performance of the Contract and are not otherwise recoverable.

If when the Contract is cancelled the Supplier is in breach of the Contract, then the rights of the Customer and the Supplier shall be the same as if the Supplier had, by such negligence, omission or default, or other breach repudiated the Contract, and the Customer had and by written notice accepted such repudiation. In the event of cancellation of Services pursuant to clause 10.1, without prejudice to any other right or remedy, the Customer shall be entitled to procure substitute Services and to recover from the Contractor any loss incurred in so doing

11. INTELLECTUAL PROPERTY RIGHTS

11.1 In respect of the Goods and any goods that are transferred to the Customer as part of the Services under this Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Customer, it will have full and unrestricted rights to sell and transfer all such items to the Customer.

11.2 The Supplier assigns to the Customer, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including for the avoidance of doubt the Deliverables.

11.3 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

11.4 The Supplier shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with clause 11.2.

11.5 All Customer Materials are the exclusive property of the Customer.

11.6 **Removal of trademarks:** The Customer reserves the right to remove any trademarks and to alter the state, packaging and get up of any Goods and in the goods supplied as part of the Services

12. INDEMNITY

12.1 The Supplier shall keep the Customer indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to 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 reasonable professional costs and expenses) suffered incurred by the Customer as a result of or in connection with:

- (a) any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
- (b) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
- (c) any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.

12.2 This clause 12 shall survive termination of the Contract.

13. INSURANCE

During the term of the Contract and in the case of the Services for a period of 3 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, adequate professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

14. CONFIDENTIALITY

- 14.1 A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- 14.2 The Supplier shall not take any photographs of the Customer's premises or property or of goods supplied pursuant to this Contract for any purpose whatsoever and shall not otherwise refer to the Order of the Contract for the purposes of advertising without the prior written agreement of the Customer.
- 14.3 This clause 14 shall survive termination of the Contract.

15. ANTI-BRIBERY

- 15.1 The Supplier shall:
- (a) comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);
 - (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - (c) have and shall maintain in place throughout the term of Contract its own policies and procedures ("**the Relevant Policies**"), including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and the Relevant Policies and will enforce them where appropriate;
 - (d) promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Contract;
- 15.2 The Supplier shall ensure that any person associated with the Supplier who is performing services or providing goods in connection with the Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this 15 (**Relevant Terms**). The Supplier shall be responsible for

the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Customer for any breach by such persons of any of the Relevant Terms.

16. TERMINATION

16.1 Without limiting its other rights or remedies, the Customer may terminate the Contract pursuant to clause and 10.1:

16.2 In any of the circumstances in these Conditions in which a party may terminate the Contract, where both Goods and Services are supplied, that party may terminate the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.

16.3 Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:

- (a) the Supplier commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 Business Days of receipt of notice in writing to do so;
- (b) the Supplier repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;
- (c) the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (d) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- (f) the Supplier (being an individual) is the subject of a bankruptcy petition or order;
- (g) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

- (h) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier (being a company);
- (i) the holder of a floating charge over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (j) a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
- (k) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 16.3(c) to clause 16.3(j) (inclusive);
- (l) the Supplier suspends or ceases, or threatens to suspend, or cease, to carry on all or a substantial part of its business;
- (m) the other party's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (n) the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

16.4 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

16.5 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

17. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

18. FORCE MAJEURE

18.1 Provided it has complied with clause 18.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under the Contract by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of the Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

- 18.2 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.
- 18.3 The Affected Party shall:
- (a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than 2 Business Days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Contract; and
 - (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 18.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 5 Business Days the party not affected by the Force Majeure Event may terminate the Contract by giving 5 Business Days written notice to the Affected Party.

19. GENERAL

19.1 Assignment and other dealings.

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

19.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 19.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.

- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

- 19.3 **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.
- 19.4 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 19.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- 19.6 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 19.7 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Customer.
- 19.8 **Governing law.** 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 the law of England and Wales.
- 19.9 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).