KDC PROJECTS

Terms and Conditions of Sale

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Terms and Conditions of Sale

1 Interpretation

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

Definitions:

Agreed Purposes: to enable the Customer to comply with its regulatory obligations in relation to the vetting of the Supplier's personnel and to enable the Supplier to carry out the Services.

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

Change Order: has the meaning given in clause 9.1.

Commencement Date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 26.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures: as set out in the UK Data Protection Legislation in force at the time.

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

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

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

DAN: a delivery acceptance note in respect of all or an element of the Services in the Supplier's standard form.

Data Discloser: a party that discloses Shared Personal Data to the other party.

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 (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

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

Delivery Location: has the meaning given in clause 4.2.

Force Majeure Event: has the meaning given to it in clause 18.

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

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

Intellectual Property Rights: patents, rights to inventions, copyright and neighbouring and related 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, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information, 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.

KDC Entity: **KDC Projects Limited** registered in England and Wales with company number 07494487 or **KDC Engineering Limited** registered in England and Wales with Company Number 11888254, as applicable.

Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form.

Permitted Recipients: the parties to the Contract, the employees of each party and any third parties engaged to perform obligations in connection with the Contract.

Services: the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Statement of Work.

Shared Personal Data: the personal data to be shared between the parties under clause 12 of these Conditions. Shared Personal Data shall be confined to the following categories of information relevant to the individuals employed or engaged by the Supplier to carry out the Services:

- Full Name
- Full Address
- Home and Mobile Numbers
- Email Address
- Date and Place of Birth
- Nationality and Immigration Status
- Former/Dual Nationality
- Gender
- National Insurance Number
- Marital Status
- Address History for last 5 years

- Emergency Contact Details
- Employment History for last 3 years and references
- Current Security Clearance Held
- Criminal Record Information
- Health Information
- Passport and Proof of Address.

Statement of Work: the description or specification for the Services provided in writing by the Supplier to the Customer.

Supplier: means the KDC Entity that provides the Goods and/or Services to the Customer.

Supplier Materials: has the meaning given in clause 8.1.8.

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*) (**GDPR**); 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.

1.1 Interpretation:

1.1.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.1.2 A reference to a party includes its successors and permitted assigns.

1.1.3 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.

1.1.4 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.

1.1.5 A reference to **writing** or **written** includes fax and email.

2 Basis of Contract

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

2.2 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**).

2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.

2.4 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.

2.5 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

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

3 Goods

3.1 The Goods are described in the Goods Specification.

3.2 To the extent that the Goods are to be manufactured in accordance with a Goods 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 reasonable 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 Goods Specification. This clause 3.2 shall survive termination of the Contract.

3.3 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

4 Delivery of Goods

4.1 The Supplier shall ensure that:

4.1.1 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

4.1.2 it states clearly on the delivery note 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 Supplier shall deliver the Goods 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 Goods are ready.

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

4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event 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 Goods.

4.5 If the Supplier fails to deliver the Goods, its liability shall be limited to refunding any sums paid in advance by the Customer to the Supplier for the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

4.6 If the Customer fails to accept delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are 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 Goods:

4.6.1 delivery of the Goods shall (for the purposes of invoicing and transfer of risk) be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and

4.6.2 the Supplier shall store the Goods until physical delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

4.7 If ten Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken physical delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, charge the Customer for any shortfall below the price of the Goods.

4.8 If the Supplier delivers up to and including 5% more or less than the quantity of Goods ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Goods was delivered, the Supplier shall make a pro rata adjustment to the invoice for the Goods.

4.9 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5 Quality of Goods

The Supplier will use reasonable endeavours to procure that the Customer has the benefit of the manufacturer's guarantee for the Goods. Subject to this, the Supplier gives no warranty in relation

to the quality of the Goods. The Customer acknowledges that its rights are subject to the terms and conditions of the manufacturer's guarantee.

6 Title and Risk

6.1 The risk in the Goods shall pass to the Customer on completion of delivery.

6.2 Title to the Goods shall not pass to the Customer until the earlier of:

6.2.1 the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and

6.2.2 the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 6.4.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

6.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;

6.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 16.2.2 to clause 16.2.3; and

6.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.

6.4 Subject to clause 6.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:

6.4.1 it does so as principal and not as the Supplier's agent; and

6.4.2 title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.

6.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 16.2.2 to clause 16.2.3, then, without limiting any other right or remedy the Supplier may have:

6.5.1 the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and

6.5.2 the Supplier may at any time:

(a) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and

(b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

7 Supply of Services

7.1 The Supplier shall supply the Services to the Customer in accordance with the Statement of Work in all material respects.

7.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Statement of Work, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

7.3 The Supplier reserves the right to amend the Statement of Work 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.

7.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

7.5 The Customer shall have no claim against the Supplier in connection with the Services unless notice of such claim is given to the Supplier in writing within 10 Business Days of the Customer signing the DAN (or being deemed to sign the DAN) relating to the Services in question in accordance with clause 10.5.

8 Customer's Obligations

8.1 The Customer shall:

8.1.1 ensure that the terms of the Order and any information it provides in the Statement of Work and the Goods Specification are complete and accurate;

8.1.2 co-operate with the Supplier in all matters relating to the Services;

8.1.3 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;

8.1.4 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;

8.1.5 prepare the Customer's premises for the supply of the Services;

8.1.6 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;

8.1.7 comply with all applicable laws, including health and safety laws;

8.1.8 keep all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk and fully insured, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation; and

8.1.9 comply with any additional obligations as set out in the Statement of Work and the Goods Specification.

8.2 The Customer shall not, without the prior written consent of the Supplier, at any time from the Commencement Date to the expiry of 12 months after the termination or expiry of the Contract, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the Supplier in the provision of the Goods and/or or Services. In this respect:

8.2.1 In the event the Customer breaches the provisions of clause 8.2, the Customer shall pay to the Supplier, as liquidated damages, a sum equivalent to 50% of the then current annual remuneration of the relevant employee, consultant or subcontractor or, if higher, 50% of the annual remuneration to be paid by the Customer to that employee, consultant or subcontractor. The Customer shall pay these liquidated damages on demand.

8.2.2 The Customer acknowledges that the liquidated damages referred to in clause 8.2 are reasonable and proportionate to protect the non-defaulting party's legitimate business interests.

8.3 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**):

8.3.1 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;

8.3.2 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 8.3; and

8.3.3 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.

9 Change Control

9.1 Either party may propose changes to the scope or execution of the Services but no proposed changes shall come into effect until a Change Order has been signed by both parties. A Change

Order shall be a document setting out the proposed changes and the effect that those changes will have on:

9.1.1 the Services;

9.1.2 the Supplier's existing charges;

9.1.3 the timetable of the Services; and

9.1.4 any of the terms of the Contract.

9.2 If the Supplier wishes to make a change to the Services it shall provide a draft Change Order to the Customer.

9.3 If the Customer wishes to make a change to the Services:

9.3.1 it shall notify the Supplier and provide as much detail as the Supplier reasonably requires of the proposed changes, including the timing of the proposed changes; and

9.3.2 the Supplier shall, as soon as reasonably practicable after receiving the information at Clause 9.3.1, provide a draft Change Order to the Customer.

9.4 If the parties:

9.4.1 agree to a Change Order, they shall sign it and that Change Order shall amend the Contract; or

9.4.2 are unable to agree a Change Order the Contract shall continue unamended.

9.5 The Supplier may charge for the time it spends on preparing and negotiating Change Orders which implement changes proposed by the Customer pursuant to Clause 9.3 on a time and materials basis at the Supplier's then daily rates.

10 Charges and Payment

10.1 The price for the Goods:

10.1.1 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 as at the date of the order; and

10.1.2 shall be exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be invoiced to the Customer.

10.2 The charges for the Services shall be specified in the Statement of Work.

10.3 The Supplier reserves the right to increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:

10.3.1 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);

10.3.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or

10.3.3 any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods.

10.4 In respect of the Goods, the Supplier shall invoice the Customer in accordance with the payment schedule set out in the Order or as otherwise agreed by the parties in writing.

10.5 In respect of the Services, the Supplier shall invoice the Customer in accordance with the payment schedule set out in the Statement of Work. In this respect:

10.5.1 the payment schedule will be linked to delivery of each element of the Services with delivery being deemed to have occurred upon the signing of, or deemed signature of, a DAN in accordance with clause 10.5.2 and/or 10.5.3;

10.5.2 on completion of delivery of each element of the Services the Supplier will issue a DAN which the Customer shall sign; and

10.5.3 if the Customer fails to sign the DAN it shall be deemed signed by the Customer five (5) Business Days after the date of issue.

10.6 The Customer shall pay each invoice submitted by the Supplier:

10.6.1 within 30 days of the date of the invoice; and

10.6.2 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.

10.7 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 Goods at the same time as payment is due for the supply of the Services or Goods.

10.8 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 16 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 10.8 will accrue each day at 5% a year above the Bank of England's base rate from time to time, but at 5% a year for any period when that base rate is below 0%.

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

11 IT Downtime Charges

11.1 The Customer acknowledges that where the Supplier has been granted direct access to the Customer's IT systems in order to undertake all or any part of the Services, the following provisions shall apply:

11.1.1 the Supplier shall have no liability to the Customer if it is prevented from or delayed in the provision of the Services due to any failing of the Customer's IT systems such as an outage, connection issue or other event which prevents the Supplier from carrying out the Services (**Customer IT Issue**);

11.1.2 in the event the Supplier's engineers are unable to carry out any of the Services due to a Customer IT Issue, the Supplier shall, in addition to the charges for the Services, be entitled to charge the Customer such sums as set out in the Supplier's then current rate card calculated by reference to the idle time incurred by the Supplier's engineers until such time as the Supplier's engineers are able to recommence the Services (**IT Downtime Charges**).

12 Intellectual Property Rights

12.1 Save to the extent specifically agreed between the parties in the Statement of Work, all Intellectual Property Rights in the Deliverables shall be owned by the Customer, save that nothing in the Contract shall operate to transfer any Intellectual Property Rights in the know how or methodology employed by the Supplier in the performance of the Services, such Intellectual Property Rights shall remain at all times with the Supplier and/or its licensors.

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

13 Data Protection

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

13.2 Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate the Contract with immediate effect.

13.3 Each party shall:

13.3.1 ensure that it has all necessary notices and consents in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;

13.3.2 give full information to any data subject whose personal data may be processed under the Contract of the nature of such processing. This includes giving notice that, on the termination of the Contract, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;

13.3.3 process the Shared Personal Data only for the Agreed Purposes;

13.3.4 not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;

13.3.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by the Contract;

13.3.6 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data;

13.3.7 not transfer any personal data received from the Data Discloser outside the EEA unless the transferor:

(a) complies with the provisions of Articles 26 of the GDPR (in the event the third party is a joint controller); and

(b) ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the GDPR; or (ii) there are appropriate safeguards in place pursuant to Article 46 GDPR; or (iii) Binding corporate rules are in place or (iv) one of the derogations for specific situations in Article 49 GDPR applies to the transfer.

13.4 Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:

13.4.1 consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;

13.4.2 promptly inform the other party about the receipt of any data subject access request;

13.4.3 provide the other party with reasonable assistance in complying with any data subject access request;

13.4.4 not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever possible;

13.4.5 assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection

Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;

13.4.6 notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation; and

13.4.7 at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of the Contract unless required by law to store the personal data.

14 Confidentiality

14.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 14.2.

14.2 Each party may disclose the other party's confidential information:

14.2.1 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 clause 14.2; and

14.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

14.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

15 Limitation of liability

15.1 The restrictions on liability in this clause 15 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

15.2 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:

15.2.1 death or personal injury caused by negligence;

15.2.2 fraud or fraudulent misrepresentation; and

15.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

15.3 Subject to clause 15.2, the Supplier's total liability to the Customer shall not exceed the higher of £3,000 or 3% of the total price paid by the Customer to the Supplier under the Contract.

15.4 Subject to clause 15.2, the following types of loss are wholly excluded by the parties:

15.4.1 loss of profits;

15.4.2 loss of sales or business;

15.4.3 loss of agreements or contracts;

15.4.4 loss of anticipated savings;

15.4.5 loss of use or corruption of software, data or information;

15.4.6 loss of or damage to goodwill; and

15.4.7 indirect or consequential loss.

15.5 The Supplier has given commitments as to compliance of the Goods and Services with relevant specifications in clause 5 and clause 7. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

15.6 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of its having grounds to make a claim in respect of the event and shall expire 6 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

15.7 This clause 15 shall survive termination of the Contract.

16 Termination

16.1 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract by giving the Customer not less than three (3) months' written notice.

16.2 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:

16.2.1 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 30 days after receipt of notice in writing to do so;

16.2.2 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;

16.2.3 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;

16.2.4 the provisions of clause 18 (force majeure) apply.

16.3 Without affecting any other right or remedy available to it, the Supplier may also terminate the Contract with immediate effect by giving written notice to the Customer if:

16.3.1 the Customer fails to pay any amount due under the Contract on the due date for payment; or

16.3.2 there is a Change of Control of the Customer.

16.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods 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 16.2.2 or clause 16.2.3, or the Supplier reasonably believes that the Customer is about to become subject to any of them.

17 Consequences of termination

17.1 On termination of the Contract:

17.1.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied or work-in-progress (as recorded on the Supplier's systems) but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt; and

17.1.2 the Customer shall return all of the Supplier Materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have 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.

17.2 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.

17.3 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.

18 Force majeure

18.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

18.1.1 acts of God, flood, drought, earthquake or other natural disaster;

18.1.2 epidemic or pandemic;

18.1.3 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;

18.1.4 nuclear, chemical or biological contamination or sonic boom;

18.1.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition;

18.1.6 collapse of buildings, fire, explosion or accident;

18.1.7 non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and

18.1.8 interruption or failure of utility service.

18.2 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.

18.3 The Affected Party shall:

18.3.1 as soon as reasonably practicable after the start of the Force Majeure, 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

18.3.2 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 8 weeks, the party not affected by the Force Majeure Event may terminate the Contract by giving 4 weeks written notice to the Affected Party.

This clause 18 shall not operate to relieve the Customer from its obligation to pay all charges due under the Contract.

19 Assignment and other dealings

19.1 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

19.2 The Customer 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 Supplier.

20 Notices

20.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

20.2 For the purposes of clause 20.1 the address for service for the Supplier is: Building 307, Aviation Park West, Bournemouth Airport, Dorset, BH23 6NW.

20.3 Any notice shall be deemed to have been received:

20.3.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and

20.3.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.

20.4 This clause 20 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

20.5 A notice given under the Contract is not valid if sent by email.

21 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 21 shall not affect the validity and enforceability of the rest of the Contract.

22 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 right or remedy. 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.

23 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.

24 Entire agreement

24.1 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.

24.2 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 based on any statement in the Contract.

24.3 Nothing in this clause shall limit or exclude any liability for fraud.

25 Third parties rights

25.1 Unless it expressly states otherwise, 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.

25.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

26 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).

27 Governing law and Jurisdiction

27.1 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.

27.2 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.