

1. **DEFINITIONS AND INTERPRETATION**

1.1 In these terms and conditions ("Conditions") the words and expressions below will have the following meanings: -

Contract

the agreement between the Customer and the Supplier for the sale and purchase of the Goods and/or Services incorporating these Conditions and any Special Conditions.

Confidential Information

any and all information acquired by the Supplier about the business of the Customer and/or any Group Company and/or given by the Customer to the Supplier and/or generated by the Supplier from such information;

Control

As defined in section [1124](#) of the Corporation Tax Act 2010 [and the expression change of Control shall be construed and the expression accordingly.](#)

"Customer "

Dale Power Solutions Limited (Registered Number 00941798) whose registered office is at Salter Road, Eastfield Industrial Estate, Scarborough YO11 3DU;

Customer IPR

as defined in condition 9.2.

Deliverables

the products of the Services in any media, including any documents, products and/or materials developed for the Customer as part of the Services;

Goods

any goods which the Supplier is to supply to the Customer as agreed in the Contract and which may be listed in the Order (including any part or parts of them) including any Deliverables;

Group Company.

any holding company or subsidiary company of the Customer or any company which is a subsidiary company of the holding company of the Customer, where the expressions holding company and "subsidiary" have the meanings in section 1159 of the Companies Act 2006, and includes Dale Erskine Power Solutions Limited (registered number 07945832) and its wholly owned subsidiaries and "Group Companies" shall be construed accordingly;

Intellectual Property Rights

patents, rights to inventions, copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, rights in confidential information and any other intellectual property rights, in each case whether registered or unregistered and including all applications (and rights to apply) for, and renewals or extensions of, such rights and all rights of action for infringement of 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;

Liability

liability for actions, awards, costs, claims, damages, losses (including without limitation any direct or indirect consequential losses), demands, expenses, loss of profits, loss of reputation, judgments, penalties and proceedings and any other losses and/or liabilities.

Order

the Customer's written instruction to supply the Goods and/or Services, incorporating these Conditions and any Special Conditions;

Personal Data

any personal data as defined in the Data Protection Act 1998 (as amended) which is disclosed by the Customer to the Supplier or otherwise obtained by the Supplier in connection with the Contract;

Services

any services which the Supplier is to supply to the Customer as agreed in the Contract and which may be listed in the Order (including any part or parts of them) and including the provision of the Deliverables.

Special Conditions

any special conditions set out in the Order.

Supplier

the person to whom the Order is addressed.

Trade Marks

any trade mark owned or licensed to the Customer or any Group Company (whether registered or unregistered).

Working Day

from 8.30 am until 4.50pm from Monday to Thursday (inclusive) and 8.30am until 3.10pm on Friday excluding bank or public holidays in England.

1.2 In these Conditions

1.2.1 the headings used in these Conditions shall not affect the construction or interpretation of the Conditions.

1.2.2 reference to 'writing' or similar expressions shall include reference to any communication effected by facsimile, electronic mail and/or any comparable means but shall not include communication by SMS or similar text messaging facilities;

1.2.3 reference to a prohibition against doing any act or thing includes a reference to not permitting, suffering or condoning that act or thing to be done;

1.2.4 use of words such as "including", "include", "in particular" or similar terms are to be construed in each case as if the term "without limitation" is implied into the sentence incorporating these words; it being noted and agreed that any list of items following the word "including" or "includes" or "in particular" is not to be construed as being exhaustive or as excluding any item which might have been included in such list having regard to the context of the contractual term in question;

1.2.5 calculations of periods of notice are, unless expressly stated otherwise, to be calculated on the basis of clear days following the date of receipt or deemed receipt of the notice;

1.2.6 reference to a party includes that party's successors and permitted assigns;

1.2.7 words indicating a person shall include bodies of persons whether corporate or incorporate and vice versa;

1.2.8 reference to any statute or statutory provision includes a reference to the same as from time to time amended, extended, re-enacted or consolidated and all subordinate legislation made pursuant to it and including any other similar legislation in any other jurisdiction;

1.3 The phrase "and/or" means either of the alternatives and both of the alternatives as the case may be.

1.4 Where a party incurs an obligation under these Conditions and such obligation is created by the use of words such as "shall", "will", "undertakes to", "must", "agrees to" or any other verb which implies that a party has so incurred such obligation, it is agreed that all obligations shall not be distinguishable from one another by reason only of the verb used when creating such obligation. Any obligation by a party not to do any act or thing shall be deemed to include an undertaking not to permit or suffer the doing of that act or thing.

1.5 Any reference to "procure" or "ensure" shall create a primary obligation and not a secondary obligation or guarantee.

2. APPLICATION

2.1 Unless otherwise agreed in writing by the Customer these Conditions and any Special Conditions are the only terms and conditions upon which the Customer shall purchase Goods and/or Services and shall apply to the exclusion of all other terms and conditions (save for those implied by law in

favour of the Customer) including any terms or conditions specified or referred to in any document or materials (including any quotation and/or order acknowledgement form) issued by the Supplier.

- 2.2 No terms or conditions submitted or referred to by the Supplier (whether before or after the date of the Order) in any documentation or orally shall change, modify, supplement, explain or form part these Conditions unless expressly agreed in writing by authorised representatives of the Customer.
- 2.3 In the event of any conflict or inconsistency between these Conditions and the Special Conditions the Special Conditions shall prevail to the extent of any conflict or inconsistency only.
- 2.4 No variation to these Conditions shall be binding unless made in writing and signed by an authorised representative of each party.
- 2.5 Any typographical, clerical, or other error or omission in any offer, Order or other document, material or information issued by the Customer shall be subject to correction without any Liability on the part of the Customer.
- 2.6 The Supplier agrees to supply the Goods and/or Services to the Customer in accordance with these Conditions and any Special Conditions, in consideration of payment of the price by the Customer.
- 2.7 Each Order shall be deemed to be an offer by the Customer to purchase the Goods and/or Services subject to these Conditions and any Special Conditions.
- 2.8 The Contract shall come into existence at the earlier of when the Supplier has notified the Customer in writing of its acceptance of the Order or when the Supplier performs any act consistent with fulfilling the Order.
- 2.9 Without Liability, the Customer may cancel any Order before the Supplier has notified the Customer in writing of its acceptance of the Order.
- 2.10 The Customer may also cancel any Order which has been accepted by the Supplier in writing at any time by providing written notice to the Supplier prior to delivery of the Goods or performance of the Services (as the case may be). The Customer shall not be liable to pay any sums in respect of a cancelled Order after acceptance by the Supplier other than in respect of the unavoidable costs incurred by the Supplier and the time and resources already spent by the Supplier in respect of that Order, such payment shall not in any event exceed the price set out in that Order. The Supplier will provide fully supported details of such costs, time, and resources on an open book basis.

3. DELIVERY AND PERFORMANCE

- 3.1 The Supplier shall fulfil each Contract strictly in accordance with the terms thereof. Time for delivery of the Goods and for performance of the Services shall be of the essence.
- 3.2 If the Supplier becomes unable to fulfil any Contract in accordance with its terms, then, without limiting or excluding the Supplier's Liability, the Supplier will immediately inform the Customer in writing as to the extent to which it is unable to fulfil any Contract.
- 3.3 If any Goods are delivered and/or any Services are performed by the Supplier in default of the terms of the Contract the Customer shall be entitled (but not obliged) to:
 - 3.3.1 refuse to accept the provision of any further Goods and/or Services by the Supplier and to require the immediate repayment by the Supplier of all sums previously paid by the Customer to the Supplier under the Contract; or
 - 3.3.2 to require the Supplier, without charge to the Customer, to carry out such additional work as is necessary to correct the Supplier's failure; and
 - 3.3.3 in any case, to claim such Liability as it may have sustained in connection with the Supplier's breach (or breaches) of any Contract not otherwise covered by the provisions of this condition 3.3.
- 3.4 If the Supplier:
 - 3.4.1 delivers less than the quantity of Goods ordered, the Customer may reject the Goods; or
 - 3.4.2 delivers more than the quantity of Goods ordered, the Customer may at its sole discretion reject the Goods or the excess Goods.

and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

- 3.5 Nothing contained in the Contract shall in any way release the Supplier from the Supplier's duties and obligations in law.
- 3.6 The Goods shall be delivered to the delivery address on the delivery date (each as set out in the Order). Unless otherwise stated on the Order, the Goods will be delivered between 8.30am and 4pm if the delivery date is on a Monday to Thursday (inclusive) or between 8.30am and 12 noon if the delivery date is on a Friday.
- 3.7 Each delivery of Goods shall be accompanied by an advice note stating the full description, weight, measure, order number, part number, batch number and expiry date. All ancillary paperwork and literature (including without limitation invoices) shall include the same information, the outer packaging of Goods or, where packaged Goods are delivered in a carton, then such carton, must be clearly and securely marked with the Authorised Order number, the CE Mark, product code and the number of stock keeping units in the carton.
- 3.8 If Goods are delivered before the delivery date specified in the Order then the Customer shall be entitled in its sole discretion to refuse to take delivery or charge for insurance and storage of Goods until the contractual date for delivery.
- 3.9 No third party carrier (other than the Customer's distribution agent) engaged to deliver the Goods shall at any time be an agent of the Customer and accordingly the Supplier shall be liable to the Customer for the acts and omissions of all third party carriers engaged by the Supplier to deliver Goods to the Customer.
- 3.10 The Customer shall not be obliged to return to or account to the Supplier for any packaging materials for Goods.
- 3.11 If the Customer agrees to accept delivery of Goods by instalments and to be invoiced for each instalment despatched, each instalment delivery shall nevertheless constitute part of one contract as recorded in the relevant Contract and shall not constitute separate contracts.
- 3.12 Signature on behalf of the Customer of a delivery note or other document presented for signature on delivery or collection of Goods is evidence only of the number of pallets or packages received and not that the correct quantity or number of Goods have been delivered or that they otherwise meet the requirements of the Contract.
- 3.13 The Services shall commence on the date set out in the Order and shall be provided by the Supplier for the period set out in the Order or, if no period is set out in the Order, shall be completed in full to the satisfaction of the Customer by the delivery date set out in the Order.
- 3.14 The Supplier shall submit each Deliverable to the Customer for approval. If the Customer does not approve of the Deliverables the Customer shall submit a request to change the Deliverables within a reasonable timescale and the Supplier shall rectify the Deliverables and re-submit them to the Customer for approval at no additional cost to the Customer.
- 3.15 The Supplier shall provide the Goods and/or Services in all respects in accordance with:
- 3.15.1 any relevant specification(s) and/or quality requirements referred to or set out in the Order.
 - 3.15.2 the Contract.
 - 3.15.3 the reasonable directions and/or instructions of the Customer.
 - 3.15.4 any service levels agreed between the parties.
 - 3.15.5 a high level of skill and care and in a timely and prompt manner.
 - 3.15.6 all applicable legislation from time to time in force, and the Supplier shall notify the Customer as soon as it becomes aware of any changes in that legislation;
 - 3.15.7 best practice prevailing in the Supplier's industry from time to time; and
 - 3.15.8 such of the Customer's policies and procedures as are notified to the Supplier from time to time, including the Customer's policies and procedures relating to information security and health and safety.

4. **QUALITY**

- 4.1 The Customer reserves the right to carry out such testing and inspections on Goods as the Customer considers necessary to ensure that Goods tendered for delivery are supplied in conformity with the

Contract. The costs of such testing in relation to non-conforming Goods shall be charged to and paid by the Supplier.

4.2 The Supplier warrants that the Goods will for a period of 12 months from delivery, or for such longer period as is set out in the Order, or otherwise agreed between the parties in writing.

4.2.1 conform to the any relevant specification(s) and/or quality requirements referred to or set out in the Order.

4.2.2 be of satisfactory quality, free from defects in materials and workmanship and fit and suitable for the purposes for which they are normally used or the proposed use as advised by Customer to the Supplier.

4.2.3 where specified, only branded items shall be supplied, all such branded items shall be originals and provided from legitimate sources.

4.2.4 comply with all applicable statutory and regulatory requirements in the United Kingdom.

4.2.5 be free from design and other inherent defects; and

4.2.6 meet all the requirements of the Contract.

4.3 In addition to the warranties provided by the Supplier under these Conditions, the Supplier also provides the Goods and/or Services in accordance with and for the period of its standard warranty provided in relation to the Goods and/or Services.

5. **ACCEPTANCE AND REJECTION**

5.1 The Customer shall not be treated as having accepted any Goods and/or Services until it has had a reasonable time to inspect them following delivery or after any latent defect has become apparent.

5.2 Neither any inspection or testing by the Customer or its representatives whether before or after physical delivery of Goods or performance of the Services nor the signing of any delivery note or other document acknowledging physical receipt of any Goods or Services shall constitute evidence of acceptance or approval of Goods and/or Services.

5.3 The Customer may reject any Goods and/or Services that are defective or damaged or otherwise manufactured not in accordance with the Contract by giving notice to the Supplier.

5.4 Without prejudice to any rights or remedies of the Customer, any Goods and/or Services are found to be defective or not in accordance with the requirements of the Contract, the Supplier shall promptly and at its own cost and expense, repair or replace such Goods, re-perform any defective Services and/or refund the price for the Goods and/or Services in full as the Customer directs.

5.5 Where the Customer discovers more than one defective unit in any given batch of Goods delivered at the same time, the Customer shall be entitled to reject the entire batch.

5.6 Consignment or part deliveries may be rejected unless the Customer has agreed in writing to accept such deliveries.

6. **PROPERTY/RISK**

6.1 The risk in each shipment of Goods shall not pass to the Customer until the Customer has accepted the Goods and/or Deliverables comprised in such shipment.

6.2 The property (both legal and equitable) in each shipment of Goods shall pass to the Customer on the earlier of delivery or payment for the relevant Goods.

7. **PRICE AND PAYMENT**

7.1 The price to be paid by the Customer to the Supplier for Goods and/or Services shall be as set out in Order. The Supplier shall only be entitled to charge the Customer for expenses if this is stated in the Order and only then if the expenses have been reasonably incurred in accordance with any provisions set out in the Order and the Supplier provides all relevant receipts.

7.2 Unless otherwise agreed by the Customer the price is inclusive of all costs and expenses ancillary and/or in connection with the provision of the Goods and/or Services including the cost of all packaging, packing, security tagging, labelling, carriage, insurance and delivery and all other costs and/or expenses incurred by the Supplier in relation to Goods and/or Services and any duties or levies, but are exclusive of VAT.

7.3 Invoices shall only be rendered by the Supplier after completion of delivery or performance of all the Goods and/or Services under the Contract to the satisfaction of the Customer.

- 7.4 The Supplier is required to issue a proper tax invoice in accordance with applicable legislation before the Customer shall be required to make payment for Goods and/or Services. Invoices shall be in the form which the Customer specifies from time to time and shall state the Order number, any invoice which fails to state the Order number will not be a valid invoice. If the charges are calculated on a time and materials basis each invoice shall set out the time spent by each member of the Supplier's personnel in respect of the Goods and/or Services and provide a detailed breakdown of any materials. Each invoice shall be accompanied by all relevant receipts and timesheets.
- 7.5 The Customer shall pay each valid invoice rendered in accordance with this condition 7 within 65 days of the end of the month in which the invoice is received or, if the Goods and/or Services have not been accepted within that period, within 65 days of acceptance of Goods and/or Services by the Customer.
- 7.6 If the Customer fails to make payment by the due date the Supplier may charge interest (both before and after judgment) on the amount unpaid at the rate of 2% above the base rate from time to time of the Customer's bank. This shall be in place of any rate of interest prescribed by law.
- 7.7 The Supplier shall not be entitled to suspend delivery of the Goods and/or performance of the Services due to any failure by the Customer to make a payment by the due date unless:
- 7.7.1 the Supplier has written to the Customer to demand payment of the overdue amount and notified the Customer in writing of its intention to suspend performance or delivery ("**Payment Notice**");
 - 7.7.2 the Supplier has allowed the Customer at least 30 days from receipt of the Payment Notice to make the payment.
 - 7.7.3 the Customer has failed to make the payment within 30 days from receipt of the Payment Notice; and
 - 7.7.4 the payment is undisputed.
- 7.8 Unless otherwise expressly agreed between the parties, the price specified in the Order shall constitute the Customer's entire payment liability to the Supplier in respect of the Contract and the Supplier shall indemnify and keep indemnified the Customer against any liability to any third party for costs or charges relating to the Goods and/or Services.
8. **CONFIDENTIALITY**
- 8.1 The Supplier shall not directly and/or indirectly use and/or disclose Confidential Information except in the proper performance of the Contract.
- 8.2 The obligations of confidentiality and non-use set out above shall continue indefinitely and shall survive termination of the Contract for any reason except they shall not apply to information:
- 8.2.1 which the Supplier proves was already in its possession and at its free disposal prior to disclosure by the Customer.
 - 8.2.2 which the Supplier proves was developed by it without reference to any Confidential Information.
 - 8.2.3 which is after the date of the Contract disclosed to the Supplier without any obligations of confidentiality by a third party who is not in breach of any duty of confidentiality in doing so.
 - 8.2.4 which is or becomes generally available to the public through no default and/or omission on the Supplier's part; or
 - 8.2.5 to the extent it is required to be disclosed by law and/or the rules of any recognised stock exchange and/or regulatory authority on condition that the Supplier gives the Customer as much advance notice of such disclosure as possible.
- 8.3 The exceptions in condition 8.2 above shall not apply to any combination of features merely because individual features (but not the combination itself) fall within any one or more of such exceptions.
- 8.4 The Supplier acknowledges that damages may not be an adequate remedy for breach of this condition 8 and accordingly agrees that the Customer shall be entitled to seek and obtain any injunctive and/or other equitable relief in relation to any breach of this condition 8.

9. INTELLECTUAL PROPERTY

- 9.1 All Intellectual Property Rights in any Trademarks, drawings, diagrams, specifications, data, and any other materials and/or works provided by the Customer to the Supplier shall at all times be and remain the property of the Customer or its licensor.
- 9.2 In the absence of prior written agreement by the Customer to the contrary, all Intellectual Property Rights (other than any Intellectual Property Rights in Goods if the Goods have not been supplied to a bespoke specification of the Customer) created by the Supplier or any employee, agent or subcontractor of the Supplier in the course of performing the Contract, or for the purpose of performing the Contract shall vest in the Customer upon creation (“**Customer IPR**”).
- 9.3 The Supplier hereby assigns to the Customer all and any of the Customer IPR which do not automatically vest in the Customer.
- 9.4 To the extent that any of the Customer IPR is not wholly and/or validly assigned, the Supplier shall hold them upon a bare trust for the full and exclusive benefit of the Customer.
- 9.5 The Supplier warrants that the use and/or exploitation of the Goods and/or Services by or on behalf of the Customer and/or any Group Company will not infringe the Intellectual Property Rights of any third party.
- 9.6 The Supplier shall at the request of the Customer: -
- 9.6.1 execute all further documents and/or deeds and do all such things as the Customer may require to enable the Customer to secure the delivery of information and the benefit of the Customer IPR and/or any rights licensed under condition 9.9; and
 - 9.6.2 take such action as the Customer may reasonably require to assist the Customer in bringing or defending any proceedings relating to the Customer IPR and/or any rights licensed under condition 9.9.
- 9.7 The Supplier shall at the Customer’s request deliver up to the Customer all documents, material and/or other media which may be in the possession, power, or control of the Supplier and which comprises or contains any part of the Customer IPR or any physical embodiment of the Customer IPR and share with the Customer all know-how that is not in material form.
- 9.8 The Supplier shall procure waivers of any moral rights in any physical embodiments of the Customer IPR 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.
- 9.9 Where, in connection with the provision of the Goods and/or Services by the Supplier, the Supplier uses any Intellectual Property Rights which do not fall within condition 9.1, condition 9.2 or condition 9.3 the Supplier shall grant to the Customer, or shall procure that the Customer is granted (without charge to the Customer), a perpetual, non-exclusive, royalty-free licence to use, adapt, maintain and support such Intellectual Property Rights, which licence shall include the right for any person providing goods and/or services to the Customer to use, adapt, maintain and support such Intellectual Property Rights for the benefit of the Customer.

10. PERSONAL DATA

- 10.1 The Customer alone shall determine the purposes for which and the manner in which Personal Data of which it is the data controller, or is to be, is processed in the performance of a Contract.
- 10.2 All Personal Data of which the Customer is the data controller shall be and remain, as between the parties, the property of the Customer and, apart from the right to use the Personal Data solely in order to discharge its obligations under the Contract, the Supplier shall have no right, title, or interest (including Intellectual Property Rights) in the Personal Data. Save as expressly provided under these Conditions, no Personal Data of which the Customer is the data controller, or any part thereof, may be assigned, leased, transferred, licensed, or otherwise provided or disposed of by the Supplier or commercially exploited by or on behalf of the Supplier.
- 10.3 In so far as the Supplier processes any Personal Data on behalf of the Customer, the Supplier shall:
- 10.3.1 process the Personal Data only on behalf of the Customer for the purposes of performing the Contract and only in accordance with the Customer’s instructions.
 - 10.3.2 keep records of any processing of Personal Data it carries out under or in relation to the Contract.

- 10.3.3 promptly comply with any request from the Customer requiring the Supplier to amend, transfer or delete any Personal Data.
- 10.3.4 not otherwise process or permit the disclosure of any of the Personal Data to any third party unless specifically authorised in writing by the Customer.
- 10.3.5 implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure in accordance with the Data Protection Act;
- 10.3.6 notify the Customer (within 5 Working Days) if it receives a subject access request under the Data Protection Act, a complaint or request relating to the Customer's obligations under the Data Protection Act and/or any other communication relating directly or indirectly to the processing of any Personal Data in connection with the Contract.
- 10.3.7 provide the Customer with full co-operation and assistance in relation to any complaint or request made in respect of any Personal Data.
- 10.3.8 promptly inform the Customer if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable and the Supplier will restore such Personal Data at its own expense.
- 10.3.9 permit the Customer or its representatives to inspect and audit the Supplier's data processing activities and comply with all reasonable requests or directions by the Customer to enable the Customer to verify and procure that the Supplier is in full compliance with its obligations under the Contract; and
- 10.3.10 not transfer Personal Data outside the European Economic Area without the prior written consent of the Customer.

11. **RECORDS AND AUDIT RIGHTS**

- 11.1 The Supplier shall at all times operate a system of accounting and maintain complete and accurate records of all actions taken in connection with, and all supporting documentation in relation to, the performance of its obligations under the Contract including, without limitation full traceability of the supply of Goods from legitimate sources ("**Records**").
- 11.2 The Supplier shall retain the Records for the duration of the Contract and then for at least 6 years, or, if longer, for as long as required by applicable laws and shall permit the Customer to inspect and take copies of Records.
- 11.3 The Supplier shall ensure the safe custody of all Records and shall prevent unauthorised access to or use of them.
- 11.4 The Supplier shall ensure that all Records and all information provided to the Customer under the Contract are accurate, complete, and not misleading.
- 11.5 The Customer shall have the right at its own cost to audit (either itself or through a third-party supplier) the Records, and/or the Supplier's premises and systems used for performance of the Contract to ensure the Supplier's compliance with the Contract provided that any such audit is carried out with 48 hours' prior notice. The Supplier shall also procure the right for the Customer (or its third-party supplier) to audit the records, premises and systems of suppliers to the Supplier provided that any such audit is carried out with 48 hours' prior notice. In the case of suspected fraud or if the Customer is required by any regulator to which the Customer or any Group Company is subject to conduct an audit, then no such notice will be required.

12. **INDEMNITIES**

- 12.1 The Supplier agrees to indemnify and keep indemnified the Customer against any and all Liability and legal costs on a full indemnity basis suffered and/or incurred by the Customer and arising from or due to:
 - 12.1.1 any breach of contract.
 - 12.1.2 any liability under the Consumer Protection Act 1987.
 - 12.1.3 any tortious act and/or omission.
 - 12.1.4 any infringement or alleged infringement of any Intellectual Property Rights of any third party as a result of the Customer's receipt, use and/or exploitation of the Goods and/or

Services, the Customer IPR and/or any other Intellectual Property Rights provided by the Supplier ("**IPR Claim**"); and/or

- 12.1.5 any breach of statutory duty by the Supplier.
- 12.2 For the avoidance of doubt, the Customer enters into the Contract for the benefit of itself and each Group Company which may be a direct or indirect beneficiary of any of the Goods and/or Services. Any claim for indemnity may include Liability suffered by any such Group Company.
- 12.3 If at any time an IPR Claim is made, the Supplier shall at the Customer's option: -
 - 12.3.1 procure the right for the Customer to continue using the Goods and/or Services; or
 - 12.3.2 replace or modify the Goods and/or Services, with non-infringing substitutes, provided that any substitute shall not materially prejudice the Customer's use of the Goods and/or Services and that such substitution will be carried out so as to avoid or reduce insofar as possible any interruption to the Customer's business operations. Without prejudice to any other rights of the Customer, the Supplier shall reimburse the Customer any costs or expenses incurred by the Customer in implementing or using any replaced or modified Goods and/or Services.

13. **TERMINATION**

- 13.1 The Customer may immediately terminate the Contract by written notice if the Supplier:
 - 13.1.1 is in material breach of the terms of the Contract.
 - 13.1.2 breaches the terms of the Contract (and if remediable the breach has not been remedied within 30 days of receiving notice requiring it to be remedied);
 - 13.1.3 persistently breaches any one or more terms of the Contract.
 - 13.1.4 ceases or threatens to cease to carry on business.
 - 13.1.5 is declared or becomes insolvent or bankrupt, has a moratorium declared in respect of any of its indebtedness, enters into administration, receivership, administrative receivership or liquidation or threatens to do any of these things, takes or suffers any similar action in any jurisdiction or any step is taken (including, without limitation, the making of an application or the giving of any notice) by it or by any other person in respect of any of these circumstances; and/or
 - 13.1.6 suffers or undergoes any change of Control.
- 13.2 Upon termination of the Contract for whatever reason, the Supplier will deliver up to the Customer or at the Customer's option destroy any and all Deliverables, Confidential Information, any Personal Data processed in relation to any Contract, the physical embodiment of any Customer IPR and/or any materials provided by the Customer, which are in the Supplier's possession, power, or control.

14. **ANTI-BRIBERY**

- 14.1 The Supplier shall:
 - 14.1.1 comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including the Bribery Act 2010 ("**Relevant Requirements**");
 - 14.1.2 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.
 - 14.1.3 comply with the Company's Ethics, Anti-bribery and Anti-corruption Policies as notified to the Company from time to time ("**Relevant Policies**");
 - 14.1.4 have and shall maintain in place throughout the term of the Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and to avoid criminal liability and/or prosecution under the Bribery Act 2010, and will enforce them where appropriate.

- 14.1.5 promptly report to the Company 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.
- 14.1.6 immediately notify the Company if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier (and the Supplier warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of the Contract);
- 14.1.7 certify to the Company in writing signed by a director of the Supplier, compliance with this Clause 14 by the Supplier and all persons associated with it and all other persons for whom the Supplier is responsible. The Supplier shall provide such supporting evidence of compliance as the Company may reasonably request.
- 14.2 The Supplier shall ensure that any person associated with the Supplier who is performing the Services 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 Clause 14 (“**Relevant Terms**”). The Supplier shall in any circumstances be responsible for the observance and performance by such persons of the Relevant Terms and shall in any circumstances be directly liable to the Company for any breach by such persons of any of the Relevant Terms howsoever arising.
- 14.3 Breach of this Clause 14 shall be a material breach of the Contract entitling the Company to terminate the Contract without incurring any liability for such termination.
- 14.4 For the purpose of this Clause 14 the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of Clause 14 a person associated with the Supplier includes but is not limited to any subcontractor of the Supplier.
15. **MODERN SLAVERY**
- 15.1 For the purposes of these Conditions “**Modern Slavery Practice**” encompasses but is not limited to:
- 15.1.1 slavery, servitude, forced, compulsory and bonded labour in any form (prison, indentured, bonded or otherwise) or requiring its employees to lodge papers or deposits on starting work.
- 15.1.2 child labour (that deprives children of their childhood, their potential and their dignity, and that is or could reasonably be foreseen to be harmful to their physical or mental development);
- 15.1.3 human trafficking including where victims are coerced, deceived, and forced against their free will into providing work or services.
- 15.1.4 breaches of the UK’s Modern Slavery Act 2015 (“**the Modern Slavery Act**”);
- 15.1.5 practices which breach other similar laws and conventions including but not limited to the International Labour Organisation’s Forced Labour Convention 1930 (No. 29) and Protocol.
- 15.2 The Supplier hereby confirms that it shall not engage in any Modern Slavery Practice. The Supplier shall take all reasonable steps to ensure that there are no Modern Slavery Practices anywhere in its supply chain whether that be by tier one contractors, agents, suppliers of goods or services or other parties further down the Supplier’s supply chain (“**Supply Chain Parties**”).
- 15.3 The Supplier shall comply with the Customer’s [anti-slavery] policy, as may be modified from time to time, and at the request of the Customer respond to any anti-slavery due diligence questionnaire issued to the Supplier and warrants and represents that its responses shall be complete and accurate.
- 15.4 The Supplier shall provide the Customer with such assistance and information (including access to records, persons and premises as they may apply or directly relate to Supplier’s obligations in any Contract and the Goods and/or Services provided) as it may require from time to time to enable the Customer to:
- 15.4.1 perform any activity required by any government, regulatory entity or agency in any relevant jurisdiction relating to Modern Slavery Practices or as required by the Customer;

- 15.4.2 prepare a slavery and human trafficking statement as required by s.54 of the Modern Slavery Act; and
- 15.4.3 identify any Modern Slavery Practice and carry out due diligence in relation to the effectiveness of any steps taken to counter any Modern Slavery.
- 15.5 The Supplier confirms that:
- 15.5.1 neither the Supplier nor any of its officers, employees or other persons associated with it: (a) has been convicted of any offence involving slavery and human trafficking; and (b) having made reasonable enquiries, has been or is the subject of any investigation, inquiry, or enforcement proceedings by any governmental, administrative, or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking; and
- 15.5.2 that it conducts its business in a manner that is consistent with the Customer's [Anti-slavery] Policy.
- 15.6 The Supplier shall immediately notify the Customer in writing if it becomes aware of a breach or suspected breach of any of its obligations under clauses 15.1 to 15.5 including but not limited to the occurrence of Modern Slavery Practices within the Supplier or any Supply Chain Parties. Without prejudice to the Customer's other rights under a Contract the Supplier agrees to take all reasonable steps requested by the Customer to address any instances of Modern Slavery Practices in the Supplier's operations or the operations of Supply Chain Parties.
- 15.7 Breach of this clause 15 shall be a material breach of the Contract entitling the Customer to terminate the Contract without incurring any liability for such termination.
16. **GENERAL**
- 16.1 These Conditions together with any Special Conditions, the Order and any standard warranty of the Supplier contain the whole agreement between the parties, and it supersedes any prior written or oral agreement between them and is not affected by any other promise, representation, warranty, usage, custom or course of dealing. The parties confirm that they have not entered into the Contract on the basis of any representation that is not expressly incorporated into the Contract. Nothing in the Contract shall exclude liability for any fraudulent statement or act made prior to the date of the Contract.
- 16.2 The Supplier shall not refer to the Customer or any Group Company or use the Customer's name within any marketing or advertising in any form, including the use of any of Trademarks without the prior written consent of the Customer.
- 16.3 The Customer enters into the Contract on its own behalf and as agent for each Group Company. Accordingly, for the purposes of enforcing the Contract, the Customer's losses shall include any harm or loss suffered by any Group Company to the extent caused by the Supplier's default under the Contract and the Supplier grants to the Customer the right to enforce rights and remedies on behalf of any Group Company in relation to any Contract. All references to the Customer in the Contract shall be deemed to be references to the Customer and to all Group Companies unless the contrary is expressly stated.
- 16.4 Any Group Company may, with the written consent of the Customer, enforce the terms of the Contract in addition to the Customer as though they were a party to it in the same way as the Customer. The parties may agree to change the terms of the Contract without the consent or agreement of any Group Company.
- 16.5 The Customer shall have the right to conduct on behalf of each Group Company any claim against the Supplier in respect of any right described in condition 16.4.
- 16.6 Unless otherwise expressly stated in these Conditions a person who is not a party to the Contract shall not have the right to enforce any terms of the Contract.
- 16.7 No waiver by either party of any breach of the Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision.
- 16.8 The invalidity, illegality or unenforceability of any of the provisions of the Contract shall not affect the validity, legality or enforceability of the remaining provisions of the Contract.
- 16.9 The Supplier shall not assign its interest in the Contract (or any part) or sub-contract any of its obligations under the Contract without the written consent of the Customer. The Customer may assign any or all of its rights and/or obligations under the Contract without the Supplier's consent.

- 16.10 No purported variation of the Contract shall take effect unless made in writing and signed by authorised representatives of each party.
- 16.11 The Supplier shall maintain such insurance policies in connection with the performance of the Contract as may be appropriate or as the Customer may require from time to time.
- 16.12 Termination of the Contract shall not affect any rights of the parties accrued up to the date of termination.
- 16.13 No condition shall survive expiry or termination of the Contract unless expressly and/or impliedly intended to survive such expiry or termination. Conditions 2.9, 3.15, 4, 5.4, 5.5, [7.8](#), 8, 9, 11, 12, 13.2, 16.12, 16.13 and 16.18 of these Conditions shall survive termination of the Contract.
- 16.14 The rights, powers and remedies provided in the Contract are cumulative and not exclusive of any rights, powers and remedies provided by law.
- 16.15 Any notice or other document required to be given under the Contract or any communication between the parties with respect to any of the provisions of the Contract shall be in writing in English and be deemed duly given if signed by or on behalf of a duly authorised officer of the party giving the notice.
- 16.16 Any notice or other communication shall be deemed to be given to and received by the addressee:
- 16.16.1 at the time the same is left at the address of or handed to a representative of the party to be served if on a Working Day, and if not on the next Working Day.
 - 16.16.2 by post on the fifth Working Day following the date of posting; and/or
 - 16.16.3 in the case of a facsimile transmission or other means of telecommunication or email on the next Working Day.
- 16.17 In proving the receipt of a notice, it shall be sufficient to prove that the notice was left, or that the envelope containing the notice was properly addressed and posted, or that the applicable means of telecommunication and/or email was properly addressed and despatched and despatch of the transmission was confirmed and/or acknowledged as the case may be.
- 16.18 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 submit to the exclusive jurisdiction of the courts of England and Wales, provided that nothing in this condition shall prevent the Customer from taking any action in any applicable foreign court where the Supplier is resident outside England and Wales.