

## PURCHASE TERMS AND CONDITIONS

### 1. INTERPRETATION

1.1 The following definitions and rules of interpretation in this clause apply in this agreement.

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

**Company:** Webtec Products Limited incorporated and registered in England and Wales with company number 00832125.

**Company Materials:** has the meaning given in clause 12.

**Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 21.3.

**Contract:** the contract between the Company and the Supplier for the sale and purchase of Goods and/or Services in accordance with these Conditions.

**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 drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

**Delivery Date:** the date specified in the Purchase Order, or, if none is specified, within [3] days of the date of the Purchase Order.

**Delivery Location:** the address for delivery of Goods as set out in the Purchase Order.

**Disclosing party:** has the meaning given in clause 15.

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

**Purchase Order:** the Company's purchase order for Goods and/or Services, as set out overleaf.

**Receiving Party:** has the meaning given in clause 15.

**Services:** the services set out in the Purchase Order.

**Specification:** any specification for Goods and/or Services, including any related plans and drawings, that is agreed in writing by the Company and the Supplier.

**Supplier:** the person or firm to whom the Company sends a Purchase Order and from whom the Company purchases Goods and/or Services.

1.2 A reference to a statute or statutory provision is a reference to such statute or 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.

1.3 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.

1.4 A reference to writing or written includes emails.

### 2. BASIS OF CONTRACT

2.1 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.

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

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

2.3.1 the Supplier issuing a written acceptance of the Purchase Order; and

2.3.2 the Supplier doing any act consistent with fulfilling the Purchase Order, at which point the Contract shall come into existence.

2.4 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

### 3. SUPPLY OF THE GOODS

3.1 The Supplier shall supply, and the Company shall purchase, such quantities of Goods as the Company may order in accordance with these Conditions.

3.2 The Supplier shall at all times maintain sufficient manufacturing capacity, stocks of raw materials and packaging, and stocks of Goods to enable it to meet the Company's Purchase Order(s).

3.3 If the Supplier anticipates that it will be unable to fulfil the Company's Purchase Order(s):

3.3.1 the Supplier shall inform the Company in writing as soon as practicable; and

3.3.2 without limiting any other right or remedy that the Company may have, the Company may at its option agree alternative delivery dates for the relevant Goods, or obtain from any other person substitute products for the Goods which the Supplier anticipates it will be unable to supply but shall be entitled to a pro rata reduction on the fee in respect of such delays calculated at an amount equal to [10]% of the total Purchase Order value for each [day] that the Goods are late.

3.4 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.

3.5 The Company may at any time prior to despatch of the Goods amend or cancel an Order by written notice to the Supplier. If the Company amends or cancels an Order, its liability to the Supplier shall be limited to payment to the Supplier of all costs reasonably incurred by the Supplier in fulfilling the Order up until the date of receipt of the notice of amendment or cancellation, except that where the amendment or cancellation results from the Supplier's failure to comply with its obligations under these Conditions the Company shall have no liability to the Supplier in respect of it.

#### **4. SUPPLY OF SERVICES**

4.1 The Supplier shall from the date set out in the Purchase Order and for the duration of the Contract supply the Services to the Company in accordance with the terms of the Contract.

4.2 The Supplier shall meet any performance dates for the Services as specified in the Purchase Order or as the Company notifies to the Supplier and time is of the essence in relation to any of those performance dates.

4.3 In providing the Services, the Supplier shall:

4.3.1 co-operate with the Company in all matters relating to the Services, and comply with all instructions of the Company;

4.3.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;

4.3.3 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 the Contract;

4.3.4 ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that the Company expressly or impliedly makes known to the Supplier;

4.3.5 provide all equipment, tools and vehicles and such other items as are required to provide the Services;

4.3.6 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;

4.3.7 obtain and at all times maintain all licences and consents which may be required for the provision of the Services;

4.3.8 comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply to the provision of the Services;

4.3.9 observe all health and safety rules and regulations and any other security requirements that apply at any of the Company's premises;

4.3.10 hold all Company Materials supplied by the Company to the Supplier in safe custody at its own risk, maintain the Company Materials in good condition until returned to the Company, and not dispose or use the Company Materials other than in accordance with the Company's written instructions or authorisation;

4.3.11 not do or omit to do anything which may cause the Company 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 Company may rely or act on the Services; and

4.3.12 comply with any additional obligations as set out in the Specification.

#### **5. MANUFACTURE, QUALITY AND PACKING**

5.1 The Supplier shall manufacture, pack and supply the Goods in accordance with all generally accepted industry standards and practices that are applicable.

5.2 The Goods supplied to the Company by the Supplier under these Conditions shall:

5.2.1 conform to any specification given by the Company;

5.2.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Company;

5.2.3 be free from defects in design, material and workmanship and remain so for 12 months after delivery; and

5.2.4 comply with all applicable statutory and regulatory

requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of Goods.

5.3 The Supplier shall ensure that the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition.

5.4 The Supplier shall obtain and maintain in force all licences, permissions, authorisations, consents and permits needed to manufacture and supply the Goods in accordance with these Conditions.

5.5 The Supplier shall comply with all applicable laws, enactments, orders, regulations and other instruments relating to the manufacture, packing, packaging, marking, storage, handling, and delivery of the Goods.

5.6 The Company shall have the right to enter the Supplier's premises to:

5.6.1 inspect the manufacturing facilities and the equipment used by the Supplier in the manufacture of the Goods;

5.6.2 inspect and take samples of the raw materials, the packaging and the Goods; and

5.6.3 inspect stock levels of raw materials, packaging and/or Goods.

5.7 Inspections carried out pursuant to clause 5.6 shall be carried out during business hours on reasonable notice to the Supplier, provided that, in the event of an emergency, the Supplier shall grant the Company immediate access to its premises.

5.8 If following an inspection the Company considers that the Goods are not or are not likely to be as warranted under clause

5.2, the Company shall inform the Supplier and the Supplier shall immediately take such action as is necessary to ensure that the Goods are or will be as warranted under clause 5.2. The Company shall have the right to re-conduct inspections and take further samples after the Supplier has carried out its remedial actions.

#### **6. DELIVERY**

6.1 The Supplier shall deliver the Goods specified in each Purchase Order to the Delivery Location by the Delivery Date.

6.2 Delivery shall be complete on its arrival at the Delivery Location.

6.3 The Supplier shall not deliver Goods by instalments except with the prior written consent of the Company. Where Goods are to be delivered by instalments, they may be invoiced and paid for separately. References in these Conditions to Goods shall, where applicable, be read as references to instalments.

6.4 If the Goods are not delivered on the specified Delivery Date, then, without limiting any other right or remedy the Company may have, the Company may:

6.4.1 refuse to take any subsequent attempted delivery

6.4.2 terminate these Conditions with immediate effect;

6.4.3 obtain substitute products from another supplier and recover from the Supplier any costs and expenses reasonably incurred by the Company in obtaining such substitute products. Substitute products obtained from a third party supplier pursuant to this clause 6.4.3; and

6.4.4 subject to clause 17 claim damages for any other costs, expenses or losses resulting from the Supplier's failure to deliver the Order on the Delivery Date, provided that the Supplier shall have no liability for any failure or delay in delivering an Order to the extent that such failure or delay is caused by the Company's failure to comply with its obligations under these Conditions.

6.5 Time shall be of the essence regarding any Delivery Date of Goods supplied by the Supplier.

## 7. ACCEPTANCE AND DEFECTIVE PRODUCTS

7.1 The Company shall not be deemed to have accepted any Goods until it has had a reasonable time to inspect them following Delivery, or, in the case of a latent defect in the Goods, until a reasonable time after the latent defect has become apparent.

7.2 If any Goods delivered to the Company do not comply with clause 5.2, or are otherwise not in conformity with the terms of these Conditions, then, without limiting any other right or remedy that the Company may have, the Company may reject those Goods and:

7.2.1 require the Supplier to repair or replace the rejected Goods at the Supplier's risk and expense within [five] Business Days of being requested to do so; or

7.2.2 require the Supplier to repay the price of the rejected Goods in full (whether or not the Company has previously required the Supplier to repair or replace the rejected Goods); and

7.2.3 claim damages for any other costs, expenses or losses resulting from the Supplier's delivery of Goods that do not conform with the terms of these Conditions.

7.3 The Company's rights and remedies under this clause 7 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into these Conditions by the Sale of Goods Act 1979.

7.4 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

7.5 If the Supplier fails to promptly repair or replace rejected Goods in accordance with clause 7.2.1, the Company may, without affecting its rights under clause 7.2.3, obtain substitute products from a third party supplier, or have the rejected Goods repaired by a third party, and the Supplier shall reimburse the Company for the costs it incurs in doing so.

7.6 If the parties dispute whether any Goods comply with clause

5.2, either party may refer the matter to an Expert for determination in accordance with clause 11.

## 8. REMEDIES

8.1 If Goods are not delivered on the Delivery Date, or do not comply with the undertakings set out in clause 3.1, or if the Supplier fails to perform the Services by the applicable date, then, without limiting any of its other rights or remedies, and whether or not it has accepted Goods, the Company may exercise any one or more of the following remedies:

8.1.1 to terminate the Contract;

8.1.2 to reject Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;

8.1.3 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);

8.1.4 to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided;

8.1.5 to refuse to accept any subsequent delivery of Goods and/or performance of the Services which the Supplier attempts to make;

8.1.6 to recover from the Supplier any costs incurred by the Company in obtaining substitute goods and/or services from a third party; and

8.1.7 to claim damages for any other costs, loss or expenses incurred by the Company which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

8.2 If Goods are not delivered on the Delivery Date the Company may, at its option, claim or deduct [10]% of the price of Goods for each [day]'s delay in delivery by way of liquidated damages. If the Company exercises its rights under this clause 8.2, it shall not be entitled to any of the remedies set out in clause 8.1 in respect

of Goods' late delivery (but such remedies shall be available in respect of Goods' condition).

8.3 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

8.4 The Company's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

## 9. TITLE AND RISK

Title and risk in Goods shall pass to the Company on delivery.

## 10. CHARGES AND PAYMENT

10.1 The price of Goods shall be the price set out in the Purchase Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date the Contract came into existence.

10.2 The price of Goods includes the costs of packaging, insurance and carriage of Goods (unless otherwise quoted in writing separately).

10.3 The charges for the Services shall be set out in the Purchase 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.

10.4 All amounts payable by the Company under the Contract for Goods and/or Services exclude amounts in respect of value added tax (VAT), which the Company shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice.

10.5 The Company shall be entitled to the Supplier's standard discount for prompt payment.

10.6 No extra charges shall be effective unless agreed in writing with the Company.

10.7 The Supplier may invoice the Company for price of Goods plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery. The Supplier shall ensure that the invoice includes the date of the Purchase Order, the invoice number, the Company's order number, the Supplier's VAT registration number and any supporting documents that the Company may reasonably require.

10.8 Unless otherwise agreed between the parties, the Company shall pay correctly rendered invoices within 30 days of the end of the month from which it received the Supplier's invoice. Payment shall be made to the bank account nominated in writing by the Supplier.

10.9 The Supplier shall use all reasonable endeavours during the Term to reduce its manufacturing, supply and other costs for the Goods, including implementing cost savings initiatives and seeking more competitive supplies of raw materials and equipment. The net benefit of cost reductions shall be applied to reduce the price of the Goods with immediate effect.

10.10 The Supplier agrees that if at any time during the Term it sells any Product to a comparable customer for less than the Product Price then in force for that Product, it shall reduce the relevant Product Price to match the lower price for so long as the lower price is available (but for no longer). For the purposes of this clause, "comparable" means a customer that purchases products in substantially similar volumes as the Company on broadly similar terms and conditions.

10.11 [If a party fails to make any payment due to the other under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 2% per annum above The Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until 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 the defaulting party disputes in good faith.]

10.12 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 Company to inspect such records at all reasonable times on request.

10.13 The Company may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Company against any liability of the Company to the Supplier.

10.14 If the Company disputes any invoice or other statement of monies due, the Company shall notify the Supplier. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. The Supplier shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. If the parties have not resolved the dispute within 30 days of the Company giving notice to the Supplier, the dispute shall be resolved in accordance with clause 11, which shall be referred to an Expert for determination in accordance with clause 11. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date as set out in this clause 10. The Supplier's obligations to supply the Goods shall not be affected by any payment dispute.

## **11. EXPERT DETERMINATION**

11.1 An Expert is a person appointed in accordance with this clause to resolve certain matters.

11.2 Where under these Conditions a party wishes to refer a matter to an Expert, the parties shall first agree on the appointment of an independent Expert and agree with the Expert the terms of their appointment.

11.3 If the parties are unable to agree on an Expert or the terms of the Expert's appointment within seven days of either party serving details of a suggested expert on the other, either party shall then be entitled to request the Institute of Chartered Accountants in England and Wales to appoint as Expert an person of repute with experience in the subject matter of the dispute and to agree with the Expert the terms of their appointment.

11.4 The Expert is required to prepare a written decision including reasons and give notice (including a copy) of the decision to the parties within a maximum of three months of the matter being referred to the Expert.

11.5 If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by this clause, then:

11.5.1 either party may apply to Institute of Chartered Accountants in England and Wales to discharge the Expert and to appoint a replacement Expert with the required expertise; and

11.5.2 this clause shall apply to the new Expert as if they were the first Expert appointed.

11.6 The parties are entitled to make submissions to the Expert and will provide (or procure that others provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.

11.7 To the extent not provided for by this clause, the Expert may in their reasonable discretion determine such other procedures to assist with the conduct of the determination as they consider just or appropriate, including (to the extent considered necessary) instructing professional advisers to assist them in reaching their determination.

11.8 Each party shall with reasonable promptness supply each other with all information and give each other access to all documents, personnel and things as the other party may reasonably require to make a submission under this clause.

11.9 The Expert shall act as an expert and not as an arbitrator. The Expert shall determine the matters referred to them under these Conditions. The Expert may award interest as part of their decision. The Expert's written decision on the matters referred to them shall be final and binding on the parties in the absence of manifest error or fraud.

11.10 The Expert may direct that any legal costs and expenses incurred by a party in respect of the determination shall be paid by another party to the determination on the general principle that costs should follow the event, except where it appears to the Expert that, in the circumstances, this is not appropriate in relation to the whole or part of such costs. The Expert's fees and any costs properly incurred by them in arriving at their determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the parties equally or in such other proportions as the Expert shall direct.

11.11 All matters concerning the process and result of the determination by the Expert shall be kept confidential among the parties and the Expert.

11.12 Each party shall act reasonably and co-operate to give effect to the provisions of this clause and otherwise do nothing to hinder or prevent the Expert from reaching their determination.

11.13 The Expert shall have no liability to the parties for any act or omission in relation to this appointment, save in the case of bad faith.

## **12. COMPANY MATERIALS**

The Supplier acknowledges that all materials, equipment and tools, drawings, Specifications, and data supplied by the Company to the Supplier (Company Materials) and all rights in the Company material are and shall remain the exclusive property of the Company. The Supplier shall keep the Company Materials in safe custody at its own risk, maintain them in good condition until returned to the Company and not dispose or use the same other than in accordance with the Company's written instructions or authorisation.

## **13. INDEMNITY**

13.1 The Supplier shall keep the Company 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 or incurred by the Company as a result of or in connection with:

13.1.1 any claim made against the Company for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the supply or use of Goods, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

13.1.2 any claim made against the Company 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 Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and

13.1.3 any claim made against the Company by a third party arising out of or in connection with the supply of Goods, 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.

13.2 If a payment due from the Supplier under this clause is subject to tax (whether by way of direct assessment or withholding at its source), the Company shall be entitled to receive from the Supplier such amounts as shall ensure that the net receipt, after tax, to the Company in respect of the payment is the same as it would have been were the payment not subject to tax.

13.3 This clause 13 shall survive termination of the Contract.

## **14. INSURANCE**

14.1 During the term of the Contract and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, 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 Company'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.

14.2 The Supplier's liabilities under these Conditions shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in clause 14.1.

14.3 If the Supplier fails or is unable to maintain insurance in accordance with clause 14.1, or fails to provide evidence that it has paid the current year's premiums in accordance with clause 14.1, the Company may, so far as it is able, purchase such alternative insurance cover as it deems to be reasonably necessary and shall be entitled to recover all reasonable costs and expenses it incurs in doing so from the Supplier.

## 15. CONFIDENTIALITY

15.1 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.

15.2 This clause 15 shall survive termination of the Contract.

## 16. COMPLIANCE WITH RELEVANT LAWS AND POLICIES

16.1 In performing its obligations under the Contract, the Supplier shall comply with all applicable laws, statutes, regulations and codes from time to time in force.

16.2 The Company may immediately terminate the Contract for any breach of clause 16.

## 17. LIABILITY

17.1 Nothing in these Conditions shall limit or exclude the liability of either party for:

17.1.1 death or personal injury resulting from negligence; or

17.1.2 fraud or fraudulent misrepresentation; or

17.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or

17.1.4 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982; or

17.1.5 breach of section 2 of the Consumer Protection Act 1987; or

17.1.6 the indemnities contained in clause 13; or

17.1.7 the deliberate default or wilful misconduct of that party, its employees, agents or subcontractors.

17.2 Without prejudice to clause 17.1, the Company shall not be liable to the Supplier, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any:

17.2.1 loss of profit; or

17.2.2 loss of goodwill; or

17.2.3 loss of business; or

17.2.4 loss of business opportunity; or

17.2.5 loss of anticipated saving; or

17.2.6 loss or corruption of data or information; or

17.2.7 special, indirect or consequential damage or loss suffered by the Supplier that arises under or in connection with these Conditions.

17.3 Without prejudice to clause 17.1, the Company's total liability arising under or in connection with these Conditions, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall be limited to the amount of the Purchase Order value to which the dispute/liability arises.

## 18. TERMINATION

18.1 The Company may terminate the Contract in whole or in part at any time before delivery with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Company shall pay the Supplier for all costs reasonably incurred by the Supplier in fulfilling the Purchase Order up until the date of receipt of the notice, but such payment shall not include loss of anticipated profits or any consequential loss.

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

18.2.1 the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;

18.2.2 the Supplier 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;

18.2.3 the Supplier takes any step or action in connection with the Supplier being made bankrupt, entering any composition or arrangement with his creditors, having a receiver appointed to any of his 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;

18.2.4 the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

18.2.5 the Supplier's financial position deteriorates to such an extent that in the Company's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

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

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

## 19. FORCE MAJEURE

Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure results from an event, circumstance or cause beyond its reasonable control. If the period of delay or non-performance continues for [four] weeks, the party not affected may terminate the Contract by giving [seven] days written notice to the affected party.

## 20. MULTI-TIERED DISPUTE RESOLUTION PROCEDURE

20.1 If a dispute arises out of or in connection with these Conditions or the performance, validity or enforceability of it (Dispute) then [except as expressly provided in these Conditions,] the parties shall follow the procedure set out in this clause:

20.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute

Notice), together with relevant supporting documents. On service of the Dispute Notice, the [managing director/nominated representative] shall attempt in good faith to resolve the Dispute;

20.1.2 if they are for any reason unable to resolve the Dispute within [30] days of service of the Dispute Notice, the parties agree to enter into mediation in good faith to settle the Dispute in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties within 10 days of service of the Dispute Notice, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, referring the dispute to mediation. A copy of the ADR notice should be sent to CEDR. Unless otherwise agreed between the parties, the mediation will start not later than 15 days after the date of the ADR notice.

20.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 11 which clause shall apply at all times.

20.3 If the Dispute is not resolved within 30 days after service of the ADR notice, or either party fails to participate or ceases to participate in the mediation before the expiry of that 30 day period, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 21.8 and 21.9.

## 21. GENERAL

### 21.1 Assignment and other dealings.

21.1.1 The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract.

21.1.2 The Supplier may not assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Company.

21.2 Entire agreement. 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.

21.3 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 Company.

21.4 Waiver. Except as set out in clause 2.4, 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.

21.5 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.

### 21.6 Notices.

21.6.1 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 email].

21.6.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address as per clause 21.6.1; 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 email], one Business Day after transmission.

21.6.3 This clause does not apply to the service of any proceedings or other documents in any legal action, or other method of dispute resolution.

21.7 Third party rights. No one other than a party to the Contract and their permitted assignees shall have any right to enforce any of its terms.

21.8 Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

21.9 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.