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## TERMS AND CONDITIONS – BUSINESS TO CONSUMER

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### BACKGROUND:

This agreement applies as between you, the User of this Website and CBC Computer Systems Ltd, the owner(s) of this Website. Your agreement to comply with and be bound by Clauses 1, 2, 5 – 12 and 16 – 26 of these Terms and Conditions is deemed to occur upon your first use of the Website. Clauses 3, 4, and 13 – 15 apply only to the sale of Goods. If you do not agree to be bound by these Terms and Conditions, you should stop using the Website immediately.

No part of this Website is intended to constitute a contractual offer capable of acceptance. Your order constitutes a contractual offer and Our acceptance of that offer is deemed to occur upon Our sending an order confirmation email to you indicating that your order has been fulfilled and is on its way to you.

### 1. Definitions and Interpretation

In this Agreement the following terms shall have the following meanings:

<b>“Account”</b>	means collectively the personal information, Payment Information and credentials used by Users to access Paid Content and / or any communications System on the Website;
<b>“Carrier”</b>	means any third party responsible for transporting purchased Goods from our Premises to customers;
<b>“Content”</b>	means any text, graphics, images, audio, video, software, data compilations and any other form of information capable of being stored in a computer that appears on or forms part of this Website;
<b>“Goods”</b>	means any products that CBC Computer Systems Ltd advertises and / or makes available for sale through this Website;
<b>“Service”</b>	means collectively any online facilities, tools, services or information that CBC Computer Systems Ltd makes available through the Website either now or in the future;
<b>“Payment Information”</b>	means any details required for the purchase of Goods from this Website. This includes, but is not limited to, credit / debit card numbers, bank account numbers and sort codes;
<b>“Premises”</b>	Means Our place(s) of business located at CBC Computer Systems Ltd;
<b>“System”</b>	means any online communications infrastructure that CBC Computer Systems Ltd makes available through the Website either now or in the future. This includes, but is not limited to, web-based email, message boards, live chat facilities and email links;

<b>“User” / “Users”</b>	means any third party that accesses the Website and is not employed by CBC Computer Systems Ltd and acting in the course of their employment;
<b>“Website”</b>	means the website that you are currently using ( <a href="http://www.cbccomputers.com">http://www.cbccomputers.com</a> ) and any sub-domains of this site unless expressly excluded by their own terms and conditions;
<b>“We/Us/Our”</b>	means CBC Computer Systems Ltd, a company registered in England under 1973600 of Redwood House, 68 Brown Street, Sheffield, South Yorkshire, S1 2BS.

2. **Age Restrictions**

Persons under the age of 18 should use this Website only with the supervision of an Adult. Payment Information must be provided by or with the permission of an Adult.

3. **Business Customers**

These Terms and Conditions do not apply to customers buying Goods in the course of business. If you are a business customer please consult our business terms and conditions located [here](#).

4. **Trade Credit Accounts**

These Terms and Conditions do not apply to customers who wish to use a Trade credit account. If you fall under this category please consult our Trade credit account Terms and Conditions located [here](#).

5. **International Customers**

If Goods are being ordered from outside the United Kingdom, import duties and taxes may be incurred once your Goods reach their destination. We are not responsible for these charges and We undertake to make no calculations or estimates in this regard. If you are buying internationally, you are advised to contact your local customs authorities for further details on costs and procedures. As the purchaser of the Goods, you will also be the importer of record and as such should ensure that your purchase is in full compliance with the laws of the country into which the Goods are being imported. Please be aware that Goods may be inspected on arrival at port for customs purposes and that We cannot guarantee that the packaging of your Goods will be free of signs of tampering. Please also be aware that United Kingdom consumer protection laws may not apply.

6. **Intellectual Property**

5.1 Subject to the exceptions in Clause 6 of these Terms and Conditions, all Content included on the Website, unless uploaded by Users, including, but not limited to, text, graphics, logos, icons, images, sound clips, video clips, data compilations, page layout, underlying code and software is the property of CBC Computer Systems Ltd, Our affiliates or other relevant third parties. By continuing to use the Website you acknowledge that such material is protected by applicable United Kingdom and international intellectual property and other laws.

5.2 Subject to Clause 7 you may not reproduce, copy, distribute, store or in any other fashion re-use material from the Website unless otherwise indicated on the Website or unless given our express written permission to do so.

6. **Third Party Intellectual Property**

6.1 Unless otherwise expressly indicated, all Intellectual Property rights including, but not limited to, Copyright and Trademarks, in product images and

descriptions belong to the manufacturers or distributors of such products as may be applicable.

- 6.2 Subject to Clause 7 you may not reproduce, copy, distribute, store or in any other fashion re-use such material unless otherwise indicated on the Website or unless given express written permission to do so by the relevant manufacturer or supplier.

## 7. **Fair Use of Intellectual Property**

Material from the Website may be re-used without written permission where any of the exceptions detailed in Chapter III of the Copyright Designs and Patents Act 1988 apply.

## 8. **Links to Other Websites**

This Website may contain links to other sites. Unless expressly stated, these sites are not under the control of CBC Computer Systems Ltd or that of Our affiliates. We assume no responsibility for the content of such websites and disclaim liability for any and all forms of loss or damage arising out of the use of them. The inclusion of a link to another site on this Website does not imply any endorsement of the sites themselves or of those in control of them.

## 9. **Links to this Website**

Those wishing to place a link to this Website on other sites may do so only to the home page of the site <http://www.cbccomputers.com> without Our prior permission. Deep linking (i.e. links to specific pages within the site) requires Our express written permission. To find out more please contact Us by email [here](#) or telephone 0114 278 7712.

## 10. **Use of Communications Facilities**

10.1 When using System on the Website you should do so in accordance with the following rules. Failure to comply with these rules may result in your Account being suspended or closed:

10.1.1 You must not use obscene or vulgar language;

10.1.2 You must not submit Content that is unlawful or otherwise objectionable. This includes, but is not limited to, Content that is abusive, threatening, harassing, defamatory, ageist, sexist or racist;

10.1.3 You must not submit Content that is intended to promote or incite violence;

10.1.4 It is advised that submissions are made using the English language(s) as We may be unable to respond to enquiries submitted in any other languages;

10.1.5 The means by which you identify yourself must not violate these Terms and Conditions or any applicable laws;

10.1.6 You must not impersonate other people, particularly employees and representatives of CBC Computer Systems Ltd or Our affiliates; and

10.1.7 You must not use Our System for unauthorised mass-communication such as "spam" or "junk mail".

10.2 You acknowledge that CBC Computer Systems Ltd reserves the right to monitor any and all communications made to Us or using Our System.

- 10.3 You acknowledge that CBC Computer Systems Ltd may retain copies of any and all communications made to Us or using Our System.
- 10.4 You acknowledge that any information you send to Us through Our System may be modified by Us in any way and you hereby waive your moral right to be identified as the author of such information. Any restrictions you may wish to place upon Our use of such information must be communicated to Us in advance and We reserve the right to reject such terms and associated information.

## 11. **Accounts**

- 11.1 In order to purchase Goods on this Website and to use certain other parts of the System, you are required to create an Account which will contain certain personal details and Payment Information which may vary based upon your use of the Website as We may not require Payment Information until you wish to make a purchase. By continuing to use this Website you represent and warrant that:
  - 11.1.1 all information you submit is accurate and truthful;
  - 11.1.2 you have permission to submit Payment Information where permission may be required; and
  - 11.1.3 you will keep this information accurate and up-to-date.Your creation of an Account is further affirmation of your representation and warranty.
- 11.2 It is recommended that you do not share your Account details, particularly your username and password. We accept no liability for any losses or damages incurred as a result of your Account details being shared by you. If you use a shared computer, it is recommended that you do not save your Account details in your internet browser.
- 11.3 If you have reason to believe that your Account details have been obtained by another person without consent, you should contact Us immediately to suspend your Account and cancel any unauthorised purchases that may be pending. Please be aware that purchases can only be cancelled until they are dispatched. In the event that an unauthorised purchase is dispatched prior to your notifying Us of the unauthorised nature of the purchase then then you will need to contact your bank for further information.
- 11.4 When choosing your username you are required to adhere to the terms set out above in Clause 10. Any failure to do so could result in the suspension and/or deletion of your Account.

## 12. **Termination and Cancellation of Accounts**

- 12.1 Either CBC Computer Systems Ltd or you may terminate your Account. If We terminate your Account, you will be notified by email and an explanation for the termination will be provided. Notwithstanding the foregoing, We reserve the right to terminate without giving reasons.
- 12.2 If We terminate your Account, any current or pending purchases on your Account will be cancelled and will not be dispatched.
- 12.3 We reserve the right to cancel purchases without stating reasons, for any reason prior to processing payment and dispatch.
- 12.4 If purchases are cancelled for any reason prior to dispatch you will be refunded any sums paid in relation to those purchases within 14 calendar

days.

- 12.5 If you terminate your Account, any non-dispatched purchases will be cancelled and you will be refunded any monies paid in relation to those purchases within 14 calendar days.

### **13. Goods, Pricing and Availability**

- 13.1 Whilst every reasonable effort has been made to ensure that all graphical representations and descriptions of Goods available from Us correspond to the actual Goods, We are not responsible for variations from such descriptions. This does not exclude Our liability for mistakes due to negligence on Our part and refers only to minor variations of the correct Goods, not different Goods altogether. Please refer to Clause 15.1 for incorrect Goods.
- 13.2 Where appropriate, you may be required to select the required size, model, colour, number, and other features of the Goods that you are purchasing.
- 13.3 We neither represent nor warrant that Goods will be available. Stock indications are provided on the Website however such indications may not take into account sales that have taken place during your visit to the Website.
- 13.4 All pricing information on the Website is correct at the time of going online. We reserve the right to change prices and alter or remove any special offers from time to time and as necessary. All pricing information is reviewed and updated every hour.
- 13.5 All prices on the Website display both ex VAT and VAT inclusive prices. CBC Computer Systems Ltd's VAT number is GB 534 128 170.

### **14. Orders and Delivery**

- 14.1 No part of this Website constitutes a contractual offer capable of acceptance. Your order constitutes a contractual offer that We may, at Our sole discretion, accept. Our acceptance is indicated by Us sending to you an order confirmation email. Only once We have sent you an order confirmation email will there be a binding contract between CBC Computer Systems Ltd and you.
- 14.2 Order confirmations under sub-Clause 14.1 shall contain the following information:
- 14.2.1 Confirmation of the Goods ordered including full details of the main characteristics of those Goods;
- 14.2.2 Fully itemised pricing for the Goods ordered including, where appropriate, taxes, delivery and other additional charges;
- 14.2.3 Estimated delivery date(s) and time(s);
- 14.3 Order confirmations shall also be enclosed on paper with your Goods.
- 14.4 If We, for any reason, do not accept your order, no payment shall be taken under normal circumstances. In any event, any sums paid by you in relation to that order will be refunded within 14 calendar days.
- 14.5 All Goods purchased by you will be delivered within 30 calendar days of Our order confirmation unless otherwise agreed.
- 14.6 The risk in the Goods shall remain with Us until they come into your physical possession.

## 15. Returns Policy

CBC Computer Systems Ltd aims to always provide high quality Goods that are fault free and undamaged. On occasion however, Goods may need to be returned. Returns are governed by these Terms and Conditions.

- 15.1 If you receive Goods which do not match those that you ordered, you should contact Us within 7 calendar days to arrange collection by clicking <http://www.cbccomputers.com/returns> to complete a returns. You will be given the option to have the Goods replaced with those ordered (if available) or to be refunded through the payment method used by you when purchasing the Goods. Replacements will be issued upon Our receipt of the returned Goods. We are fully responsible for paying shipment costs. Goods must be returned in their original condition with all packaging and documentation. The packaging does not need to be unopened. Refunds will be issued promptly and in any event no later than 30 calendar days after receipt of the returned Goods and will include standard delivery charges. We regret that additional costs such as express delivery and gift-wrapping cannot be refunded.
- 15.2 If Goods are damaged in transit and the damage is apparent on delivery, you should sign any applicable delivery note to the effect that the Goods have been damaged. To return the damaged Goods, please contact Us within 7 calendar days to arrange collection and return visit the returns page on the Website within 7 calendar days by clicking <http://www.cbccomputers.com/returns> to complete a returns form. We are fully responsible for paying shipment costs. You will be given the option to have the Goods replaced or to be refunded through the payment method used by you when purchasing the Goods. Replacements subject to availability will be issued upon Our receipt of the returned Goods. Refunds will be issued no later than 30 calendar days after receipt of the returned Goods and will include standard delivery charges. We regret that additional costs such as express delivery and gift-wrapping cannot be refunded.
- 15.3 If any Goods you have purchased have faults when they are delivered to you, you should contact Us within 7 calendar days to arrange collection and return] visit the returns page on the Website within 7 calendar days by clicking <http://www.cbccomputers.com/returns> to complete a returns form. You will be given the option to have the Goods replaced or to be refunded through the payment method used by you when purchasing the Goods. We are fully responsible for paying shipment costs. Replacements will be issued upon Our receipt of the returned Goods. Refunds will be promptly and in any event no later than 30 calendar days after receipt of the returned Goods and will include standard delivery charges. We regret that additional costs such as express delivery and gift-wrapping cannot be refunded.
- 15.4 If any Goods you have purchased develop faults within 30 calendar days of delivery, you may be entitled to a replacement but not a refund. In order to arrange for such a replacement you should contact Us within the 30 calendar day period to arrange collection and return or visit the returns page on the Website within the 30 calendar day period by clicking <http://www.cbccomputers.com/returns> to complete a returns form. We will assess the Goods and alleged faults upon receipt and if We determine (at Our sole discretion, acting reasonably and in good faith) that the fault is not a result of mistreatment by you (deliberate, negligent or otherwise), We will issue replacement Goods at no additional cost to you.
- 15.5 If any Goods develop faults beyond 30 calendar days from delivery but within their warranty period, you are entitled to a repair or replacement under the

terms of that warranty. CBC Computer Systems Ltd is not a party to such warranties and you must therefore contact the manufacturer of the Goods directly.

- 15.6 If you are a consumer based within the European Union, you have a statutory right to a “cooling off” period. This period begins once your order is complete and ends 14 calendar days after the Goods have been delivered to you. If the Goods are delivered to you in instalments, the 14 calendar day period begins on the day that you receive the final instalment. If you change your mind about the goods within this period, please inform Us within 14 calendar days. Goods must be returned to Us within 14 calendar days of the day on which you inform Us that you wish to return the Goods. You are responsible for paying return shipment costs if Goods are returned for this reason. Refunds will be issued promptly and in any event no later than 30 calendar days after you inform Us that you wish to cancel under this provision and will include standard delivery charges. We regret that additional costs such as express delivery and gift-wrapping cannot be refunded.
- 15.7 CBC Computer Systems Ltd may not be able to accept returns under the cooling off period of the following types of Goods and/or taking into account the following circumstances:
- 15.7.1 Goods made to your specifications or that have been personalised;
  - 15.7.2 Goods which are liable to deteriorate or expire rapidly;
  - 15.7.3 Goods which are sealed for health or hygiene reasons that have been unsealed after delivery;
  - 15.7.4 Goods which are, after delivery, according to their nature, inseparably mixed with other items;
  - 15.7.5 Goods consisting of audio or video recordings or computer software (including games) in sealed packaging where the seal has been broken after delivery.
  - 15.7.6 Any use or enjoyment that you may have already had out of the Goods beyond handling them to the extent necessary to establish the nature, characteristics and functioning of them (such as you would, for example, handle a display item in a shop). Please note that opening packaging does not prevent you from returning Goods unless the Goods fall under sub-Clauses 15.7.3 or 15.7.5 and in any event does not include the opening of delivery packaging, only the packaging of the product itself.

## 16. **Privacy**

- 16.1 Use of the Website is also governed by Our <http://www.cbccomputers.com/privacy-policy> which is incorporated into these Terms and Conditions by this reference. To view the Privacy Policy, please click on the link above.
- 16.2 The Website places the following cookies onto your computer or device. These cookies are used for the purposes described herein. Full details of the cookies used by the Website and your legal rights with respect to them are included in Our <http://www.cbccomputers.com/privacy-policy>. By accepting these Terms and Conditions, you are giving consent to CBC Computer Systems Ltd to place cookies on your computer or device. Please read the information contained in the Privacy Policy prior to acceptance.
- 16.3 If you wish to opt-out of Our placing cookies onto your computer or device,

please adjust your internet browser's settings to restrict cookies as detailed in your internet browser's help menu. You may also wish to delete cookies which have already been placed. For instructions on how to do this, please consult your internet browsers help menu.

**17. How We Use Your Personal Information (Data Protection)**

- 17.1 All personal information that We may collect (including, but not limited to, your name and address) will be collected, used and held in accordance with the provisions of the Data Protection Act 1998 and your rights under that Act.
- 17.2 We may use your personal information to:
  - 17.2.1 Provide Our Goods and services to you;
  - 17.2.2 Process your payment for the Goods; and
  - 17.2.3 Inform you of new products and services available from Us. You may request that We stop sending you this information at any time.
- 17.3 In certain circumstances (if, for example, you wish to purchase Goods on credit), and with your consent, We may pass your personal information on to credit reference agencies. These agencies are also bound by the Data Protection Act 1998 and should use and hold your personal information accordingly.
- 17.4 We will not pass on your personal information to any other third parties without first obtaining your express permission.

**18. Disclaimers**

- 18.1 We make no warranty or representation that the Website will meet your requirements, that it will be of satisfactory quality, that it will be fit for a particular purpose, that it will not infringe the rights of third parties, that it will be compatible with all systems, that it will be secure and that all information provided will be accurate. We make no guarantee of any specific results from the use of Our services.
- 18.2 No part of this Website is intended to constitute advice and the Content of this Website should not be relied upon when making any decisions or taking any action of any kind.
- 18.3 No part of this Website is intended to constitute a contractual offer capable of acceptance.
- 18.4 Whilst We use all reasonable endeavours to ensure that the Website is secure and free of errors, viruses and other malware, you are strongly advised to take responsibility for your own internet security, that of your personal details and your computers.

**19. Changes to the Service and these Terms and Conditions**

We reserve the right to change the Website, its Content or these Terms and Conditions at any time. You will be bound by any changes to the Terms and Conditions from the first time you use the Website following the changes. If We are required to make any changes to these Terms and Conditions pertaining to the sale of Goods by law, these changes will apply automatically to any orders currently pending in addition to any orders placed by you in the future.

**20. Availability of the Website**

- 20.1 The Website and any Service provided therein is provided "as is" and on an



“as available” basis. We give no warranty that the Website or any Service will be free of defects and / or faults. To the maximum extent permitted by the law We provide no warranties (express or implied) of fitness for a particular purpose, accuracy of information, compatibility and satisfactory quality.

20.2 We accept no liability for any disruption or non-availability of the Website resulting from external causes including, but not limited to, ISP equipment failure, host equipment failure, communications network failure, power failure, natural events, acts of war or legal restrictions and censorship.

## 21. **Limitation of Liability**

21.1 To the maximum extent permitted by law, We accept no liability for any direct or indirect loss or damage, foreseeable or otherwise, including any indirect, consequential, special or exemplary damages arising from the use of the Website or any information contained therein. You should be aware that you use the Website and its Content at your own risk.

21.2 In the event that any of these terms are found to be unlawful, invalid or otherwise unenforceable, that term is to be deemed severed from these Terms and Conditions and shall not affect the validity and enforceability of the remaining Terms and Conditions. This term shall apply only within jurisdictions where a particular term is illegal.

## 22. **No Waiver**

In the event that any party to these Terms and Conditions fails to exercise any right or remedy contained herein, this shall not be construed as a waiver of that right or remedy.

## 23. **Previous Terms and Conditions**

In the event of any conflict between these Terms and Conditions and any prior versions thereof, the provisions of these Terms and Conditions shall prevail unless it is expressly stated otherwise.

## 24. **Third Party Rights**

Nothing in these Terms and Conditions shall confer any rights upon any third party. The agreement created by these Terms and Conditions is between you and CBC Computer Systems Ltd.

## 25. **Communications**

25.1 All notices / communications shall be given to Us either by post to Our Premises (see address above) or by email [here](#). Such notice will be deemed received 3 days after posting if sent by first class post, the day of sending if the email is received in full on a business day and on the next business day if the email is sent on a weekend or public holiday.

25.2 We may from time to time, if you opt to receive it, send you information about Our products and/or services. If you do not wish to receive such information, please click on the 'Unsubscribe' link in any email which you receive from us..

## 26. **Law and Jurisdiction**

These Terms and Conditions and the relationship between you and CBC Computer Systems Ltd shall be governed by and construed in accordance with the Law of England and Wales and CBC Computer Systems Ltd and you agree to submit to the exclusive jurisdiction of the Courts of England and Wales.

## CBC Computer Systems Ltd

### Business to Business (B2B) – Trade credit accounts - Terms and Conditions for the Sale of Goods and Services

**Effective 1<sup>st</sup> February 2018**

#### **1. Application of Terms and Conditions**

- 1.1 The Supplier shall supply and the Customer shall purchase the Goods and Services in accordance with the Supplier quotation/Supplier order confirmation which shall be subject to these Terms and Conditions; and
- 1.2 The Contract shall be to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer.

#### **2. Definitions and Interpretation**

- 2.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

<b>“Business Day”</b>	means any day other than a Saturday, Sunday or bank holiday;
<b>“Confidential Information”</b>	means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with this Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);
<b>“Contract”</b>	means the contract for the purchase and sale of the Goods and supply of the Services under these Terms and Conditions;
<b>“Contract Price”</b>	means the price stated in the Contract payable for the Goods;
<b>“Customer”</b>	means the person who accepts a quotation or offer of the Supplier for the sale of the Goods and supply of the Services, or whose order for the Goods and Services is accepted by the Supplier;
<b>“Goods”</b>	means the goods (including any instalment of the goods or any parts for them) which the Supplier is to supply in accordance with these Terms and Conditions;
<b>“Month”</b>	means a calendar month;
<b>“Services”</b>	means the Services to be provided to the Customer as set out in the Supplier quotation/Supplier order confirmation; and

**“Supplier”**

means CBC Computer Systems Ltd, a company registered in England under 01973600 of Redwood House, 68 Brown Street, Sheffield, S1 2BS and includes all employees and agents of CBC Computer Systems Ltd.

- 2.1 Unless the context otherwise requires, each reference in these Terms and Conditions to:
- a) “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
  - b) a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
  - c) “these Terms and Conditions” is a reference to these Terms and Conditions and any Schedules as amended or supplemented at the relevant time;
  - d) a Schedule is a schedule to these Terms and Conditions; and
  - e) a Clause or paragraph is a reference to a Clause of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule.
  - f) a “Party” or the “Parties” refer to the parties to these Terms and Conditions.
- 2.2 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 2.3 Words imparting the singular number shall include the plural and vice versa.
- 2.4 References to any gender shall include the other gender.

**3. Basis of Sale and Service**

- 3.1 The Supplier’s employees or agents are not authorised to make any representations concerning the Goods and/or Services unless confirmed by the Supplier in writing. In entering into the Contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 3.2 No variation to these Terms and Conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and the Supplier.
- 3.3 Sales literature, price lists and other documents issued by the Supplier in relation to the Goods and Services are subject to alteration without notice and do not constitute offers to sell the Goods which are capable of acceptance. No contract for the sale of the Goods and Services shall be binding on the Supplier unless the Supplier has accepted an order placed by the Customer by whichever is the earlier of:
- a) the Supplier’s written acceptance;
  - b) delivery of the Goods;

- c) provision of the Services; or
  - d) the Supplier's invoice.
- 3.4 Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.

#### **4. The Goods and Services**

- 4.1 No order submitted by the Customer shall be deemed to be accepted by the Supplier unless and until confirmed in writing by the Supplier's authorised representative.
- 4.2 The specification for the Goods/Services shall be that set out in the Supplier's sales documentation unless varied expressly in the Customer's order (if such variations is/are accepted by the Supplier). Illustrations, photographs or descriptions whether in catalogues, brochures, price lists or other documents issued by the Supplier are intended as a guide only and shall not be binding on the Supplier.
- 4.3 The Supplier reserves the right to make any changes in the specification of the Goods/Services which are required to conform with any applicable safety or other statutory or regulatory requirements or, where the Goods/Services are to be supplied to the Customer's specification, which do not materially affect their quality or performance.
- 4.4 No order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in writing of the Supplier on the terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of such cancellation.

#### **5. Price**

- 5.1 The price of the Goods and Services shall be the price listed in the Supplier's Order Confirmation, current at the date of acceptance of the Customer's order, or such other price as may be agreed in writing by the Supplier and the Customer.
- 5.2 The Supplier reserves the right, by giving written notice to the Customer at any time before delivery or provision, to increase the price of the Goods and/or Services to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (including, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, increase in the costs of labour, materials, services or transport), any change in delivery dates, quantities or specifications for the Goods and services which are requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions.
- 5.3 Except as otherwise stated under the terms of any Supplier quotation/Supplier order confirmation, and unless otherwise agreed in writing between the Customer and the Supplier, all prices are inclusive of the Supplier's charges for packaging and transport.

- 5.4 The price is exclusive of any applicable value added tax, excise, sales taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Goods and Services, which the Customer shall be additionally liable to pay to the Supplier.

## 6. **Payment**

- 6.1 Subject to any special terms agreed in writing between the Customer and the Supplier, the Supplier shall invoice the Customer for the price of the Goods and Services on or at any time after delivery of the Goods and/or the Provision of the Services (as applicable), unless, in the case of Goods, the Goods are to be collected by the Customer or the Customer wrongfully fails to take delivery of the Goods, in which event the Supplier shall be entitled to invoice the Customer for the price at any time after the Supplier has notified the Customer that the Goods are ready for collection or (as the case may be) the Supplier has tendered delivery of the Goods.
- 6.2 The Customer shall pay the price of the Goods (less any discount or credit allowed by the Supplier, but without any other deduction, credit or set off) within 30 days of the date of the Supplier's invoice or otherwise in accordance with such credit terms as may have been agreed in writing between the Customer and the Supplier in respect of the Contract. Payment shall be made on the due date notwithstanding that delivery or provision may not have taken place and/or that the property in the Goods has not passed to the Customer. The time for the payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 6.3 All payments shall be made to the Supplier as indicated on the form of acceptance or invoice issued by the Supplier.
- 6.4 The Supplier is not obliged to accept orders from any customer or buyer who has not supplied the Supplier with references satisfactory to the Supplier. If at any time the Supplier is not satisfied as to the creditworthiness of the Customer it may give notice in writing to the Customer that no further credit will be allowed to the Customer in which event no further goods or services will be delivered or provided to the Customer other than against cash payment and notwithstanding sub-Clause 6.2 of these conditions, all amounts owing by the Customer to the Supplier shall be immediately payable in cash.

## 7. **Delivery and Performance**

- 7.1 Delivery of the Goods shall be made by the Supplier delivering the Goods to the place in the United Kingdom specified in the Supplier order confirmation or, if no place of delivery is so specified, by the Customer collecting the Goods at the Supplier's premises at any time after the Supplier has notified the Customer that the Goods are ready for collection.
- 7.2 Any delivery dates quoted whether verbally or otherwise are estimates only and in regard to any such date time shall not be of the essence The Supplier shall be entitled to make partial deliveries, and these Terms and Conditions shall apply to each partial delivery.
- 7.3 If the Customer fails to take delivery of the Goods or any part of them on the and/or fails to provide any instructions, documents, licences, consents

or authorisations required to enable the Goods to be delivered, the Supplier shall be entitled upon giving written notice to the Customer to store or arrange for the storage of the Goods and then notwithstanding the provisions of sub-Clause 8.1 risk in the Goods shall pass to the Customer, delivery shall be deemed to have taken place and the Customer shall pay to the Supplier all costs and expenses including storage and insurance charges arising from such failure.

## **8. Risk and Retention of Title**

- 8.1 Risk of damage to or loss of the Goods shall pass to the Customer at:
- a) in the case of Goods to be delivered at the Supplier's premises, the time when the Supplier notifies the Customer that the Goods are available for collection;
  - b) in the case of Goods to be delivered otherwise than at the Supplier's premises, the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods; or
- 8.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Terms and Conditions, legal and beneficial title to the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods.
- 8.3 Sub-Clause 8.2 notwithstanding, legal and beneficial title of the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods and any other goods supplied by the Supplier and the Customer has repaid all moneys owed to the Supplier, regardless of how such indebtedness arose.
- 8.4 Until payment has been made to the Supplier in accordance with these Conditions and title in the Goods has passed to the Customer, the Customer shall be in possession of the Goods as bailee for the Supplier and the Customer shall store the Goods separately and in an appropriate environment, shall ensure that they are identifiable as being supplied by the Supplier and shall insure the Goods against all reasonable risks.
- 8.5 In the event that the Customer sells or transfers the Goods to a third party before legal and beneficial title has passed to him under these Terms and Conditions, the proceeds of the sub-sale or transfer (or such proportion as is due to the Supplier) shall be held by the Customer on behalf of the Supplier. The Customer shall ensure that such moneys are held separately from, and are in no way mixed with, any other moneys or funds, and that all moneys held on the Supplier's behalf are identified as such.
- 8.6 If the Goods are manufactured into another form or are used in the process of manufacturing other goods, the Supplier shall acquire legal and beneficial title to the resulting goods, or a proportion of the title equal to the contribution made to the resulting goods by the Goods.
- 8.7 The Supplier may, in accordance with the provisions of the Companies Act 2006, register any charge created by these Conditions.
- 8.8 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Supplier, but if the Customer does so all money owing by

the Customer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and payable.

- 8.9 The Supplier reserves the right to repossess any Goods in which the Supplier retains title without notice. The Customer irrevocably authorises the Supplier to enter the Customer's premises during normal business hours for the purpose of repossessing the Goods in which the Supplier retains title and inspecting the Goods to ensure compliance with the storage and identification requirements of sub-Clause 10.4.
- 8.10 The Customer's right to possession of the Goods in which the Supplier maintains legal and beneficial title shall terminate if:
- a) the Customer commits or permits any material breach of his obligations under these Conditions;
  - b) The Customer enters into a voluntary arrangement under Parts I or VIII of the Insolvency Act 1986, the Insolvent Partnerships Order 1994 (as amended), or any other scheme or arrangement is made with his creditors;
  - c) the Customer is or becomes the subject of a bankruptcy order or takes advantage of any other statutory provision for the relief of insolvent debtors;
  - d) the Customer convenes any meeting of its creditors, enters into voluntary or compulsory liquidation, has a receiver, manager, administrator or administrative receiver appointed in respect of its assets or undertaking or any part thereof, any documents are filed with the court for the appointment of an administrator in respect of the Customer, notice of intention to appoint an administrator is given by the Customer or any of its directors or by a qualifying floating chargeholder (as defined in paragraph 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer.

## **9. Assignment**

- 9.1 The Supplier may assign the Contract or any part of it to any person, firm or company without the prior written consent of the Customer.
- 9.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Supplier.

## **10. Defective / Damaged Goods or Returns**

- 10.1 No Goods may be returned to the Supplier without the prior agreement in writing of the Supplier. The Supplier will provide the correct paperwork and reference codes in the event goods are accepted for return, which must be processed according to the Suppliers instruction. Failure to follow these procedures will negate the right to return the goods
- 10.2 If on delivery any of the Goods are defective or damaged in any material respect , the Customer must give written notice of such defect or damage to the Supplier within 5 Business Days of such delivery.

- 10.3 Subject thereto any Goods returned which the Supplier is satisfied were supplied subject to defects of quality or condition, the Supplier shall at its option:
- a) replace the defective Goods or
  - b) refund or credit the Customer for the price for those Goods (or parts thereof, as appropriate) which are defective;
- but the Supplier shall have no further liability to the Customer in respect thereof.
- 10.4 The Supplier shall be under no liability in respect of any defect arising from fair wear and tear, or any wilful damage, negligence, subjection to normal conditions, failure to follow the Supplier's instructions (whether given orally or in writing), misuse or alteration of the Goods without the Supplier's prior approval, or any other act or omission on the part of the Customer, its employees or agents or any third party.
- 10.5 Goods, other than defective Goods returned under sub-Clauses 10.2 or 10.3, returned by the Customer and accepted by the Supplier may be credited to the Customer at the Supplier's sole discretion and without any obligation on the part of the Supplier. The cost of returning such goods will be at the expense of the Customer. The supplier reserves the right to charge a restocking fee, to be determined by the Supplier, on such returns, which must be accepted in writing by the Customer before the goods are returned
- 10.6 Subject as expressly provided in these Terms and Conditions, and except where the Goods are sold under a consumer sale, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 10.7 The Customer shall be responsible for ensuring that, except to the extent that instructions as to the use or sale of the Goods are contained in the packaging or labelling of the Goods, any use or sale of the Goods by the Customer is in compliance with all applicable statutory requirements and that handling and sale of the Goods by the Customer is carried out in accordance with directions given by the Supplier or any competent governmental or regulatory authority and the Customer will indemnify the Supplier against any liability loss or damage which the Supplier might suffer as a result of the Customer's failure to comply with this condition.

## 11. **Customer's Default**

- 11.1 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to:
- a) cancel the order or suspend any further deliveries or provision of Goods and Services to the Customer;
  - b) appropriate any payment made by the Customer to such of the Goods and/or Services (or the goods and/or services supplied under any other contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer); and



- c) charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 4% per annum above HSBC bank base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

11.2 This condition applies if:

- a) the Customer fails to perform or observe any of its obligations hereunder or is otherwise in breach of the Contract;
- b) the Customer becomes subject to an administration order or enters into a voluntary arrangement under Parts I or VIII of the Insolvency Act 1986 or the Insolvent Partnerships Order 1994 (as amended) or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation;
- c) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
- d) the Customer ceases, or threatens to cease, to carry on business; or
- e) the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

11.3 If sub-Clause 13.2 applies then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

## 12. **Liability**

- 12.1 The Supplier will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under express terms of the Contract (or these Terms and Conditions), be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the Supplier's servants or agents or otherwise) which arise out of or in connection with the supply of the Goods and Services.
- 12.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 12.3 The Customer shall indemnify the Supplier against all damages, costs, claims and expenses suffered by arising from loss or damage to any equipment (including that of third parties) caused by the Customer, its agents or employees.
- 12.4 Where the Customer consists of two or more persons such expression throughout shall mean and include such two or more persons and each or any of them. All obligations on the part of such a Customer shall be joint and several obligations of such persons.
- 12.5 The Supplier shall not be liable to the Customer or be deemed to be in breach of these terms and conditions by reason of any delay in

performing, or any failure to perform, any of the Supplier's obligations if the delay or failure was due to any cause beyond the Supplier's reasonable control.

12.6 Nothing in these Terms and Conditions excludes or limits the liability of the Supplier:

- a) for death or personal injury caused by the Supplier's negligence;
- b) for any matter which it would be illegal for the Supplier to exclude or attempt to exclude its liability; or
- c) for fraud or fraudulent misrepresentation.

12.7 Subject to the remaining provisions of this Clause 14:

- a) the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract Price; and
- b) the Supplier shall not be liable to the Customer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

### 13. Confidentiality

13.1 Each Party undertakes that, except as provided by sub-Clause 15.2 or as authorised in writing by the other Party, it shall, at all times during the continuance of the Contract and [for <<insert period>>] after its termination:

- a) keep confidential all Confidential Information;
- b) not disclose any Confidential Information to any other person;
- c) not use any Confidential Information for any purpose other than as contemplated by and subject to these Terms and Conditions and the Contract;
- d) not make any copies of, record in any way or part with possession of any Confidential Information; and
- e) ensure that none of its directors, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-clauses 15.1.1 to 15.1.4 above.

13.2 Either Party may:

- a) disclose any Confidential Information to:

13.2.2 any sub-contractor or supplier of that Party;

13.2.3 any governmental or other authority or regulatory body; or

13.2.4 any employee or officer of that Party or of any of the aforementioned persons, parties or bodies;

to such extent only as is necessary for the purposes contemplated by these Terms and Conditions and the Contract, or as required by law, and in each case subject to that Party first informing the person, party

or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body as is mentioned in sub-Clause 15.2.1.2 above or any employee or officer of any such body) obtaining and submitting to the other Party a written undertaking from the person in question, as nearly as practicable in the terms of this Clause 15, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and

- b) use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of the Contract, or at any time after that date becomes, public knowledge through no fault of that Party, provided that in doing so that Party does not disclose any part of that Confidential Information which is not public knowledge.

13.3 The provisions of this Clause 15 shall continue in force in accordance with their terms, notwithstanding the termination of the Contract for any reason.

#### 14. **Communications**

14.1 All notices under these Terms and Conditions and under the Contract shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

14.2 Notices shall be deemed to have been duly given:

- a) when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; or
- b) when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or
- c) on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
- d) on the tenth business day following mailing, if mailed by airmail, postage prepaid.

14.3 All notices under this Agreement shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

#### 15. **Force Majeure**

Neither Party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

#### 16. **Waiver**

The Parties agree that no failure by either Party to enforce the performance of any provision in these Terms and Conditions or under the Contract shall constitute a waiver of the right to subsequently enforce that provision or any other provision. Such failure shall not be deemed to be a waiver of any preceding or subsequent

breach and shall not constitute a continuing waiver.

**17. Severance**

The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions or the Contract are found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (and, by extension, the Contract). The remainder of these and the Contract shall be valid and enforceable.

**18. Sub-Contracting and Third Party Rights**

The Supplier shall be entitled to sub-contract the whole or any part of its obligations hereunder to any third party, but shall remain liable as if it were performing the Services itself.

A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

**19. Law and Jurisdiction**

19.1 These Terms and Conditions and the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

19.2 Any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions or to the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.