
TERMS AND CONDITIONS FOR THE SUPPLY OF VOICE AND DATA EQUIPMENT

1. DEFINITIONS

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

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

Charges: the charges including the Service Fee payable by the Customer for the supply of the Services in accordance with Clause 6.

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

Conditions: these terms and conditions as amended from time to time in accordance with Clause 12.8.

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

Customer: the person or firm who purchases Services from the Supplier including that person's employees, agents, consultants, or sub-contractors.

Data Equipment: either data equipment already owned by the Customer at the Commencement Date or equipment supplied by the Supplier to the Customer and noted as "Data" on Schedule A and in either case located at the Location.

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

Equipment: the Data Equipment and/or the Voice Equipment.

Initial Minimum Period: the period specified in the contract.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Location: the Customer's premises specified at order where the Equipment is to be located and/or the Services are to be performed.

Maintenance Releases: a release by a manufacturer from time to time of any software which corrects Customer specific faults, but which does not constitute a New Version.

New Version: any new version of any software which from time to time is publicly marketed, which is offered by the Supplier for purchase by the Customer and which, in the normal course of its business, the purchase or operation of the new version does not require that the Customer already has an earlier version of the software. Normal Working Hours: 9.00 a.m. to 5.00 p.m. on Monday to Friday inclusive each week excluding all statutory holidays.

Order: the Customer's order for Services.

Services: the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Specification including restoring normal service operation to the Customer's business as quickly as reasonably possible following report of a fault by the Customer to the Supplier.

Service Agreement: the Service Agreement which is listed in the contract.

Service Fee: the fee for the Services set out in the contract.

Software: the software specified in the contract.

Software Support: the support for the Software specified in the contract.

Specification: the description or specification of the Services provided in the contract by the Supplier to the Customer including as appropriate Data Equipment, Software Support and/or Voice Equipment.

Supplier: ACS Business Supplies registered in England and Wales with company number 06584936.

Supplier Materials: has the meaning set out in the contract.

Voice Equipment: either voice equipment already owned by the Customer at the Commencement Date or equipment supplied by the Supplier to the Customer and in either case located at the Location.

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

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

(b) a reference to a party includes its personal representatives, successors or permitted assigns.

(c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

(d) any phrase introduced by the terms including, include, or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

(e) a reference to writing or written includes faxes.

2. BASIS OF CONTRACT

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

2.2 The Order shall only be deemed to be accepted on the earlier of either when the Supplier signs the Service Agreement, or the Supplier commences provision of the Services at which point, and on which date the Contract shall come into existence (Commencement Date).

2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.

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

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

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

3. SUPPLY OF SERVICES

3.1 The Supplier shall supply the Services to the Customer during Normal Working Hours in accordance with the Specification in all material respects for the Initial Minimum Period commencing on the Commencement Date and thereafter from year to year unless otherwise terminated in accordance with the Contract.

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

3.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

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

3.5 The Supplier will maintain the Voice Equipment in good working order during the term of the Contract. Where a defect arises with the Voice Equipment as a result of fair wear and tear through proper operation by the Customer the Supplier will repair or replace any defective parts at no additional cost to the Customer. At the Supplier's sole discretion, the Supplier may replace any of the Voice Equipment for any length of time provided that such replacement shall be similar to the equipment it has replaced, and such replacement shall be covered by the terms of this agreement.

3.6 The Supplier will maintain the Data Equipment for unlimited calls during the term of the Contract, but the Supplier shall not be required to replace any Data Equipment.

3.7 Where the Customer has requested Software Support the Supplier will use reasonable endeavours to provide remote and, where necessary, on-site support to identify and subsequently assist the manufacturer of the Equipment to resolve a software fault with the Equipment. Software Support shall only cover the software supplied under the Contract and shall not cover any additional software the Customer may acquire during the term of the Contract unless the Supplier has agreed in writing that it will include the new software within the Software Support. If the Customer requests that additional software be included within the Software Support, the Supplier shall be entitled to increase its Charges and shall not be obliged to provide the additional support until those increased Charges have been agreed in writing.

4. SERVICE EXCLUSIONS

4.1 The Contract expressly excludes: -

- (a) Consumable items (including but not restricted to printer toner, fuser assembly, ink cartridges etc.), Dot Matrix and inkjet print heads.
- (b) Typesetting equipment and RIP server hardware.
- (c) Cathode ray tubes.
- (d) Installation and configuration of hardware and/or software not supplied by the Supplier.
- (e) Services not specified in the contract
- (f) Normal manufacturer specified service or overhaul of laser printers.
- (g) Any software that is not licensed to the person named in the contract
- (h) Bespoke software.
- (i) Software supported by a third party.
- (j) Any extension or Cat 5 wiring used with the equipment or any Customer generated software programs.

4.2 The following are expressly excluded from the Contract and shall only be undertaken at the Suppliers sole discretion and subject to the Customer paying the Supplier's additional Charges.

- (a) Any work not included in the contract which requires the Supplier to physically attend the Location.
- (b) Any work required to be undertaken outside the Normal Working Hours.
- (c) Rectification of defects in Software caused by the installation of unofficial upgrades.
- (d) Rectification of defects in Software which has been modified, installed, or re-installed by the Customer or any third party without the prior written approval of the Supplier.
- (e) Installation and support of beta or other pre-release software.
- (f) Rectification of defects in Software caused by the installation of beta or other pre-release software.
- (g) Data recovery services.
- (h) Any Equipment which the Supplier has advised the Customer needs to be replaced until it is replaced.
- (i) Any Equipment which is removed and/or relocated from the Location.
- (j) Any Service requested at a location other than the Location or outside the Supplier's normal service area.

4.3 Under no circumstances shall the Supplier undertake any work that may result in the infringement of any software licences or another person's Intellectual Property Rights such work to include but shall not be limited to the unauthorised modification of software or the installation of multiple copies of software in excess of any quantity permitted by the relevant software licence.

5. CUSTOMER'S OBLIGATIONS

5.1 The Customer shall:

- (a) ensure that the terms of the Order and any information it provides in the Specification are complete and accurate.
- (b) co-operate with the Supplier in all matters relating to the Services.
- (c) provide the Supplier, its employees, agents, consultants, and subcontractors with access to the Location and the Customer's other premises, office accommodation and facilities as reasonably required by the Supplier.
- (d) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services and ensure that such information is accurate in all material respects.
- (e) prepare the Location for the supply of the Services.
- (f) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start.
- (g) keep and maintain all materials, equipment, documents, and other property of the Supplier (Supplier Materials) at the Location in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation.
- (h) maintain the Equipment in a suitable environment approved by the Supplier.
- (i) notify the Supplier immediately, including full details, of any defect with the Equipment.
- (j) not to use any materials or services supplied by a person other than the Supplier.
- (k) observe and perform all statutory and other obligations relating to the Location including but not limited to health and safety matters; and
- (l) pay the Charges.

5.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations.
- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in the Clause 5.2; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

5.3 The Customer shall not, without the prior written consent of the Supplier at any time from the date of this Contract to the expiry of twelve months after the termination of the Contract, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant, or sub-contractor of the Supplier in the provision of the Services.

6. CHARGES AND PAYMENT

6.1 The Customer shall pay the Service Fee to the Supplier on the Commencement Date.

6.2 The Supplier may increase the Service Fee at any time if the Customer requests any change to the Specification and, subject to the foregoing and Clause 6.3, may otherwise increase the Service Fee provided that:

- (a) no such increase will take effect during the Initial Minimum Period.
- (b) the Supplier gives the Customer written notice of any increase one month before the date of the increase.
- (c) there be no more than one increase in any twelve-month period.
- (d) such increase shall be limited to the increase in the Retail Price Index for the relevant period; and

(e) provided the Initial Minimum Period has expired, if such increase is not acceptable to the Customer, the Customer shall notify the Supplier in writing within fourteen days of the date of the Supplier's notice and the Supplier shall have the right without limiting its other remedies to terminate the Contract by giving eight weeks written notice to the Customer.

6.3 The Supplier may vary the Service Fee if the Customer requests and the Supplier agrees that additional Equipment be added to the Equipment specified in the contract. Such additional Service Fee shall be payable in advance of the additional Equipment being supplied and shall be charged at the Supplier's then prevailing rates.

6.4 The following is a non-exhaustive list of Services which the Supplier may at the Customer's request supply which are not included in the Service Fee and for which the Supplier will make additional charges on the basis set out in Clause 6.5.

- (a) alterations or modification to the Equipment to meet the Customer's requirements.
- (b) relocation or re-installation of Equipment.
- (c) rectifying defects arising from misuse or neglect of the Equipment, accidental damage to the Equipment, faults with the manufacturer's design or materials, acts of God or other causes other than ordinary use.
- (d) any fault due to the Customer or third-party error.
- (e) any fault arising from a failure or fluctuation of electrical power.
- (f) where additional or updated hardware is required to allow Maintenance Releases or New Versions to be installed; or
- (g) where the Customer logs a fault but where the problem is not caused by a software fault with the Equipment.

6.5 Provide a carrier fault reference to enable the Customer to reclaim the costs it has incurred from the carrier. The Supplier cannot accept any responsibility whatsoever if the carrier refuses to refund some or all of these costs).

- (a) on the Supplier responding no fault exists.
- (b) on the Supplier responding it is unable to gain access to the Location during Normal Working Hours.

6.6 The Charges for the Services other than those covered by the Service Fee and including but not limited to those set out in Clause 6.4 shall be on a time and materials basis:

- (a) the Charges shall be calculated in accordance with the Supplier's then prevailing standard daily fee rates.
- (b) the Supplier's standard daily fee rates for each individual are calculated on the basis of the Normal Working Hours.
- (c) the Supplier shall be entitled to charge additional fees at its then prevailing overtime rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in Clause 6.5(b).
- (d) the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence, and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials, and
- (e) the Supplier shall be entitled to charge the Customer for any charges it incurs from third parties (such as charges for Maintenance Releases or New Versions) and for any additional hardware parts or other equipment it supplies in connection with the Services.

6.7 The Supplier shall invoice the Customer for the Service Fee covering the Initial Minimum Period on the Commencement Date, for the Service Fee covering periods after the Initial Minimum Period annually in advance and for other charges on completion of the relevant Services.

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

6.9 (a) immediately on receipt of the invoice; and

6.10 (b) in full and in cleared funds to a bank account nominated in writing by the Supplier; and

6.11 time for payment shall be of the essence of the Contract.

6.12 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

6.13 The annual support charge for the initial current period of twelve months shall be the charge specified on the contract.

6.14 Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (Due Date), the Supplier shall have the right to charge interest on the overdue amount at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1988 accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.

6.15 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.

7.2 The Customer acknowledges that, in respect of any third-party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.

7.3 All Supplier Materials are the exclusive property of the Supplier.

8. CONFIDENTIALITY

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 or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents, or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This Clause 8 shall survive termination of the Contract.

9. LIMITATION OF LIABILITY

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

9.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors.
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

9.2 Subject to Clause 9.1:

(a) the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract including any losses that may result from a deliberate breach of the Contract by the Supplier, its employees, agents, or subcontractors.

(b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including losses caused by a deliberate breach of the Contract by the Supplier, its employees, agents or subcontractors shall not exceed a sum equivalent to the Service Fee applicable for the twelve month period prior to the date of the loss arising and the Customer acknowledges and accepts that the Service Fee has been set having taken into account the limitations contained in this Clause 9; and

(c) the Supplier shall not be liable to the Customer in any event for losses, whether direct, indirect, or consequential, resulting from:

(i) any loss of data.

(ii) any breakdown of equipment or network cable infrastructure.

(iii) any damage to hardware, software and/or data caused by virus, spyware, or other similar malicious attack.

(iv) system faults caused by telephone area code changes.

(v) any changes in carrier services.

(vi) any legislative changes.

(vii) least cost routing programming; or

(viii) any loss arising due to a failure by the relevant person to hold an appropriate software licence

9.3 Except as set out in these Conditions, all warranties, conditions, and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

9.4 This Clause 9 shall survive termination of the Contract.

10. TERMINATION

10.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within thirty days of that party being notified in writing of the breach.

(b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of Section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

(c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party.

(d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party.

(e) the other party (being an individual) is the subject of a bankruptcy petition or order.

(f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration, or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days.

(g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company).

(h) a floating charge holder over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver.

(i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party.

(j) any event occurs, or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 10.1(b) to Clause 10.1(i) (inclusive);

(k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or

(l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

10.2 Without limiting its other rights or remedies, the Supplier may at any time terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

10.3 Without limiting its other rights or remedies, each party shall follow the expiration of the Initial Minimum Period have the right to terminate the Contract by giving the other party three months' written notice to expire on any anniversary of the end of the Initial Minimum Period. Written notice would be sent recorded delivery.

10.4 Without limiting its other rights or remedies, the Supplier shall have the right to suspend provision of the Services under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in Clause 10.1(b)) to Clause 10.1(l), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

11. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

(a) the Customer shall immediately pay to the Supplier of all the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.

(b) the Customer shall return all the Supplier Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

(c) the accrued rights, remedies, obligations, and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

(d) Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

12. GENERAL

12.1 Force majeure:

(a) For the purposes of this Contract, Force Majeure Event means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

(b) The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

(c) If the Force Majeure Event prevents the Supplier from providing any of the Services for more than four weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

12.2 Assignment and subcontracting:

(a) The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all its obligations under the Contract to any third party or agent.

(b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

12.3 Notices:

(a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business or sent by fax to the other party's main fax number.

(b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or 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, on the next Business Day after transmission.

(c) This Clause 12.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this Clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

12.4 Waiver:

(a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

(b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

12.5 Severance:

(a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal, or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

12.6 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable, and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid, and enforceable. No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

12.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.

12.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing and signed by the Supplier. Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.