

SURFTECH IT - TERMS OF BUSINESS FOR THE SUPPLY OF GOODS AND SERVICES	
<p><b>1. INTERPRETATION</b></p> <p>1.1 Definitions. In these Conditions, the following definitions apply:  Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.  Conditions: these terms and conditions as amended from time to time in accordance with clause 15.7.  Contract: the contract between the Supplier and the Customer for the supply of Equipment and/or Services in accordance with these Conditions.  Customer: the person or firm who purchases the Equipment and/or Services from the Supplier.  Deliverables: the deliverables set out in the Order.  Delivery Location: has the meaning set out in clause 4.2.  Equipment: the equipment (or any part of it) set out in the Order.  Force Majeure Event: has the meaning given to it in clause 14.1.  Equipment Specification: any specification for the Equipment that is agreed in writing by the Customer and the Supplier.  Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.  Order: the Customer's order for the supply of Equipment and/or Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of the Supplier's quotation, or overleaf, as the case may be.  Services: the IT support services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Service Specification below.  Service Specification: the description or specification for the Services provided in writing by the Supplier to the Customer.  Supplier: SURF TECH IT LTD registered in England and Wales with company number 09293375.  Supplier Materials: has the meaning set out in clause 8.1(g).</p>	<p>4.4 If the Customer fails to accept or take delivery of the Equipment within 5 Business Days of the Supplier notifying the Customer that the Equipment is ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Equipment:  (a) delivery of the Equipment shall be deemed to have been completed at 9:00am on the fifth Business Day following the day on which the Supplier notified the Customer that the Equipment was ready; and  (b) the Supplier shall store the Equipment until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).  4.5 If 5 Business Days after the Supplier notified the Customer that the Equipment was ready for delivery the Customer has not accepted delivery of it, the Supplier may resell or otherwise dispose of part or all of the Equipment and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Equipment or charge the Customer for any shortfall below the price of the Equipment.  4.6 The Customer shall not be entitled to reject the Equipment if the Supplier delivers up to and including 20 per cent more or less than the quantity of Equipment ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Equipment was delivered.  4.7 The Supplier shall be responsible for any damage, shortage or loss in transit, provided that the Customer notifies it to the Supplier (or its carrier, if applicable) within three days of delivery or the proposed delivery date of the Equipment and that the Equipment has been handled in accordance with the Supplier's stipulations. Any remedy under this condition 4.7 shall be limited, at the option of the Supplier, to the replacement or repair of any Equipment which is proven to the Supplier's satisfaction to have been lost or damaged in transit.  4.8 The Supplier may deliver the Equipment by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.</p>
<p>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 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, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and  (e) unless otherwise provided herein, a reference to writing or written includes faxes and e-mails.</p>	<p><b>5. QUALITY OF EQUIPMENT</b></p> <p>5.1 The Supplier excludes all warranties in respect of the Equipment to the fullest extent permitted by law. Where the Supplier is not the manufacturer of the Equipment, the Supplier shall use reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee given by the manufacturer to the Supplier.  5.2 Subject to clause 5.3, if:  (a) the Customer gives notice in writing within a reasonable time of discovery that some or all of the Equipment do not comply with the Equipment Specification;  (b) the Supplier is given a reasonable opportunity of examining such Equipment; and  (c) the Customer (if asked to do so by the Supplier) returns such Equipment to the Supplier's place of business at the Customer's cost, the Supplier shall, at its option, repair or replace the defective Equipment, or refund the price of the defective Equipment in full.  5.3 The Supplier shall not be liable for the Equipment's failure to comply with the Equipment Specification if:  (a) the Customer makes any further use of such Equipment after giving a notice in accordance with clause 5.2;  (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment or (if there are none) good trade practice;  (c) the defect arises as a result of the Supplier following any drawing, design or Equipment Specification supplied by the Customer;  (d) the Customer alters or repairs such Equipment without the written consent of the Supplier;  (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;  (f) the Equipment differ from the Equipment Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.  5.4 The Supplier shall:  (a) test and inspect the Equipment on delivery to ensure that it complies with the requirements of the Contract; and  (b) if so requested by the Customer, give the Customer reasonable advance notice of such tests (which the Customer shall be entitled to attend).  5.5 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Equipment's failure to comply with the Equipment Specification.  5.6 The terms of these Conditions shall apply to any repaired or replacement Equipment supplied by the Supplier under clause 5.2.</p>
<p><b>2. BASIS OF CONTRACT</b></p> <p>2.1 The Order constitutes an offer by the Customer to purchase the Equipment and/or Services specified in it on these Conditions; accordingly, the execution and return of the acknowledgement copy of the Order by the Supplier (which may be done by e-mail), or the Supplier's commencement, execution or delivery of the Equipment and/or Services pursuant to the Order, shall establish a contract for the supply of Equipment and/or Services on these Conditions. The Customer's standard terms and conditions (if any) attached to, enclosed with, or referred to in, the Order shall not govern the Contract.  2.2 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.  2.3 All samples, drawings, descriptive matter, specifications and 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 and/or Equipment described by them and they do not form part of the Contract.  2.4 Any quotation is valid for a period of 7 days only, and the Supplier may withdraw it any time by notice to the Customer.  2.5 All of these Conditions shall apply to the supply of both Equipment and Services except where application to one or the other is specified.  2.6 No order which has been acknowledged by the Supplier may be cancelled by the Customer, except with the agreement in writing of the Supplier and provided that the Customer indemnifies the Supplier in full against all loss (including without limitation loss of profit), costs (including without limitation the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation.</p>	<p><b>6. TITLE AND RISK</b></p> <p>6.1 The risk in the Equipment shall pass to the Customer on completion of delivery.  6.2 Ownership of the Equipment shall not pass to the Customer until the earlier of:  (a) the Supplier receives payment in full (in cash or cleared funds) for the Equipment and any other Equipment that the Supplier has supplied to the Customer in respect of which payment has become due, in which case ownership of the Equipment shall pass at the time of payment of all such sums; and  (b) the Customer resells the Equipment, in which case ownership of the Equipment shall pass to the Customer at the time specified in clause 6.4.  6.3 Until ownership of the Equipment has passed to the Customer, the Customer shall:  (a) store the Equipment separately from all other Equipment held by the Customer so that they remain readily identifiable as the Supplier's property;  (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment;  (c) maintain the Equipment in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;  (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 13.3(b) to clause 13.3(m); and  (e) give the Supplier such information relating to the Equipment as the Supplier may require from time to time.  6.4 Subject to clause 6.5, the Customer may resell or use the Equipment in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Equipment. However, if the Customer resells the Equipment before that time:  (a) it does so as principal and not as the Supplier's agent; and  (b) ownership of the Equipment shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.  6.5 If before ownership of the Equipment passes to the Customer the Customer becomes subject to any of the events listed in clause 13.3(b) to clause 13.3(m), then, without limiting any other right or remedy the Supplier may have:</p>
<p><b>3. EQUIPMENT</b></p> <p>3.1 The quantity and description of the Equipment shall be as set out in the Order or, if relevant, the Equipment Specification.  3.2 The Supplier reserves the right to amend the Equipment Specification if required by any applicable statutory or regulatory requirements.</p>	
<p><b>4. DELIVERY OF EQUIPMENT</b></p> <p>4.1 The Supplier shall use its reasonable endeavours to deliver the Equipment on the date or dates specified in the Order, but any such date is approximate only. If no dates are so specified, delivery shall be within a reasonable time of acceptance of the order. Time is not of the essence as to the delivery of the Equipment and the Supplier shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.  4.2 The Supplier shall deliver the Equipment to the location set out in the Order or such other location as the parties may agree (Delivery Location) at any time after the Supplier notifies the Customer that the Equipment is ready. Delivery of the Equipment shall be completed on the Equipment's arrival at the Delivery Location.  4.3 The Customer shall be responsible (at the Customer's cost) for preparing the Delivery Location for the delivery of the Equipment and for the provision of all necessary access and facilities reasonably required to deliver and install the Equipment. If the Supplier is prevented from carrying out delivery or installation on the specified date because no such preparation has been carried out, the Supplier may levy additional charges to recover its loss arising from this event.</p>	

<p>(a) the Customer's right to resell Equipment or use them in the ordinary course of its business ceases immediately; and</p> <p>(b) the Supplier may at any time:</p> <p>(i) require the Customer to deliver up all Equipment in its possession which have not been resold, or irrevocably incorporated into another product; and</p> <p>(ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Equipment are stored in order to recover them.</p> <p>6.6 The Customer grants the Supplier, its agents and employees an irrevocable licence at any time to enter any premises where the Equipment is or may be stored in order to inspect it, or where the Customer's right to possession has terminated, to remove it. All costs incurred by the Supplier in repossessing the Equipment shall be borne by the Customer.</p>	<p>9.7 The Customer shall pay each invoice submitted by the Supplier in full, and in cleared funds, within 14 days of the date of the invoice. Time for payment shall be of the essence of the Contract.</p> <p>9.8 The Supplier reserves the right to:</p> <p>(a) increase its standard daily fee rates for the charges for the Services, provided that such charges cannot be increased more than once in any 12-month period. The Supplier will give the Customer written notice of any such increase two (2) months before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify the Supplier in writing within two (2) weeks of the date of the Supplier's notice and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving two (2) weeks' written notice to the Customer; and</p> <p>(b) increase the price of the Equipment, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Equipment to the Supplier that is due to:</p> <p>(i) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);</p> <p>(ii) any request by the Customer to change the delivery date(s), quantities or types of Equipment ordered, or the Equipment Specification; or</p> <p>(iii) any delay caused by any instructions of the Customer in respect of the Equipment or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Equipment.</p> <p>9.9 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Equipment at the same time as payment is due for the supply of the Services or Equipment.</p> <p>9.10 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above HSBC Bank Plc'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 Customer shall pay the interest together with the overdue amount.</p> <p>9.11 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. 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.</p>
<p>7. SUPPLY OF SERVICES</p> <p>7.1 The Supplier shall provide the Services to the Customer in accordance with the Service Specification in all material respects.</p> <p>7.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order or the Services Specification, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.</p> <p>7.3 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.</p> <p>7.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.</p>	<p>10. INTELLECTUAL PROPERTY RIGHTS</p> <p>10.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.</p> <p>10.2 The Customer acknowledges that all Intellectual Property Rights used by or subsisting in the Equipment are and shall remain the sole property of the Supplier or (as the case may be) the third party rights owner.</p> <p>10.3 In relation to any software which forms part of, or is provided with, the Equipment:</p> <p>(a) the Customer shall be subject to the rights and restrictions imposed by the owner of the Intellectual Property Rights in the software and any user manuals, and shall comply with all licence contracts, terms of use and registration requirements relating to them; and</p> <p>(b) the Customer shall indemnify the Supplier in full against all loss, costs (including expenses), damages and charges incurred by the Supplier as a result of (1) the Customer's failure to comply with the licence contracts and (2) the Customer's breach of third party Intellectual Property Rights in the software.</p> <p>10.4 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, 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.</p> <p>10.5 All Supplier Materials are the exclusive property of the Supplier.</p>
<p>8. CUSTOMER'S OBLIGATIONS</p> <p>8.1 The Customer shall:</p> <p>(a) ensure that the terms of the Order and (if submitted by the Customer) the Equipment Specification are complete and accurate;</p> <p>(b) co-operate with the Supplier in all matters relating to the Services;</p> <p>(c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;</p> <p>(d) provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;</p> <p>(e) prepare the Customer's premises for the supply of the Services;</p> <p>(f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and</p> <p>(g) keep and maintain all materials, equipment, documents and other property of the Supplier (Supplier Materials) at the Customer's premises 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.</p> <p>8.2 If the Supplier's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):</p> <p>(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;</p> <p>(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 this clause 8.2; and</p> <p>(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.</p>	<p>11. CONFIDENTIALITY</p> <p>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. This clause 11 shall survive termination of the Contract.</p>
<p>9. CHARGES AND PAYMENT</p> <p>9.1 The Supplier reserves the right to charge a deposit for the delivery of Equipment and/or performance of the Services, which will be set out in the Order, or the Supplier's acknowledgment of order.</p> <p>9.2 The Supplier may request payment for Services to be made by the Customer to the Supplier using "Go Cardless" monthly payments.</p> <p>9.3 In respect of Equipment:</p> <p>(a) the price for Equipment shall be the price set out in the Order or, if no price is quoted, the price set out in the Supplier's published price list as at the date of delivery;</p> <p>(b) the price of the Equipment is exclusive of all costs and charges of packaging, insurance and transport of the Equipment, which shall be paid by the Customer when it pays for the Equipment; and</p> <p>(c) the Supplier shall invoice the Customer on or at any time after completion of delivery.</p> <p>9.4 Clause 9.5 shall apply if the Services are to be provided on a time-and-materials basis. Clause 9.6 shall apply if the Services are to be provided for a fixed price. The remainder of this clause 9 shall apply in either case.</p> <p>9.5 Where the Services are to be provided on a time-and-materials basis:</p> <p>(a) the charges shall be calculated in accordance with the Supplier's standard daily fee rates, as set out in the Services Specification;</p> <p>(b) the Supplier's standard daily fee rates are calculated on the basis of an eight-hour day from 8:30 am to 5:30 pm worked on Business Days;</p> <p>(c) the Supplier shall be entitled to charge an overtime rate of 150% per cent of the standard daily fee 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 9.5(b);</p> <p>(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;</p> <p>(e) the Supplier shall invoice the Customer monthly in arrears for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this clause 9.5.</p> <p>9.6 Where the Services are provided for a fixed price:</p> <p>(a) the total price for the Services shall be the amount set out in the Order;</p> <p>(b) the total price set out in the Order excludes reasonable expenses incurred by the Supplier in the performance of the Services; and</p> <p>(c) the Supplier shall invoice the Customer for the charges that are payable, together with expenses and the costs of materials (and VAT, where appropriate), following completion of the relevant Services.</p>	<p>12. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE</p> <p>12.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:</p> <p>(a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;</p> <p>(b) fraud or fraudulent misrepresentation;</p> <p>(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);</p> <p>(d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or</p> <p>(e) defective products under the Consumer Protection Act 1987.</p> <p>12.2 Subject to clause 12.1:</p> <p>(a) the Supplier shall not in any circumstances be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of business, depletion of goodwill, loss of anticipated saving, loss or corruption of data or information, or any other indirect or consequential loss arising under or in connection with the Contract; and</p> <p>(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, shall in no circumstances exceed the price paid for the Services.</p>

**13. TERMINATION**

13.1 Where the Supplier is supplying Services to the Customer pursuant to this Contract, this Contract shall commence on the commencement date set out in the Order (or if no commencement date is specified, the date the Supplier commences performance of the Services). The Contract shall continue for a period of twelve (12) months and thereafter shall continue for further periods of twelve (12) months, unless terminated by the Customer no less than three (3) months prior to the end of the relevant 12-month period.

13.2 Without limiting its other rights or remedies the Supplier may terminate the Contract at any time by giving the Customer not less than one month's written notice.

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

(a) the Customer 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 or limited liability partnership) 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;

(b) the Customer 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 the Customer;

(c) 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 the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of the Customer;

(d) the Customer (being an individual) is the subject of a bankruptcy petition or order;

(e) a creditor or encumbrancer of the Customer 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;

(f) 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 Customer (being a company);

(g) the holder of a qualifying charge over the assets of the Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;

(h) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;

(i) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.3(a) to clause 13.3(h) (inclusive);

(j) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;

(k) the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

(l) the Customer (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.

13.4 Without limiting its other rights or remedies, the Supplier may 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.

13.5 Without limiting its other rights or remedies, the Supplier may suspend the supply of Services or all further deliveries of Equipment under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 13.3(a) to clause 13.3(l), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

13.6 On termination of the Contract for any reason:

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

(b) the Customer shall return all of 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 and remedies of the parties as at 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.

**FORCE MAJEURE**

14.1 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.

14.2 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.

14.3 If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Equipment 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.

**15. GENERAL**

15.1 Assignment and other dealings.

(a) The Supplier may at any time assign, transfer, mortgage, 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 of its obligations under the Contract to any third party.

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

15.2 Notices.

(a) Any notice or other communication given to a party under or in connection with this 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 prepaid first-class post or other next working day delivery service, or by commercial courier or fax (but not by e-mail).

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 15.2(a); 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, one Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action

15.3 Severance.

(a) 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.

(b) If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15.4 Waiver. A waiver of any right under the Contract or law 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 prevent or restrict its 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.

15.5 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

15.6 Third parties. A person who is not a party to the Contract shall not have any rights to enforce its terms.

15.7 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 Supplier.

15.8 Governing law. This agreement 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 the law of England and Wales.

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