

Introduction

These Conditions, along with the Order Agreement and any relevant Schedule(s), forms the legally binding agreement between the Supplier and the Customer.

The box below sets out when these Conditions and each of the relevant Schedules will apply to and form part of the Contract:

Conditions	All Contracts for purchase of any and all Deliverables
Schedule 1	Contracts where the Customer hires equipment from the Supplier
Schedule 2	Contracts where the Customer licenses software from the Supplier
Schedule 3	Contracts where the Customer purchases support services from the Supplier
Schedule 4	Contracts where the Customer purchases software development services from the Supplier
Schedule 5	Contracts where the Customer purchases website development services from the Supplier

1. Definitions and Interpretation

1.1. In these Conditions, the following definitions apply:

"Affiliate"	means any entity that is directly or indirectly under common Control with another entity;
"Applicable Law"	means all applicable laws in force, whether local or national, from time to time;
"Bribery Laws"	means the Bribery Act 2010 and any other Applicable Law in connection with bribery and anti-corruption;
"Business Day"	means a day other than a Saturday, Sunday or bank or public holiday in England;
"Conditions"	means the Supplier's Standard Terms of Business as set out in the Introduction and clauses 1 to 35 of this document;
"Confidential Information"	means any commercial, financial or technical information, information relating to the Deliverables, plans, know-how or trade secrets which is obviously confidential in nature or which has been identified as confidential, or which is developed by a party in performing its obligations under or otherwise pursuant to the Contract;
"Contract"	means the agreement between the Supplier and the Customer for the sale and purchase of the Deliverables, incorporating the Order Agreement, these Conditions and any relevant Schedule(s);
"Control"	means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company, and Controls, Controlled and under common Control will be construed in the same way;
"Controller"	has the meaning given in the Data Protection Laws from time to time;
"Customer"	means the named party to the Contract which has agreed to purchase the Deliverables from the Supplier and whose details are set out in the Order Agreement;
"Data Protection Laws"	means: (i) the GDPR; (ii) the Data Protection Act 2018; and (iii) any laws which implement the GDPR and/or the Data Protection Act 2018;
"Data Subject"	has the meaning given in the Data Protection Laws from time to time;
"Deliverables"	means the Goods or the Services, or both as the case may be, and any equipment, materials or other services carried out or provided under any of the Schedules;

"Deposit"	means the proportion of the Price payable by the Customer to the Supplier prior to delivery or performance of the Deliverables, as set out in the Order Agreement or as otherwise advised by the Supplier to the Customer;
"Force Majeure Event"	means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract, excluding the Customer's inability to pay or circumstances resulting in the Customer's inability to pay;
"GDPR"	means the General Data Protection Regulation (EU) 2016/679, as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or of a part of the United Kingdom from time to time);
"Goods"	means the goods, related accessories, spare parts, descriptions, instructions, manuals, technical details, and other physical material set out in the Order Agreement to be supplied by the Supplier to the Customer in accordance with the Contract;
"Guarantee"	means any guarantee, suretyship, bonding liability, letter of comfort or other assurance or security or obligation (including a joint and several obligation) given or undertaken by an officer, shareholder or an Affiliate of the Supplier to secure or support any or all the obligations (actual or contingent) of the Supplier under the Contract, whether given directly or indirectly;
"Insolvency Event"	means if a party: (i) stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so; (ii) is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Supplier reasonably believes that to be the case; (iii) becomes the subject of a company voluntary arrangement under the Insolvency Act 1986; (iv) becomes subject to a moratorium under Part A1 of the Insolvency Act 1986; (v) becomes subject to a restructuring plan under Part 26A of the Companies Act 2006; (vi) becomes subject to a scheme of arrangement under Part 26 of the Companies Act 2006; (vii) has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income; (viii) has a resolution passed for its winding up; (ix) has a petition presented to any court for its winding up or an application is made for an administrative order, or any winding-up or administration order is made against it; (x) is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within 5 (five) Business Days of that procedure being commenced; (xi) has a freezing order made against it; (xii) is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title in those items; (xiii) is subject to any events or circumstances analogous to those in sections (i) to (xii) above in any jurisdiction; or (xiv) takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in sections (i) to (xiii) above;
"Intellectual Property Rights"	means copyright, patents, know-how, trade secrets, trade marks trade names, design rights, rights in get-up, rights in goodwill, rights in software, rights in Confidential Information, rights to invention, rights to sue for passing off, domain names and all other intellectual property rights and similar rights and, in each case: (i) whether registered or not; (ii) including any applications to protect or register such rights; (iii) including all renewals and extensions of such rights or applications; (iv) whether vested, contingent or future; (v) to which the relevant party is or may be entitled; and (vi) in whichever part of the world existing;
"Location"	means the address or addresses for delivery of the Goods and performance of the Services as set out in the Order Agreement, or such other address or addresses as notified by the Supplier to the Customer at least 5 (five) Business Days prior to delivery of the Goods or performance of the Services (as applicable);
"Order Agreement"	means the Customer's order for the Deliverables in substantially the same form as the Supplier's order agreement form;
"Personal Data"	has the meaning given in the Data Protection Laws from time to time;
"Personal Data Breach"	has the meaning given in the Data Protection Laws from time to time;
"Price"	means the price for the Deliverables as set out in the Order Agreement or, where no such provision is set out, will be calculated in accordance with the Supplier's scale of charges in force from time to time;

“ processing ”	has the meaning given in the Data Protection Laws from time to time, and process, processed and processes will be construed in the same way;
“ Processor ”	has the meaning given in the Data Protection Laws from time to time;
“ Protected Data ”	means Personal Data received from or on behalf of the Customer in connection with the performance of the Supplier’s obligations under the Contract;
“ Schedule ”	means each and all of the relevant schedules of additional terms that apply to certain relevant Deliverables supplied by the Supplier to the Customer;
“ Services ”	means the Services set out in the Order Agreement to be supplied by the Supplier to the Customer in accordance with the Contract;
“ Supplier ”	means Langley Business Systems (Retail) Limited: incorporated in England and Wales under company number 03090463 whose registered office is at Langley House, Brandon Way, West Bromwich, West Midlands, B70 8JN; and
“ VAT ”	means value added tax under the Value Added Tax Act 1994 or any other similar sale or fiscal tax applying to the sale of the Deliverables.

- 1.2. A reference to a **clause** is to a clause of these Conditions. A reference to a **paragraph** is to a paragraph of the relevant Schedule(s).
- 1.3. Any clause, Schedule or other headings in these Conditions are included for convenience only and will not affect the interpretation of these Conditions.
- 1.4. A reference to a **party** means either the Supplier or the Customer and includes that party’s successors and permitted assignees. A reference to a **person** includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person’s successors and permitted assignees. A reference to a **company** includes any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5. A reference to a gender includes any of the other genders.
- 1.6. Words in the singular include the plural and vice versa.
- 1.7. Any words that follow ‘include’, ‘includes’, ‘including’, ‘in particular’ or any similar words and expressions will be construed as illustrative only and will not limit the sense of any word, phrase, term, definition or description preceding those words.
- 1.8. A reference to **writing** or **written** includes any method of reproducing words in a legible and non-transitory form, including email but excluding fax.
- 1.9. A reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time, except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of the Supplier under the Contract. A reference to legislation also includes all subordinate legislation made from time to time under that legislation.
- 1.10. A reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing will, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction.

2. Application

- 2.1. These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2. No terms or conditions endorsed on, delivered with, or contained in the Customer’s purchase conditions, order, specification, correspondence or other document will form part of the Contract.
- 2.3. No variation of these Conditions, Order Agreement or to the Contract will be binding unless expressly agreed in writing and executed by a director of the Supplier.
- 2.4. Each Order Agreement will be an offer by the Customer to the Supplier to purchase the Deliverables subject to the Contract.
- 2.5. No binding obligation on the Supplier to supply any Deliverables will arise until the earlier of:

- 2.5.1. the Customer's payment of the Deposit; or
 - 2.5.2. the Supplier delivering or performing the Deliverables, or notifying the Customer that they are ready to be delivered or performed as the case may be.
- 2.6. Rejection by the Supplier of an Order Agreement, including any communication that may accompany such rejection, will not constitute a counter-offer capable of acceptance by the Customer.
- 2.7. The Supplier may issue quotations to the Customer from time to time. Quotations are invitation to treat only. They are not an offer to supply Deliverables and are incapable of being accepted by the Customer.
- 2.8. Marketing and other promotional material relating to the Deliverables are illustrative only and do not form part of the Contract.

3. Price

- 3.1. In consideration of the delivery and performance of the Deliverables, the Customer will pay to the Supplier the Price.
- 3.2. The Price is exclusive of delivery and VAT and the Customer will pay VAT to the Supplier on receipt of a VAT invoice.
- 3.3. The Supplier may require the Customer to pay a Deposit. The Deposit is an upfront payment of the Price and is not refundable under any circumstances. The Deposit, once paid, will be deducted from the total Price
- 3.4. The Price is fixed for the first 12 (twelve) months from the date of execution of the Order Agreement. The Supplier may increase the Price once a year thereafter by giving the Customer not less than 10 (ten) Business Days' written notice. The Customer may reject any proportion of an increase to the Price that exceeds 10% (ten percent) of the Price immediately prior to the increase, with a 10% (ten percent) increase then taking effect.
- 3.5. Notwithstanding clause 3.4, the Supplier may increase the Price with immediate effect by giving the Customer written notice where there is an increase in the direct cost to the Supplier of supplying the relevant Deliverables which exceeds 5% (five percent) and which is due to any factor beyond the control of the Supplier.

4. Payment

- 4.1. If the Order Agreement states a Deposit is payable, the Customer will pay the Deposit to the Supplier in full without deduction or set-off, in cleared funds, by:
- 4.1.1. bank transfer to the Supplier's nominated account; or
 - 4.1.2. debit or credit card payment via telephone,
- as soon as possible following execution of the Order Agreement.
- 4.2. The Supplier will have no obligation to deliver or perform the Deliverables, or otherwise perform any of its obligations under the Contract, until it has received the Deposit.
- 4.3. The Customer will pay the Price without deduction or set-off, in cleared funds, by the method and on the payment dates set out in the Order Agreement. The Customer will provide full and accurate details in the Order Agreement to enable the Supplier to process full payment.
- 4.4. Time of payment is of the essence.
- 4.5. The Supplier may suspend the delivery and performance of the Deliverables if the Customer fails to pay any sums due to the Supplier under the Contract by the due date for payment.
- 4.6. The Supplier will have a right to exercise a lien over any and all property of the Customer lawfully in the Supplier's possession for any amounts that are owed by the Customer to the Supplier. The Supplier may use, sell or dispose of the Supplier's property as agent for and at the expense of the Customer and apply the proceeds in or towards the payment of such outstanding amounts on 10 (ten) Business Days' written notice to the Customer. On accounting to the Customer for any balance remaining after payment of the amounts due to the Supplier, and the costs of sale or disposal, the Supplier will be discharged of all liability in respect of the Customer's property.

5. Credit Limit

The Supplier may set and vary credit limits from time to time and withhold all further supplies if the Customer exceeds such credit limit.

6. Delivery and Performance

- 6.1. The Goods will be delivered by the Supplier, or its nominated carrier, to the Location on the date(s) specified in the Order Agreement. The Goods will be deemed delivered on arrival of the Goods at the Location.
- 6.2. The Services will be performed by the Supplier at the Location on the date(s) specified in the Order Agreement. The Services will be deemed delivered on completion of the performance of the Services at the Location.
- 6.3. The Supplier may deliver the Goods or perform the Services in instalments. Any delay or defect in an instalment will not entitle the Customer to cancel any other instalment or the Contract as a whole.
- 6.4. Delivery of the Goods must be signed for by a representative of the Customer at the Location. The Customer will ensure it has a representative available at the Location to sign and take delivery of the Goods.
- 6.5. Time is not of the essence in relation to the performance or delivery of the Deliverables. The Supplier will endeavour to meet any estimated dates for delivery and performance set out in the Order Agreement, but any such dates are indicative only and, in any case, are subject to payment of any Deposit and the provision of any Guarantee (if either or both are applicable).
- 6.6. The Supplier will not be liable for any delay in or failure of performance caused by:
 - 6.6.1. the Customer's failure to make the Location available or to make available a representative at the Location to sign and take delivery;
 - 6.6.2. the Customer's failure to prepare the Location as required for the Deliverables;
 - 6.6.3. the Customer's failure to provide the Supplier with adequate instructions for performance or delivery or otherwise relating to the Deliverables; or
 - 6.6.4. a Force Majeure Event.
- 6.7. If the Customer fails to accept delivery of the Goods, the Supplier will store the Goods pending delivery and the Customer will be liable for any costs and expenses incurred by the Supplier in doing so.
- 6.8. In the event any Goods are unavailable for whatever reason, the Supplier may provide alternative goods of an equivalent or better specification (in which case such alternative goods will constitute Goods for the purpose of the Contract). The Customer will not have a right to terminate the Contract as a result of the Supplier providing such alternative goods.
- 6.9. The Customer acknowledges and agrees that all or part the Supplier's obligations under the Contract may be performed by one or several Affiliates of the Supplier, provided that the Supplier will remain solely liable to the Customer for such performance under the Contract.

7. Guarantee

- 7.1. If the Order Agreement states that a Guarantee is required, the Customer will ensure this is provided by a relevant person as soon as possible following execution of the Order Agreement.
- 7.2. The Supplier will have no obligation to deliver or perform the Deliverables, or otherwise perform any of its obligations under the Contract, until it has received the Guarantee in a form acceptable to the Supplier.
- 7.3. The Customer's liability is not reduced or discharged by the existence of a Guarantee.

8. Risk

Risk in the Goods will pass from the Supplier to the Customer on delivery.

9. Title

- 9.1. Title to the Goods will pass from the Supplier to the Customer once the Supplier has received payment in full and cleared funds for the Goods.
- 9.2. Until title to the Goods has passed to the Customer, the Customer will:
 - 9.2.1. hold the Goods as bailee for the Supplier;
 - 9.2.2. take all reasonable care of the Goods and keep them in the condition in which they were delivered;

- 9.2.3. insure the Goods from the date of delivery: (i) with a reputable insurer; (ii) against all risks; (iii) for an amount at least equal to the Price; and (iv) noting the Supplier's interest on the policy;
 - 9.2.4. ensure the Goods are clearly identifiable as belonging to the Supplier;
 - 9.2.5. not remove or alter any mark on or packaging of the Goods;
 - 9.2.6. inform the Supplier immediately if it becomes subject to an Insolvency Event; and
 - 9.2.7. on reasonable notice, permit the Supplier to inspect the Goods during the Customer's normal business hours and provide the Supplier with such information concerning the Goods as the Supplier may request from time to time.
- 9.3. If, at any time before title to the Goods has passed to the Customer, the Customer informs the Supplier, or the Supplier reasonably believes, that the Customer has or is likely to become subject to an Insolvency Event, the Supplier may:
- 9.3.1. require the Customer at the Customer's expense to re-deliver the Goods to the Supplier;
 - 9.3.2. take collection of the Goods from the Customer either itself or by an authorised agent; and
 - 9.3.3. if the Customer fails to re-deliver or provide the Goods promptly, enter any premises where the Goods are stored and repossess them.

10. Warranty

- 10.1. The Supplier warrants that, at the time of delivery or performance, the Deliverables will:
- 10.1.1. materially conform to any sample, description and specification; and
 - 10.1.2. be free from material defects in design, material and workmanship.
- 10.2. The Customer warrants and undertakes that it:
- 10.2.1. is entering into the Contract in the course of a business;
 - 10.2.2. will comply with Applicable Law;
 - 10.2.3. holds and maintains all relevant consents, licences and authorisations to enter into and perform its obligations under the Contract;
 - 10.2.4. has provided the Supplier with all relevant, full and accurate information as to the Customer's business and needs.
- 10.3. As the Customer's sole and exclusive remedy, the Supplier will, at its option, correct, repair, remedy, re-perform or refund the Deliverables that do not comply with clause 10.1 only if:
- 10.3.1. the Customer serves a written notice on the Supplier not later than 5 (five) Business Days from delivery or performance in the case of defects discoverable by a physical inspection, or within a reasonable period of time from delivery or performance in the case of latent defects;
 - 10.3.2. such notice specifies that some of or all the Deliverables do not comply with clause 10.1 and identifying in sufficient detail the nature and extent of the defects; and
 - 10.3.3. the Customer gives the Supplier a reasonable opportunity to examine the claim of the defective Deliverables.
- 10.4. These Conditions will apply to any Deliverables that are corrected, repaired, remedied or re-performed with effect from delivery or performance of those Deliverables.
- 10.5. The Supplier will not be liable for any failure of the Goods to comply with clause 10.1:
- 10.5.1. where such failure arises by reason of: (i) wear and tear; (ii) wilful damage; (iii) negligence or accident; (iv) cosmetic damage; (v) a Force Majeure Event; (vi) malfunction of or incompatibility with an ancillary device or equipment of the Customer; (vii) a fraudulent act; (viii) theft; (ix) liquid or fluid damage; or (x) user error;
 - 10.5.2. where such failure could be expected to arise in the normal course of use of the Goods;

- 10.5.3. to the extent caused by the Customer's failure to comply with the Supplier's instructions in relation to the Goods, including any instructions on installation, operation, storage or maintenance;
 - 10.5.4. to the extent caused by the Supplier following any specification, instruction or requirement of or given by the Customer in relation to the Goods;
 - 10.5.5. where the Customer modifies any Goods; or
 - 10.5.6. where the Customer uses any of the Goods after notifying the Supplier that they do not comply with clause 10.1.
- 10.6. Except as set out in this clause 10:
- 10.6.1. the Supplier gives no warranty and makes no representations in relation to the Deliverables; and
 - 10.6.2. will have no liability for their failure to comply with the warranty in clause 10.1,
- and all warranties and conditions, whether express or implied by statute, common law or otherwise are excluded to the extent permitted by Applicable Law.

11. Anti-Bribery

- 11.1. For the purposes of this clause 11, the expressions '**adequate procedures**', '**associated with**' and '**bribe**' will have the meanings given in the Bribery Act 2010.
- 11.2. The Customer will comply with the Bribery Laws including ensuring it has in place adequate procedures to prevent bribery and use its reasonable endeavours to ensure that all:
- 11.2.1. its personnel;
 - 11.2.2. others associated with it; and
 - 11.2.3. its subcontractors,
- involved in performing the Contract so comply.
- 11.3. Without limitation to clause 11.2, neither party will make or receive any bribe or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and will implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.
- 11.4. The Customer will immediately notify the Supplier as soon as it becomes aware of a breach or possible breach by the Customer of any of the requirements of this clause 11.
- 11.5. Any breach of this clause 11 by the Customer will be deemed a material breach of the Contract that is not capable of remedy and will entitle the Supplier to immediately terminate the contract in accordance with clause 19.2.1.

12. Anti-Slavery

- 12.1. The Customer warrants and undertakes that it will comply with the Modern Slavery Act 2015.
- 12.2. The Customer will notify the Supplier immediately in writing if it becomes aware or has reason to believe that it has, or any of its officers, employees, agents or subcontractors have, breached or potentially breached clause 12, such notice to set out full details of the circumstances concerning the breach of potential breach of the Customer's obligations.
- 12.3. Any breach of this clause 12 by the Customer will be deemed a material breach of the Contract that is not capable of remedy and will entitle the Supplier to immediately terminate the Contract in accordance with clause 19.2.1.

13. Indemnity and Insurance

- 13.1. The Customer will indemnify and keep indemnified the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses arising as a result of or in connection with the Customer's breach of any of the Customer's obligations under the Contract.
- 13.2. The Customer will have in place contracts of insurance with reputable insurers incorporated in the United Kingdom to cover its obligations under the Contract. On request, the Customer will supply reasonable evidence of the maintenance of insurance and all its terms as applicable from time to time.

14. Limitation of Liability

- 14.1. The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way, and whether or not caused by negligence or misrepresentation) will be as set out in this clause 14.
- 14.2. Subject to clause 14.5, the Supplier's total liability will not exceed a sum equal to the amount of 100% of the Price paid by the Customer to the Supplier.
- 14.3. Subject to clause 14.5, the Supplier will not be liable for consequential, indirect or special losses.
- 14.4. Subject to clause 14.5, the Supplier will not be liable for (whether direct or indirect):
 - 14.4.1. loss of profit;
 - 14.4.2. loss, corruption or interception of data;
 - 14.4.3. loss of use;
 - 14.4.4. loss of production;
 - 14.4.5. loss of contract;
 - 14.4.6. loss of opportunity;
 - 14.4.7. loss of savings, discount or rebate (whether actual or anticipated); and
 - 14.4.8. harm to reputation or loss of goodwill.
- 14.5. Notwithstanding any other provision of the Contract, the liability of the parties will not be limited in any way in respect of:
 - 14.5.1. death or personal injury caused by negligence;
 - 14.5.2. fraud or fraudulent misrepresentation;
 - 14.5.3. losses in respect of any indemnities given by either party under the Contract;
 - 14.5.4. losses caused by wilful misconduct; and
 - 14.5.5. any other losses which cannot be excluded or limited by Applicable Law.

15. Intellectual Property

The Customer will indemnify and keep indemnified, and hold harmless on demand, the Supplier against any losses, damages, liability, costs (including legal fees) and expenses arising as a result of or in connection with any action, demand or claim that use of the Deliverables infringes the Intellectual Property Rights of any third party arising in connection with the Customer's modification or misuse of the Deliverables.

16. Confidentiality

- 16.1. The Customer will keep confidential all Confidential Information of the Supplier (and of any Affiliate of the Supplier) and will only use such Confidential Information as required to perform the Contract.
- 16.2. Clause 16.1 will not apply to information which is:
 - 16.2.1. in the public domain not by breach of the Contract;
 - 16.2.2. lawfully obtained by the Customer from a third party other than through a breach of confidence;
 - 16.2.3. independently developed by the Customer;
 - 16.2.4. expressly indicated by the Supplier in writing as not confidential; or
 - 16.2.5. disclosed as required by Applicable Law or otherwise by the provisions of the Contract,except the provisions of clause 16.2.1 to 16.2.4 will not apply to information to which clause 16.4 relates.

- 16.3. The Customer will not make any public announcement or disclose any information regarding the Contract, except to the extent required by Applicable Law.
- 16.4. To the extent any Confidential Information is Protected Data, such Confidential Information may be disclosed or used only to the extent such disclosure or use is in compliance with, and does not conflict with, any provisions of clause 17.
- 16.5. This clause 16 will remain in force for 3 (three) years after termination of the Contract.

17. Data Protection

- 17.1. The parties agree that the Customer is a Controller and the Supplier is a Processor for the purposes of processing Protected Data pursuant to the Contract. The Customer will at all time comply with the Data Protection Laws in connection with the processing of Protected Data. The Customer will ensure all instructions given by it to the Supplier in respect of Protected Data (including the terms of the Contract) will at all times be in accordance with the Data Protection Laws. Nothing in the Contract relieves the Customer of any responsibilities or liabilities under the Data Protection Laws.
- 17.2. The Supplier will process Protected Data in compliance with the obligations placed on it under the Data Protection Laws, except to the extent:
 - 17.2.1. alternative processing instructions are agreed between the parties in writing; or
 - 17.2.2. otherwise required by Applicable Law; and
 - 17.2.3. without prejudice to clause 17.1, if the Supplier believes that any instruction received by it from the Customer is likely to infringe the Data Protection Laws, it will be entitled to cease to provide the relevant Services until the parties have agreed appropriate amended instructions which are not infringing.
- 17.3. The Customer will indemnify and keep indemnified, and hold harmless on demand, the Supplier against any losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands and legal and other professional costs (calculated on a full indemnity basis) arising out of or in connection with any breach by the Customer of its obligations under this clause 17.
- 17.4. The Supplier will maintain adequate technical and organisational measures to protect the Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.
- 17.5. The Supplier will not process and/or transfer or otherwise disclose any Protected Data in or to any country or territory outside the United Kingdom or to any international organisation (as defined in the Data Protection Laws) without the prior written authorisation of the Customer.
- 17.6. The Supplier will refer to the Customer all requests it receives for exercising any Data Subjects' rights under Chapter III of the GDPR which relate to any Protected Data. It will be the Customer's responsibility to reply to all such requests, as required by the Data Protection Laws.
- 17.7. The Supplier will notify the Customer in writing of any Personal Data Breach in respect of any Protected Data.
- 17.8. Upon termination or expiry of the Supplier's processing of Protected Data under the Contract, at the Customer's cost and the Customer's option, the Supplier will either return all the Protected Data to the Customer or securely dispose of the Protected Data (and thereafter delete all copies of it) except to the extent any Applicable Law requires the Supplier to store such Protected Data.
- 17.9. This clause 17 will survive termination or expiry of the Contract for whatever reason.

18. Force Majeure

- 18.1. Neither party will have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract as a result of a Force Majeure Event.
- 18.2. If the Force Majeure Event continues for a continuous period of more than 10 (ten) Business Days, the Supplier may terminate the Contract by written notice to the Customer.

19. Termination

- 19.1. The Supplier may terminate the Contract by giving the Customer 20 (twenty) Business Days written notice, such notice not to expire prior to the first anniversary of the date of execution of the Order Agreement.
- 19.2. The Supplier may terminate the Contract or any other contract which it has with the Customer at any time by giving written notice to the Customer if:

- 19.2.1. the Customer commits a material breach of the Contract that cannot be remedied;
 - 19.2.2. the Customer commits a material breach of the Contract which is not remedied within 10 (ten) Business Days of receiving notice of such breach;
 - 19.2.3. the Customer has failed to pay any amount due under the Contract on the due date for payment;
 - 19.2.4. the Customer undergoes an Insolvency Event;
 - 19.2.5. the Customer undergoes a change of Control, or if it is reasonably anticipated that the Customer will undergo a change of Control within 3 (three) months; or
 - 19.2.6. any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled.
- 19.3. If the Customer becomes aware that any event has occurred, or circumstances exist, which may entitle the Supplier to terminate the Contract under this clause 19, it will immediately notify the Supplier in writing.
- 19.4. Termination or expiry of the Contract for whatever reason will not affect any accrued rights of the Supplier at the time up to the date of termination.

20. Notices

- 20.1. Any notice given by a party under these Conditions will:
- 20.1.1. be in writing and in English;
 - 20.1.2. be signed by, or on behalf of, the party giving it (except for notices sent by email); and
 - 20.1.3. be sent to the relevant party at the address set out in the Contract, unless an alternative address is notified in writing by the other party.
- 20.2. Notices may be given, and are deemed received:
- 20.2.1. by hand: on receipt of a signature at the time of delivery;
 - 20.2.2. by post: at 09:00am GMT on the second Business Day after posting; and
 - 20.2.3. by email: two (2) hours after sending or on receipt of a delivery receipt, whichever is earlier.
- 20.3. This clause 20 does not apply to notices given in legal proceedings or arbitration.

21. Cumulative Remedies

The rights and remedies provided in the Contract for the Supplier are cumulative and not exclusive of any rights and remedies provided by Applicable Law.

22. Time

Unless stated otherwise, time is of the essence for any date or period specified in the Contract in relation to the Customer's obligations.

23. Further Assurance

The Customer will, at the request of the Supplier and at the Customer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

24. Entire Agreement

- 24.1. The Contract constitutes the entire agreement between the parties and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral, in respect of its subject matter.
- 24.2. Each party acknowledges that it has not entered into the Contract in reliance on, and will have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party will have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

25. Variation

No variation of the Contract will be valid or effective unless it is in writing, refers to the Contract and these Conditions, and is duly executed by or on behalf of each party.

26. Assignment

- 26.1. The Customer may not assign, subcontract or transfer any right or obligation under the Contract, in whole or in part, without the Supplier's written consent (which the Supplier may withhold or delay at its absolute discretion).
- 26.2. Notwithstanding clause 26.1, the Customer may perform any of its obligations and exercise any of its rights granted under the Contract through any Affiliate provided it gives the Supplier the identity of the relevant Affiliate. Any performance of the Customer's obligations under the Contract by an Affiliate of the Customer may be inferred by the Supplier to be performance of that obligation by the Customer itself. The Customer acknowledges and agrees that any act or omission of any of its Affiliates in relation to the Customer's rights or obligations under the Contract will be deemed to be an act or omission of the Customer itself.

27. Set-Off

- 27.1. The Supplier will be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which the Supplier has with the Customer.
- 27.2. The Customer will pay all sums that it owes the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by Applicable Law.

28. Status

The parties are independent persons and are not partners, principal and agent, or employer and employee, and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties will have, nor will they represent that they have, any authority to make any commitments on the other party's behalf.

29. Equitable Relief

The Customer recognises that any breach or threatened breach of the Contract may cause the Supplier irreparable harm for which damages may not be an adequate remedy. In addition to any other remedies and damages available to the Supplier, the Customer acknowledges and agrees that the Supplier is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

30. Severance

- 30.1. If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract will not be affected.
- 30.2. If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question will apply with the minimum of such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties will negotiate in good faith to agree the terms of a mutually acceptable alternative provision.

31. Waiver

- 31.1. No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by Applicable Law or under the Contract will operate as a waiver of that right, power or remedy, nor will it preclude or restrict any future exercise of that or any other right, power or remedy.
- 31.2. No single or partial exercise of any right, power or remedy provided by Applicable Law or under the Contract by the Supplier will prevent any future exercise of it or the exercise of any other right, power or remedy by the Supplier.
- 31.3. A waiver of any term, provision, condition or breach of the Contract by the Supplier will only be effective if given in writing and signed by the Supplier, and then only in that instance and for that purpose for which it is given.

32. Order of Precedence

To the extent of any conflict between the terms contained in: (i) the Order Agreement; (ii) these Conditions; and (iii) the relevant Schedule(s), the Order Agreement will prevail, followed by the terms of the relevant Schedule(s) and followed by these Conditions.

33. Costs

The Customer will pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of the Contract and any documents referred to in it.

34. Third Party Rights

- 34.1. Except as expressly provided for in clause 34.2, a person who is not a party to the Contract will not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.
- 34.2. Any Affiliate of the Supplier will be entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract. The consent of any such Affiliate is not required in order to rescind or vary the Contract or any provision of it.

35. Governing Law and Jurisdiction

- 35.1. The Contract and any dispute or claim arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims) will be governed by, and construed in accordance with, the laws of England and Wales.
- 35.2. The parties irrevocably agree that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract, its subject matter or formation (including non-contractual disputes or claims).

Schedule 1

Equipment Hire Terms

1. Application

The terms of this Schedule 1 will apply in addition to the Conditions where the Customer hires equipment from the Supplier.

2. Definitions

2.1. In this Schedule 1, in addition to the definitions set out in clause 1.1 of the Conditions, the following definitions apply:

"Breakdown" means any failure or stoppage in the proper mechanical functions of the Equipment;

"Consumable" means any battery, fuel or other power source which is required for the proper functioning of the Equipment;

"Equipment" means the equipment to be hired by the Customer from the Supplier as set out in the Order Agreement;

"Hire Deposit" means an amount payable by the Customer to the Supplier prior to delivery of the Equipment, as set out in the Order Agreement or as otherwise advised by the Supplier to the Customer;

"Hire Fee" means, subject to paragraph 4.4 of this Schedule 1, the fee for the hire of the Equipment as set out in the Order Agreement or, where no such provision is set out, will be calculated in accordance with the Supplier's scale of charges in force from time to time; and

"Hire Period" means the period starting on the date set out in the Order Agreement and ending on the date set out in the Order Period.

3. Hire Period

3.1. The Supplier makes the Equipment available to the Customer for hire for the Hire Period.

3.2. The Hire Period may be extended with the written consent of the Supplier. Any extension beyond the original Hire Period will constitute an extension of, and will continue to be referred to as, the Hire Period.

4. Hire Fee

4.1. In consideration of making the Equipment available for hire, the Customer will pay to the Supplier the Hire Fee.

4.2. The Hire Fee is exclusive of the costs of insurance, maintenance, packaging, delivery and installation.

4.3. The Hire Fee is exclusive of VAT and the Customer will pay VAT to the Supplier on receipt of a VAT invoice.

4.4. The Supplier may increase the Hire Fee at any time by giving the Customer not less than 10 (ten) Business Days' written notice. The Customer may reject any proportion of an increase to the Hire Fee that exceeds 10% (ten percent) of the Hire Fee immediately prior to the increase, with a 10% (ten percent) increase then taking effect.

5. Hire Deposit

5.1. The Supplier may require the Customer to pay a Hire Deposit. The Hire Deposit is separate and unrelated monies to the Hire Fee.

5.2. The Supplier is not obliged to hold the Hire Deposit on trust for the Customer and, without prejudice to its duty to repay the Hire Deposit under paragraph 5.3 of this Schedule 1, is free to treat the Hire Deposit as its own monies.

5.3. Subject to paragraph 5.4 of this Schedule 1, the Hire Deposit will become repayable to the Customer within 5 (five) Business Days of the return of the Equipment to the Supplier in full.

5.4. The Supplier may apply the Hire Deposit against any failure by the Customer to pay any part of the Hire Fee by the due date and against any loss or damage caused to the Equipment by the Customer failing to comply with its obligations under the Contract. The Customer will then pay to the Supplier within 10 (ten) Business Days of written notice from the Supplier an amount equivalent to the deductions made by the Supplier to ensure the Hire Deposit amount remains whole.

6. Payment

- 6.1. The Customer will pay the Hire Fee without deduction or set-off, in cleared funds, by the method and on the payment dates set out in the Order Agreement. The Customer will provide full and accurate details in the Order Agreement to enable the Supplier to process full payment.
- 6.2. Time of payment is of the essence.

7. Delivery

The Equipment will be delivered in accordance with the provisions for the delivery of Goods as set out in clause 6 of the Conditions.

8. Training

- 8.1. The Supplier will provide training and instruction to the Customer in the correct operation of the Equipment, such training to be delivered as soon mutually practicable following execution of the Order Agreement.
- 8.2. The Supplier will be entitled to charge for such training that falls outside basic instruction of use of the Equipment, in which case the provisions of Schedule 3 will apply.

9. Risk

Risk in the Equipment will pass from the Supplier to the Customer on delivery and, notwithstanding the end of the Hire Period, will not revert to the Supplier until such Equipment is returned to the Supplier's possession or control.

10. Title

Title and all rights to the Equipment will at all times remain vested in the Supplier. The Customer acknowledges that it has no right of ownership, title or property in the Equipment.

11. Insurance

The Customer will be responsible for insuring and maintaining such insurance of the Equipment against all damage, loss and theft with a reputable insurer up to the value of the Equipment as at the Order Agreement.

12. Indemnity

The Customer will indemnify and keep indemnified, and hold harmless on demand, the Supplier against any losses, damages, liability, costs (including legal fees) and expenses arising as a result of or in connection with any action, demand or claim by any third party for any injury or loss to person or property (including personal injury and death) in connection with the storage, transit, loading, unloading or use of the Equipment by the Customer, its Affiliates, its employees or its agents.

13. Customer Responsibilities

- 13.1. The Customer will:
 - 13.1.1. keep the Equipment in its possession and control at the Location only and ensure that it is secure against loss, damage and theft at all times during the Hire Period;
 - 13.1.2. ensure the conditions, premises and general environment in which the Equipment is kept and/or used do not adversely affect its condition or functionality or otherwise put it or any part of it at risk;
 - 13.1.3. operate and use the Equipment in a proper, safe and prudent manner only for the purposes for which it was designed;
 - 13.1.4. ensure that all users of the Equipment are suitably trained and skilled staff in accordance with any operating instructions provided or made available by the Supplier and/or the manufacturer of the Equipment;
 - 13.1.5. be responsible for the cost of any Consumable used in the operation of the Equipment, and will ensure that any Consumable is compatible with the Equipment and approved in advance of use by the Supplier;
 - 13.1.6. not hold itself out as the owner of the Equipment, nor will it charge, encumber, sell, let, lease, hire or otherwise dispose of, or part with, or abandon the Equipment, nor will it allow or suffer the creation of any lien or distress over the Equipment;

- 13.1.7. ensure that any identification marks, labels or signs on or fixed to the Equipment are not removed, defaced, amended, obscured or otherwise interfered with, including those which identify the Equipment as belonging to the Supplier;
 - 13.1.8. allow the Supplier, its employees and agents access to the Equipment and the Location for the purpose of inspecting, repairing, servicing and replacing the Equipment;
 - 13.1.9. immediately inform the Supplier of any change in the whereabouts of the Equipment;
 - 13.1.10. ensure use of the Equipment complies with all Applicable Laws and any licensing requirements;
 - 13.1.11. notwithstanding paragraph 13.2 of this Schedule 1, ensure the Equipment is returned to the Supplier in the same condition it was supplied in; and
 - 13.1.12. notwithstanding paragraph 13.2 of this Schedule 1, not modify the Equipment.
- 13.2. The Customer will maintain the Equipment in good working condition and repair, which may include replacing parts that have become damaged, broken or have been lost, in which case the Customer will:
- 13.2.1. keep the Supplier fully informed about all maintenance and replacement work it carries out on the Equipment;
 - 13.2.2. ensure that it complies with the Supplier's requirements as to the source and type of any replacement parts; and
 - 13.2.3. maintain records showing clearly all maintenance and replacement work carried out by it on the Equipment and provide copies of them to the Supplier promptly on request.
- 13.3. Ownership of any replacement parts will vest in the Supplier immediately upon their installation.

14. Supplier's Responsibilities

- 14.1. The Supplier will:
- 14.1.1. provide training to the Customer as set out in paragraph 0 of this Schedule 1;
 - 14.1.2. provide appropriate instructions for the safe and proper use of the Equipment; and
 - 14.1.3. test all electrical Equipment before delivery of the Equipment.

15. Breakdown and Repair

- 15.1. If the Equipment suffers a Breakdown, the Customer will:
- 15.1.1. immediately stop use of the Equipment and disconnect the Equipment from the power source (where appropriate to do so);
 - 15.1.2. immediately inform the Supplier of the Breakdown;
 - 15.1.3. not undertake or allow any repair work on the Equipment without the prior written consent of the Supplier.
- 15.2. Subject to any prior written agreement to the contrary, all repair work will be carried out by the Supplier or its agents. The Supplier will endeavour to carry out all repair work as soon as mutually practicable following notification of the Breakdown by the Customer to the Supplier.
- 15.3. If the Supplier reasonably deduces upon inspection and investigation of the Breakdown that the Breakdown was caused by the negligence of the Customer or by the Customer's misuse of the Equipment, or failure to comply with the terms of this Schedule 1 in respect of the Equipment:
- 15.3.1. the Customer will be liable for the cost of repair or replacement of the Equipment; and
 - 15.3.2. the Hire Fee will continue to be payable in the event of Breakdown and period of repair.
- 15.4. If the Supplier deduces upon inspection and investigation of the Breakdown that the Breakdown was caused by fair wear and tear, or by a fault in the Equipment, the Supplier will:
- 15.4.1. bear the cost of repair or replacement of the Equipment; and

- 15.4.2. reimburse a pro rata proportion of the Hire Fee in respect of the period from notification of the Breakdown by the Customer to the Supplier to resolution of the Breakdown.

16. Termination

- 16.1. Without prejudice to any other rights to terminate the Contract, whether contractual or otherwise:
 - 16.1.1. neither party will be entitled to end the Hire Period early unless mutually agreed;
 - 16.1.2. the Supplier may terminate the Contract in the event the Customer does, or allows to be done, any act or thing that may reasonably be expected to prejudice or endanger the Supplier's rights, title or property in the Equipment.
- 16.2. Within 10 (ten) Business Days following termination or expiry of the Hire Period or the Contract for whatever reason, the Customer will at the Supplier's option:
 - 16.2.1. at the Customer's expense, return the Equipment to the Supplier; or
 - 16.2.2. take collection of the Equipment from the Customer either itself or by an authorised agent; and
- 16.3. If the Customer fails to re-deliver or provide the Equipment within 10 (ten) Business Days, the Supplier may enter any premises where the Equipment is stored and repossess it.
- 16.4. The Customer will be liable on an ongoing basis for a pro rata proportion of the Hire Fee for the period the Equipment remains in its possession beyond 10 (ten) Business Days following termination or expiry of the Hire Period or the Contract.

Schedule 2

Software Terms

1. Application

The terms of this Schedule 2 will apply in addition to the Conditions where the Customer licenses software from the Supplier.

2. Definitions

2.1. In this Schedule 2, in addition to the definitions set out in clause 1.1 of the Conditions, the following definitions apply:

"Software"	means the Supplier Software and the Third Party Software;
"Supplier Software"	means the proprietary software of the Supplier identified in the Order Agreement, including any Updates or Upgrades made available by the Supplier under the Contract or under any Support Contract;
"Support Contract"	means an agreement between the parties for the provision of the technical support and other services relating to the Software;
"Territory"	means the United Kingdom;
"Third Party Software"	means the third party software identified in the Order Agreement together with any other software program which is not Supplier Software but which is supplied to the Customer by the Supplier under the Contract or under any Support Contract;
"Update"	means a software maintenance update, patch or bug-fix which does not constitute an Upgrade; and
"Upgrade"	means a version or release of software intended to have new or improved functionality or designated by the Supplier as an upgrade.

3. Licence

- 3.1. Subject to the terms of the Contract and this Schedule 2, and payment of the Price, the Supplier grants the Customer a non-exclusive licence to install and use the Software in the Territory for the term of the Contract.
- 3.2. Without prejudice to any other rights or obligations of either party, if the Customer at any time has or obtains additional copies of the Software beyond those licensed under the Contract (including duplicate deliveries), it will promptly destroy the additional copies.
- 3.3. Third Party Software provided by the Supplier will be subject to any additional terms and conditions notified to the Customer. The Customer agrees to comply with any terms and conditions relating to such Third Party Software.

4. Limitations

- 4.1. Except as expressly permitted under this Contract or by law, the Customer will not:
 - 4.1.1. use, copy modify, adapt, correct errors or create derivative works from the Software;
 - 4.1.2. decode, reverse engineer, disassemble, decompile or otherwise translate or covert the Software;
 - 4.1.3. assign, sub-license, lease, resell, distribute or otherwise deal in or encumber the Software;
 - 4.1.4. remove or modify any copyright or similar notices, or any of the Supplier's or other person's branding, that the Software causes to be displayed when used;
 - 4.1.5. install or use the Software, or permit it to be installed or used, on behalf of any third party or otherwise than for the purposes of the Contract; or
 - 4.1.6. attempt to circumvent or interfere with any security features of the Software.
- 4.2. The Software may only be installed at the site(s) identified in the Order Agreement and may only be used on the equipment identified in the Order Agreement. The Customer will not exceed the site(s) or equipment identified in the Order and it will be required, without prejudice to any other rights or remedies to which the Supplier may be entitled, to pay the Supplier at the Supplier's then-current rates for any additional usage of the Software.

- 4.3. The Customer may make such backup copies of the Software as is reasonably necessary.
- 4.4. The Customer will install and use the Software at all times in accordance with the terms of the Contract.
- 4.5. The Customer will be permitted to use the Software in machine-readable object code form only.
- 4.6. The Customer will notify the Supplier in writing as soon as it becomes aware of any actual or suspended unauthorised installation or use of the Software.

5. Delivery and Installation

- 5.1. The Supplier will use reasonable endeavours to deliver the Software to the Customer in the manner and on the date specified in the Order Agreement.
- 5.2. If the Software is to be made available for download by the Customer, the Supplier will notify the Customer when the Software is ready to be downloaded and will provide all reasonable instructions, including any necessary activation codes or licence keys. It is the Customer's responsibility to ensure that its computer system and network connection is capable of downloading the Software.

6. User Documentation

- 6.1. The Supplier will provide or make available a set of documentation containing instructions on how to use the Software and detailing any specific user requirements or restrictions relating to the Software. Any help files supplied with the Software and information on the Supplier's websites will be deemed to form part of such documentation.
- 6.2. The user documentation may be updated by the Supplier from time to time in such manner as the Supplier sees fit. Where updates to the user documentation are made available online, the Supplier will not be obliged to provide updated hard copy versions.

7. Warranty

- 7.1. The Supplier warrants that the Supplier Software will operate materially in accordance with its description when used in accordance with the Contract for 30 days from the date the Supplier Software is first made available for download or delivered (the "**Software Warranty Period**").
- 7.2. If the Customer receives any Update or Upgrade of the Supplier Software under the Contract during the Software Warranty Period, such Update or Upgrade will be covered under the warranty at paragraph 7.1 of this Schedule 2 for the remainder of that original Software Warranty Period, but that Software Warranty Period will not be restarted or extended and no new Software Warranty Period will apply as a result of any Update or Upgrade to the Supplier Software.
- 7.3. If there is a breach of the warranty in paragraph 7.1 of this Schedule 2, provided the Customer notifies the Supplier in writing within the Software Warranty Period and provides sufficient information to enable the Supplier to reproduce any errors, the Supplier will, at its option:
 - 7.3.1. use reasonable endeavours to correct the errors in the Supplier Software within a reasonable time; or
 - 7.3.2. terminate the Contract in respect of the Supplier Software and refund any part of the Price relating to the Supplier Software as at the date of termination.
- 7.4. The warranty in paragraph 7.1 of this Schedule 2 is subject to the Customer complying with its obligations under, and using the Supplier Software in accordance with, the Contract and is also subject to the limitations set out in paragraph 4 of this Schedule 2. In addition, the warranty will not apply to the extent that any error in the Supplier Software arises as a result of:
 - 7.4.1. incorrect operation or use of the Supplier Software (including any failure to follow the user documentation);
 - 7.4.2. installation or use of the Supplier Software other than for the purposes for which it is intended;
 - 7.4.3. modification or alteration of the Supplier Software without the written consent of the Supplier;
 - 7.4.4. installation or use of the Supplier Software with other software or on equipment with which it is incompatible;
 - 7.4.5. attempted repair, rectification or maintenance by any person other than the Supplier or a third party authorised by the Supplier;
 - 7.4.6. failure to notify the Supplier of any error within a reasonable period of time of it first occurring; or
 - 7.4.7. failure to install any Update or Upgrade recommended and made available by the Supplier.

- 7.5. The Customer acknowledges that the Supplier does not give any warranty or representation and does not accept any liability (howsoever arising whether under contract, tort, in negligence or otherwise) in relation to:
- 7.5.1. any Third Party Software;
 - 7.5.2. the Software meeting the Customer's individual needs or business requirements, whether or not such needs or requirements have been communicated to the Supplier;
 - 7.5.3. the Software operating in a manner which is uninterrupted or free from minor errors or defects that do not materially affect performance; or
 - 7.5.4. the Software being compatible with any software other than the Third Party Software or with any particular hardware or equipment.
- 7.6. The provisions of paragraph 7.3 of this Schedule 2 set out the Customer's sole and exclusive remedy (howsoever arising, whether in contract, tort, negligence or otherwise) for any breach of paragraph 7.1 of this Schedule 2 or for any other error or defect in, defective performance or inability to use the Software or any part of it.

Schedule 3

Support Services Terms

1. Application

The terms of this Schedule 3 will apply in addition to the Conditions where the Customer purchases support services from the Supplier.

2. Training

- 2.1. The Supplier will provide training in respect of the Deliverables to the Customer in accordance with the specification set out in the Order Agreement.
- 2.2. The cost of all training materials including, but not limited to, materials, handouts and interactive resources which may be required will be included in the Price.
- 2.3. Prior to the start date of the Contract, the Customer will determine the number of staff, officers or other users requiring training and will inform the Supplier.
- 2.4. The Price for the provision of training will be payable in accordance with the Conditions. In the event subsequent training of new individuals is required, additional fees will be charged on an ad-hoc basis with payment due prior to the commencement of such training.
- 2.5. Further training may be required in the event of significant alterations or upgrades to the Deliverables. The Supplier will inform the Customer of such recommended training in advance and will supply details of the Price for such training.

3. Support

- 3.1. The Supplier will provide telephone, email and online support services during its normal business hours of 9am – 5pm Monday to Friday, such business hours to exclude public holidays.
- 3.2. The support provided by the Supplier will relate only to the Deliverables purchased by the Customer from the Supplier. Any issues or problems that require support which are related to the Customer's systems or equipment must be resolved by the Customer's own support staff.
- 3.3. In addition to the standard support provided for in paragraph 3.1 of this Schedule 3, the Supplier may also provide telephone, email and online support services outside of its normal business hours. Such additional support services will be detailed on the Order Agreement and will only be available at an additional cost to the Customer (as also detailed on the Order Agreement).
- 3.4. When seeking support, the Customer will use its reasonable endeavours to provide the fullest information possible to assist the Supplier in diagnosing any faults in any of the Deliverables.
- 3.5. The Supplier will aim to resolve all support problems as soon as reasonably practicable, where resolution to such support problems is possible over the method of support provided.
- 3.6. If possible, the Supplier will provide a workaround solution to the Customer to enable the Customer's continued use of the relevant Deliverables or to enable use that is as close to normal as is possible under the prevailing circumstances.

Schedule 4

Software Development Terms

1. Application

The terms of this Schedule 4 will apply in addition to the Conditions where the Customer purchases software development services from the Supplier.

2. Definitions

2.1. In this Schedule 4, in addition to the definitions set out in clause 1.1 of the Conditions, the following definitions apply:

"Acceptance"	means in relation to the Software successful completion of the Tests or deemed acceptance in accordance with this Schedule 4, and Accepted will be construed in the same way;
"Customer Requirements"	means the requirements of the Customer in relation to the development of the Software made known to the Supplier in writing;
"Extended Test Period"	has the meaning given in paragraph 7.4 of this Schedule 4;
"Minor Non-Conformity"	means a cosmetic defect or a failure of the Software to conform to the Specification but which does not have a material effect on any specified functionality;
"Software"	means the software to be developed in accordance with the Contract in object code form as well as all associated documentation and specifications for such software;
"Specification"	means the specification for the Software as set out in the Order Agreement;
"Test Period"	means the period of 10 (ten) Business Days from delivery of the Software to the Customer; and
"Tests"	means the Customer's tests, agreed with the Supplier, to assess whether the Software materially conforms to the Specification.

3. Supplier's Obligations

- 3.1. The Customer engages the Supplier to develop and provide the Software for the Customer. The Supplier agrees to develop and provide the Software for the Customer in accordance with the Contract.
- 3.2. The Supplier will provide the Software to the Customer by the delivery dates set out in the Order Agreement.

4. Customer's Obligations

- 4.1. The Customer will:
 - 4.1.1. provide to the Supplier access to the Customer's software, systems and data; and
 - 4.1.2. respond promptly from time to time to the reasonable requests of the Supplier for relevant information, instructions and assistance, including reasonable access to and co-operation by the Customer's personnel.
- 4.2. The Customer undertakes to ensure that the computer and operating system and any other hardware or software which the Supplier is asked by the Customer to use or modify for the purposes of performing the Supplier's obligations under the Contract is either the property of the Customer or is legally licensed to the Customer, and the Supplier is authorised to use the same.
- 4.3. The Customer acknowledges that the Software is to be provided at the Customer's request and the Customer will be responsible for verifying that the Software is suitable for its own needs.

5. Intellectual Property Rights

- 5.1. In consideration of the Price payable under the Contract, the Supplier assigns to the Customer the Supplier's Intellectual Property Rights in the Software, Specification and all other materials created by the Supplier exclusively for the Customer under the Contract.
- 5.2. Except as expressly agreed in this paragraph 5, no Intellectual Property Rights of either party are transferred or licensed under the Contract.

- 5.3. Each party will be entitled to use in any it deems fit any skills, techniques or know-how acquired, developed or used in performance of the Contract provided always that such skills, techniques or know-how do not:
- 5.3.1. infringe the other party's Intellectual Property Rights now or in the future; or
 - 5.3.2. disclose or breach the confidentiality of the other party's Confidential Information.
- 5.4. The Customer will indemnify and keep indemnified, and hold harmless on demand, the Supplier against any losses, damages, liability, costs (including legal fees) and expenses arising as a result of or in connection with any action, demand or claim that the Software infringes the Intellectual Property Rights of any third party where the Software is developed by the Supplier in accordance with the Specification and the Customer Requirements.

6. Customer Requirements and Specification

- 6.1. Upon receipt of the Customer Requirements, the Supplier will prepare a draft Specification in accordance with the Customer Requirements.
- 6.2. The Customer will promptly communicate to the Supplier any amendments it requires to the Specification.
- 6.3. If the Customer reasonably requires amendment to the Specification, the Supplier will amend the Specification accordingly but only to the extent such amendments are within the scope of the Customer Requirements.
- 6.4. If the Customer's requested amendments to the Specification change the scope of the Customer Requirements, the Supplier will be entitled to change the Price and any necessary time extensions or alterations to the extent required to accommodate such changes in scope. This process will repeat until the Specification is agreed by both parties acting reasonably.

7. Acceptance Tests

- 7.1. The Customer will perform the Tests within the Test Period. The Supplier will be given reasonable notice of, and be entitled to attend, the Tests.
- 7.2. If the Software being tested performs in accordance with the agreed Specification and meets any other agreed testing criteria for the Tests, it will be deemed to have passed the Tests. If the Software fails to pass the Tests, the Customer will co-operate with the Supplier to identify in what respects the Software failed to conform to the Specification or otherwise failed to pass the Tests.
- 7.3. The Software will not be deemed to have failed the Tests by reason of any failure to provide any facility or function not specified in the Specification or other agreed tests standards.
- 7.4. If the Supplier is unable to remedy any failure of the Software to materially conform to the Specification, within a further test period reasonably agreed by the parties ("**Extended Test Period**"):
- 7.4.1. the Customer will be entitled on 20 (twenty) Business Days' written notice to the Supplier to reject the Software without further liability to the Supplier, provided that the Supplier will be entitled to make further attempts to remedy the Software to ensure it materially complies with the Specification and, if achieved within the 20 (twenty) Business Days' notice period, the Customer's rejection of the Software is immediately revoked; and
 - 7.4.2. the Supplier will repay to the Customer the proportion of the Price relating to the Software that the Customer has paid to the Supplier,
- provided that in the case of a Minor Non-Conformity, the Customer will not unreasonably delay its Acceptance of the Software so long as the Supplier endeavours to rectify such Minor Non-Conformity as soon as possible.
- 7.5. A written statement of Acceptance will be promptly issued by the Customer to the Supplier when the relevant Software has passed the Tests.
- 7.6. Except where the Customer has rejected the Software, the Customer's Acceptance will occur at the earliest of:
- 7.6.1. the Customer providing written Acceptance of the Software to the Supplier;
 - 7.6.2. the Software passing the Tests;
 - 7.6.3. the Software being used in a live environment or in commercial use; and
 - 7.6.4. the expiration of the Test Period and the Extended Test Period (if any) where the Customer has failed to complete the Tests.

8. Risk

Risk in the Software will pass from the Supplier to the Customer upon the earlier of: (i) the Supplier receiving payment in full and cleared funds for the Software; and (ii) delivery of the Software to the Customer.

9. Title

Title to the Software will pass from the Supplier to the Customer once the Supplier has received payment in full and cleared funds for the Software.

Schedule 5

Website Development Terms

1. Application

The terms of this Schedule 5 will apply in addition to the Conditions where the Customer purchases website development services from the Supplier.

2. Definitions

2.1. In this Schedule 5, in addition to the definitions set out in clause 1.1 of the Conditions, the following definitions apply:

"Acceptance"	means in relation to the Website successful completion of the Tests or deemed acceptance in accordance with this Schedule 5, and Accepted will be construed in the same way;
"Content"	means all text, graphics, images, sound, data, software and materials used in the Website;
"Customer Content"	means any Content provided or made available by the Customer;
"Customer Requirements"	means the requirements of the Customer in relation to the development of the Website made known to the Supplier in writing;
"Extended Test Period"	has the meaning given in paragraph 7.4 of this Schedule 5;
"Minor Non-Conformity"	means a cosmetic defect or a failure of the Website to conform to the Specification but which does not have a material effect on any specified functionality;
"Specification"	means the specification for the Website as set out in the Order Agreement;
"Supplier Content"	means any Content developed by the Supplier either before or during the term of the Contract that is included in the Website;
"Test Period"	means the period of 10 (ten) Business Days from delivery of the Website to the Customer; and
"Tests"	means the Customer's tests, agreed with the Supplier, to assess whether the Website materially conforms to the Specification.

3. Supplier's Obligations

3.1. The Customer engages the Supplier to develop and provide the Website for the Customer. The Supplier agrees to develop and provide the Website for the Customer in accordance with the Contract.

3.2. The Supplier will provide the Website to the Customer by the delivery dates set out in the Order Agreement.

4. Customer's Obligations

4.1. The Customer will:

4.1.1. provide accurate and complete Customer Content to the Supplier at the time and in the format required by the Specification to enable the Supplier to develop the Website and to provide the Services; and

4.1.2. respond promptly from time to time to the reasonable requests of the Supplier for relevant information, instructions and assistance, including reasonable access to and co-operation by the Customer's personnel.

5. Warranties

5.1. The Supplier warrants to the Customer that the Website (excluding any Customer Content) does not:

5.1.1. infringe the Intellectual Property Rights of any third party;

5.1.2. contain Content which is fraudulent, defamatory, libellous, threatening or harassing, obscene, indecent, pornographic or contrary to Applicable Law; or

5.1.3. contain any viruses or other harmful or intrusive programs or other code.

- 5.2. The Customer acknowledges that the Supplier is not liable for any loss of damage incurred by the Customer to the extent it results from any failure by the Customer to discharge its obligations under the Contract.
- 5.3. Any warranties given by the Supplier under the Contract will be subject to the Customer using the Website in compliance with the Contract and any documentation supplied with it.
- 5.4. The Customer warrants to the Supplier that:
 - 5.4.1. it has all rights and licences to provide the Customer Content (and any third party Content it provides to the Supplier for inclusion in the Website) and to grant all necessary licences to the Supplier to develop the Website and provide the Services; and
 - 5.4.2. any Customer Content will not: (i) infringe the Intellectual Property Rights of any third party; (ii) be fraudulent, defamatory, libellous, threatening or harassing, obscene, indecent, pornographic or contrary to Applicable Law; or (iii) contain any viruses or other harmful or intrusive programs or other code.

6. Intellectual Property Rights

- 6.1. In consideration of the Price payable under the Contract, the Supplier assigns to the Customer the Supplier's Intellectual Property Rights in the Content, Specification and all other materials created by the Supplier exclusively for the Customer under the Contract, provided that:
 - 6.1.1. all Customer Content will remain the property of the Customer or its licensors and the Customer grants to the Supplier an irrevocable, non-exclusive, worldwide, non-transferable, royalty-free licence of such of the Customer's Intellectual Property Rights in the Customer Content as necessary for the Supplier to fulfil its obligations under the Contract; and
 - 6.1.2. except for any Content created or obtained by the Supplier exclusively for the Customer for the Website, all Supplier Content will remain the property of the Supplier or its licensors and, subject to the Customer's compliance with the terms of the Contract including payment in full of the Price, the Supplier grants to the Customer a non-exclusive, non-transferrable, royalty-free licence (or sub-licence, as the case may be) of such of the Supplier's Intellectual Property Rights in the Supplier Content as necessary for the Customer to fulfil its obligations under the Contract and to enable the Customer to make use of the Website, which licence or sub-licence: (i) in the case of software, will be a licence of object code only; and (ii) will be to the extent and for the purpose only of using and maintaining the Website.
- 6.2. Except as expressly agreed in this paragraph 6, no Intellectual Property Rights of either party are transferred or licensed as a result of this Schedule 5.
- 6.3. Each party will be entitled to use in any it deems fit any skills, techniques or know-how acquired, developed or used in performance of the Contract provided always that such skills, techniques or know-how do not:
 - 6.3.1. infringe the other party's Intellectual Property Rights now or in the future; or
 - 6.3.2. disclose or breach the confidentiality of the other party's Confidential Information.
- 6.4. The Customer will indemnify and keep indemnified, and hold harmless on demand, the Supplier against any losses, damages, liability, costs (including legal fees) and expenses arising as a result of or in connection with any action, demand or claim that the Customer Content infringes the Intellectual Property Rights of any third party.

7. Customer Requirements and Specification

- 7.1. Upon receipt of the Customer Requirements, the Supplier will prepare a draft Specification in accordance with the Customer Requirements.
- 7.2. The Customer will promptly communicate to the Supplier any amendments it requires to the Specification.
- 7.3. If the Customer reasonably requires amendment to the Specification, the Supplier will amend the Specification accordingly but only to the extent such amendments are within the scope of the Customer Requirements.
- 7.4. If the Customer's requested amendments to the Specification change the scope of the Customer Requirements, the Supplier will be entitled to change the Price and any necessary time extensions or alterations to the extent required to accommodate such changes in scope. This process will repeat until the Specification is agreed by both parties acting reasonably.

8. Acceptance Tests

- 8.1. The Customer will perform the Tests within the Test Period. The Supplier will be given reasonable notice of, and be entitled to attend, the Tests.

- 8.2. If the Website being tested performs in accordance with the agreed Specification and meets any other agreed testing criteria for the Tests, it will be deemed to have passed the Tests. If the Website fails to pass the Tests, the Customer will co-operate with the Supplier to identify in what respects the Website failed to conform to the Specification or otherwise failed to pass the Tests.
- 8.3. The Website will not be deemed to have failed the Tests by reason of any failure to provide any facility or function not specified in the Specification or other agreed tests standards.
- 8.4. If the Supplier is unable to remedy any failure of the Website to materially conform to the Specification, within a further test period reasonably agreed by the parties ("**Extended Test Period**"):
 - 8.4.1. the Customer will be entitled on 20 (twenty) Business Days' written notice to the Supplier to reject the Website without further liability to the Supplier, provided that the Supplier will be entitled to make further attempts to remedy the Website to ensure it materially complies with the Specification and, if achieved within the 20 (twenty) Business Days' notice period, the Customer's rejection of the Website is immediately revoked; and
 - 8.4.2. the Supplier will repay to the Customer the proportion of the Price relating to the Website that the Customer has paid to the Supplier,

provided that in the case of a Minor Non-Conformity, the Customer will not unreasonably delay its Acceptance of the Website so long as the Supplier endeavours to rectify such Minor Non-Conformity as soon as possible.
- 8.5. A written statement of Acceptance will be promptly issued by the Customer to the Supplier when the relevant Website has passed the Tests.
- 8.6. Except where the Customer has rejected the Website, the Customer's Acceptance will occur at the earliest of:
 - 8.6.1. the Customer providing written Acceptance of the Website to the Supplier;
 - 8.6.2. the Website passing the Tests;
 - 8.6.3. the Website being used in a live environment or in commercial use; and
 - 8.6.4. the expiration of the Test Period and the Extended Test Period (if any) where the Customer has failed to complete the Tests.