

## TERMS AND CONDITIONS FOR THE SUPPLY OF LANGUAGE SERVICES

The Customer's attention is particularly drawn to the provisions of clauses 10 and 11.

### 1. INTERPRETATION

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

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

**Charges:** the charges payable by the Customer for the supply of the Services in accordance with clause 7.

**Commencement Date:** has the meaning set out in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 15.7.

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

**Controller, data subject, personal data, process, processor and supervisory authority** shall, for the purposes of clause 8, have the meanings set out in the GDPR;

**Customer/"You"/"Your":** the person or firm who purchases Services from the Supplier.

**Deliverables:** the translated Materials produced by the Supplier for the Customer.

**GDPR:** the General Data Protection Regulation (Regulation (EU) 2016/679, or similar legislation as implemented under English law (including any national implementation laws, regulations and secondary legislation), in each case as applicable and in force in the United Kingdom from time to time.

**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.

**Material(s):** Material supplied by the Customer to the Supplier for the purposes of performing the Services, including audio recordings, digital or electronic content and hard copy documentation (whether copies or original content).

**Order:** The Customer's order for Services as set out in the Customer's purchase order form or the Customer's written acceptance of the Supplier's quotation.

**Parties:** the Customer and the Supplier.

**Personnel:** such of the Parties employees, staff, or other workers and agents or sub-contractors who are involved in the provision of the Services.

**Services:** the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Specification.

**Specification:** description or specification of the Services provided in writing by the Supplier to the Customer, including the desired standard of translation.

**Supplier:** Comtec Translations Limited registered in England and Wales with company number 04534240.

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) a reference to **writing** or **written** includes faxes and e-mails.

### 2. BASIS OF CONTRACT

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

2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

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

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

2.5 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 60 Business Days from its date of issue.

### 3. SUPPLY OF SERVICES

3.1 The Supplier shall supply the Services to the Customer in accordance with the Specification in all material respects.

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

3.3 The Supplier will endeavour to produce accurate and idiomatic translations of the Customer's Materials and unless otherwise agreed, the Services provided by the Supplier are for information and understanding only, including use in general correspondence, but no warranty is given as to their suitability for any other purpose including publication.

3.4 The Supplier will not be liable for transliteration of names and other proper nouns from one language to another, for the translation of abbreviations, slang, and discrepancies in conversion of one system of measurement to another or errors resulting from illegible or inaudible Materials.

3.5 The Supplier is under no obligation to identify or correct any errors in any Materials for the purpose of translation, interpretation, typesetting, internet publishing or printing and shall not be held liable for any consequential loss.

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

3.7 Where the Customer requires a hard copy of the Deliverables, the Supplier will provide the same by first class post, unless agreed otherwise and the Supplier will send the Customer a notice of dispatch within 24 hours of the Deliverables being dispatched to the Customer. Where delivery is via email or FTP (file transfer protocol), the Supplier will send the Customer a separate notice of dispatch within 24 hours.

3.8 The Supplier will assume no liability for the cost of any loss or damage to Deliverables or Materials over and above the amount it can claim back from Royal Mail, in circumstances where the Customer has not elected to utilise a different method of delivery where the Deliverables or Materials are of higher value.

3.9 Delivery of the Services is deemed to have taken place upon posting, delivery to a carrier or after transmitting the Deliverables by email or FTP.

3.10 In the event of loss or damage, the Supplier agrees where reasonable practicable to supply an additional copy of the Deliverables to the Customer at no additional cost, provided the Customer notifies the Supplier of any loss or damage in accordance with clause 4(g).

3.11 In the event of any errors, defects or omissions in the Services, provided that the Customer has complied with its obligations under clause 4(h), the Supplier will correct any errors, defects or omissions within a reasonable timeframe.

3.12 The Supplier shall have the right to dispose of any Materials belonging to the Customer in the event the Customer fails to comply with its obligations under Clause 4.1(b), and the costs associated with any such disposal will be the responsibility of the Customer and invoiced to the Customer.

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

### 4. CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

- (a) Ensure that the terms of the Order and any information provided in the Specification are complete and accurate, including the required quality and purpose of the translation;
- (b) Co-operate with the Supplier in all matters relating to the Services, including the disposal or return of any Materials;
- (c) Provide the Supplier with feedback or notification of any required amendments within 30 days of being sent the completed Services for proof reading, checking or approval, unless otherwise agreed in writing;
- (d) Provide the Supplier with such information and Materials as the Supplier may reasonably require in order to supply the Services, including samples, previous translations, terms list, publications, illustrative references, or other basic information and expert help and ensure that such information is accurate, legible and audible in all material respects;
- (e) obtain and maintain all necessary licences, permissions and consents which may be required, including in relation to copyright, before the date on which the Services are to start;
- (f) Proof and check the content and accuracy of the Services prior to their use or publication;
- (g) Notify the Supplier within 7 days of receipt of the dispatch notice that it has not received the Deliverables, or else the Deliverables have only been received in part or are damaged;
- (h) Notify the Supplier within 21 days of the date of the dispatch notice of any errors, defects or omissions in the performance of the Services;
- (i) Not require the Supplier to supply Services which are of an illegal nature or libellous in content;
- (j) Fully indemnify the Supplier in respect of any claims, costs, fees, expenses, disbursements or damages arising out of the performance of the Services on behalf of the Customer, including in respect of any infringement of Intellectual Property Rights or other statutory rights or provisions;

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

- (a) The Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- (b) The Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 4.2; and
- (c) The Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

**5. NON-SOLICITATION**

- 5.1 In order to protect the legitimate business interests of the Supplier, the Customer covenants with the Supplier that it shall not (except with the prior written consent of the Supplier) attempt to solicit or entice away; or solicit or entice away, from the service of the Supplier, the services of any Restricted Person.
- 5.2 The Customer shall be bound by the covenant set out in clause 5.1 during the term of this agreement, and for a period of 2 years after termination or expiry of this agreement.
- 5.3 For the purposes of this clause 5, a **Restricted Person** shall mean any firm, company, freelance translator or person employed or engaged by the Supplier during the term of this agreement, who has been engaged in the provision of the Services or the management of this agreement either as principal, agent, employee, independent contractor or in any other form of employment or engagement.
- 5.4 [If the Customer commits any breach of this clause 5, the Customer shall, on demand, pay to the Supplier a sum equal to the annual fee that was payable by the Supplier to the Restricted Person plus the recruitment costs incurred by the Supplier in replacing such person.]

**6. VARIATIONS**

- 6.1 The Customer shall be entitled to vary the Order upon giving written notice to the Supplier. Such variations to the Order may include additions to or omissions from the original Material provided for the provision of the Services.
- 6.2 If the Supplier receives written notification in accordance with clause 6.1 above, it will advise the Customer of any amendment to its Charges in accordance with clause 7.2.
- 6.3 The Supplier is under no obligation to reduce its Charges in the event of a variation to the Order which amounts to an omission from the original Material and in circumstances where the relevant Services have already been undertaken, there will be no reduction to any Charges in respect of any omission from the original Material.
- 6.4 The Customer acknowledges that any variation to the Order may adversely affect the Supplier's ability to fulfil the Specification, including any performance dates specified in the Order.
- 6.5 The Customer acknowledges that the Supplier cannot be held liable for any variations or alterations made to the completed Services by the Customer (or their client) following receipt from the Supplier. If the Customer wishes for the Supplier to make amendments to the completed Services, including further translation for a specific purpose other than information and understanding, the Supplier will provide written notification of its Charges for undertaking the additional work.

**7. CHARGES AND PAYMENT**

- 7.1 The Charges for the Services shall be on a time and Materials basis:
  - (a) The Charges shall be calculated in accordance with the Supplier's standard chargeable units, as set out in the Order;
  - (b) The Supplier's standard chargeable units are calculated on the basis of word count, Material length, time incurred and language combination;
  - (c) Where the Charges are calculated based on time incurred, unless otherwise agreed in writing, the time incurred will be rounded up to the nearest whole hour;
  - (d) The Supplier shall be entitled to charge an overtime rate at a percentage 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 7.1 (b). The Supplier shall notify the Customer of the applicable overtime rate in advance of incurring any overtime; and
  - (e) 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, the cost of services provided by third parties and required by the Supplier for the performance of the Services.
- 7.2 The Supplier reserves the right to amend and increase its Charges in circumstances where the Supplier has not had sight of the full Material prior to confirming the Charges, where the Supplier makes changes to the Services in accordance with clause 3.6, where the Customer varies the Materials or Order in accordance with clause 6, or where the Charges are based on the provision of Services which differ from the subsequent Order for Services received or accepted. The Supplier will give the Customer written notice of any such amended Charges prior to commencing the Services, or if not practicable, upon becoming aware of the need to amend or increase the Charges. If such increase is not acceptable to the Customer, it shall notify the Supplier in writing within 24 hours of the date of the Supplier's written notification and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving 4 weeks' notice.
- 7.3 Where the method of delivery of the Deliverables requested by the Customer exceeds the cost of ordinary first-class post, the entire cost will be the responsibility of the Customer and invoiced to the Customer as a disbursement.
- 7.4 The Supplier shall invoice the Customer at the progress stages identified in the Order, in arrears.
- 7.5 The Customer shall pay each invoice submitted by the Supplier:
  - (a) Within 30 days of the date of the invoice; and
  - (b) In full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract.
- 7.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 7.7 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, we reserve the right to claim statutory interest at 8% above the Bank of England reference rate in force on the date the debt becomes overdue and at any subsequent rate where the reference rate changes and the debt remains unpaid in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 as amended and supplemented from time to time by the Late Payment of Commercial Debts Regulations.
- 7.8 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, 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.

**8. INTELLECTUAL PROPERTY RIGHTS**

- 8.1 All Intellectual Property Rights in or arising out of, or in connection with the Services, shall be owned by the Supplier until full payment has been made whereby ownership is transferred to the Customer.
- 8.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Supplier's use of any such Intellectual Property Rights is conditional on the Customer obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to translate the text and license any intellectual property rights in the translated text to the Customer upon receipt of payment.

**9. CONFIDENTIALITY**

A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, information, 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 9 shall survive termination of the Contract.

**10. PROTECTION OF PERSONAL DATA**

- 10.1 In the event we, as the Supplier, process your personal data in the course of performing the Services, we and you, being the Parties, agree that, for the purposes of the GDPR, you, being the Customer, shall be the controller and we shall be the processor of such personal data.
- 10.2 In the circumstances set out above, you instruct us (and authorise us to instruct any Personnel we appoint) to process your personal data as reasonably necessary for the provision of the Services and in accordance with the terms of the Contract. You undertake and represent that you will at all times remain authorised to give the instruction set out in this clause 10.2.
- 10.3 The subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects shall be as specified below, unless otherwise stated in the contract:

Subject-matter of the processing	The performance of the Services specified in the Specification
Duration of the processing	The term of the Contract and such further time as the Parties shall agree in writing

Nature and purpose of the processing	The translation services specified in the Specification as part of the Services
Type(s) of personal data and data subjects	Any personal data which is held within the business of the Customer and which the Customer wishes to be translated; the Parties agree it is not possible to be more precise
Sub-processors and sub-contractors	We outsource some of our translation work to sub-contractors some of whom may be processors of data outside the EEA. In such circumstances outlined in 10.4.2 we will advise you and obtain your consent to the processing of any such data.

- 10.4 Where we are acting as processor in respect of personal data, we agree to:
- 10.4.1 process the personal data on documented instructions from you, unless required to do so by English, European Union (“EU”) or EU Member State law to which the we are subject. In such a case, we shall inform you of that legal requirement before processing (unless that law prohibits such information on important grounds of public interest);
- 10.4.2 ensure that our Personnel authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory or legal obligation of confidentiality;
- 10.4.3 with due consideration of the state of the art, the costs of implementation and the nature, scope, context and purposes of processing, as well as the risk of the varying likelihood and severity of rights and freedoms of natural persons, in relation to your personal data, implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk including considering those measures referred to in Article 32 of the GDPR;
- 10.4.4 with due consideration of the nature of the processing, assist you by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of your obligation to respond to requests for exercising data subjects’ rights laid down in Chapter III of the GDPR;
- 10.4.5 with due consideration of the nature of the processing and information available to us, provide assistance to you in order to assist you in ensuring your compliance with the obligations set out in GDPR Articles 32 ,33, 34, 35 and Article 36, in each case solely in relation to processing of your personal data;
- 10.4.6 at your option, delete or return all your personal data to you after the end of the provision of services relating to processing, and delete existing copies unless English, EU or EU Member State law requires storage of the personal data;
- 10.4.7 make available to you all information necessary to demonstrate compliance with Article 28 of the GDPR and permit audits and inspections conducted by you or an auditor appointed by you; and
- 10.4.8 immediately inform you if, in our opinion, an instruction of you pursuant to clause 10.4.7 infringes the GDPR or other EU or EU Member State data protection provisions.
- 10.5 We shall, notwithstanding any other provision of the Agreement:
- 10.5.1 not engage any sub-processors without your prior specific or general written authorisation;
- 10.5.2 in the case of a general authorisation, inform you of any intended changes concerning the addition or replacement of such processors and shall be deemed to be entitled to appoint such processors unless, within five days informing you, we receive written notice from you objecting to such changes; and
- 10.5.3 where we receive written notice from you in accordance with clause 10.5.2, you acknowledge that we shall have the right to terminate the Agreement immediately if we are unable to address your objections.
- 10.6 We shall ensure that the arrangement between us and each processor contemplated by clauses 10.5.1 to 10.5.3 is governed by a written contract including equivalent data protection obligations as those set out in this clause 10 which are required by Article 28(3) of the GDPR.
- 10.7 You shall reimburse us for all costs, expenses and time (at our standard rates) incurred by us in connection with the fulfilment of our obligations under clauses 10.4.4 to 10.4.8. We shall invoice you in relation thereto and such invoices shall be paid in accordance with clause 7 of these Terms & Conditions.
- 10.8 At your own cost you will provide such assistance as may requested by us to enable us to fulfil our obligation to cooperate with the relevant supervisory authority under Article 31 GDPR.
- 10.9 You undertake and represent that:
- 10.9.1 you have full authority and all consents necessary to enable us to process the personal data in accordance with the GDPR for the purposes of the Contract; and
- 10.9.2 you shall comply with the GDPR and all other applicable laws and regulations, relevant industry codes of practice and guidance in relation to the processing of personal data.
- 10.9.3 to enable us to comply with GDPR you will advise us in all cases where any information or Materials you supply to us for translation or for the use of our Services contains sensitive personal data
- 10.9.4 you will indemnify us in respect of any and all costs claims and demands arising out of or in connection with any breach of this clause 10 or the relevant regulations of the GDPR due to your acts or omission
- 11. LIMITATION OF LIABILITY:**
- 11.1 Nothing in these Conditions shall limit or exclude the Supplier’s liability for:
- (a) Death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) Fraud or fraudulent misrepresentation; or
- (c) Breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 11.2 Subject to clause 11.1, the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under, or in connection with, this agreement for:
- a) Any loss of profits;
- b) Loss of sales or business;
- c) Loss of agreements or contracts;
- d) Loss of or damage to goodwill;
- e) Loss of use or corruption of software, data or information;
- f) Any indirect or consequential loss.
- 11.3 Subject to clauses 11.1 and 11.2, the Supplier’s total liability to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under, or in connection with this agreement, shall be limited to:
- a) The total charges paid by the Customer for the particular Deliverables (as set out in the Order) to which the liability relates; and
- b) In respect of all claims (connected or unconnected) in any consecutive 12-month period, the equivalent of the total charges paid by the Customer in that period.
- 11.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 11.5 This clause 11 shall survive termination of the Contract.
- 12. TERMINATION**
- 12.1 Without limiting its other rights or remedies, either party may terminate the Contract by giving the other party 4 weeks’ written notice.
- 12.2 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) The other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing to do so;
- (b) The other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company 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;
- (c) The other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- (d) A petition is filed, a notice is given, a resolution is passed, or an order is made, for, or in connection with, the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) The other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) An application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (g) The holder of a qualifying floating charge over the assets of that other party (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 other party or a receiver is appointed over the assets of the other party;
- (i) Any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.2(b) to clause 12.2(h) (inclusive);

- (j) The other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
  - (k) The other party'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 other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 12.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within 7 days after being notified in writing to do so.
- 12.4 Without limiting its other rights or remedies, the Supplier may suspend provision of the Services under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 12.2(b)) to clause 12.2(l), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 13. CONSEQUENCES OF TERMINATION**  
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 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, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, 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 survive termination shall continue in full force and effect.
- 14. 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 for more than 72 hours, 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 or agent with the Customer's consent at the e-mail addresses specified in the Order or Specification.
  - (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all 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 the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or 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 or e-mail, 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 provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict 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 the parties, nor constitute either party the agent of the other 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 Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with 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).