

SFJ Awards - Standard Terms & Conditions of Sale

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions:

1.1.1 "**Authorised Representative**" means the management representative of the Seller or the management representative of the Buyer where applicable and as the case may be.

1.1.2 "**Buyer**" means the person who accepts a quotation of the Seller for the sale of the Products and/or Services and whose Order for the Products and/or Services is accepted by the Seller.

1.1.3 "**Conditions**" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

1.1.4 "**Contract**" means the contract for the sale and purchase of the Products and/or Services on the Conditions attached.

1.1.5 "**Invoice**" means the invoice sent by the Supplier to the Buyer in respect of the Products and/or Services to be provided as specified in the Order.

1.1.6 "**Payment**" means any money payable by the Buyer to the Seller in respect of Products and/or Services to be provided as specified in these Conditions or the Order.

1.1.7 "**Intellectual Property Rights**" means any and all of the following in any and all legal jurisdictions around the world: (a) patents, patent applications, patent disclosures and all related continuations, continuations-in-part, divisionals, reissues, re-examinations and renewals, (b) design rights (whether or not registered), (c) trademarks, service marks, logos, trade names, service names, domain names and corporate names, and registrations and applications for registration thereof, (d) copyrights (including rights in computer software), and registrations and applications for registration thereof, (e) trade secrets, database rights, rights in undisclosed or Confidential Information including without limitation, software, drawings, electronic data, product or programme descriptions, layouts and renderings, timing and planning schedules, calculation procedures and data, samples, parts and components and systems, models, prototypes, know-how, manufacturing and product processes and techniques, research and development information, and technical data, and (f) other proprietary rights relating to any of the foregoing whatever nature (whether registered or not and including applications to register or rights to apply for registration) which may now or in the future subsist anywhere in the world.

1.1.8 "**On-Site Services**" means any services provided by the Seller's personnel/representatives away from the Seller's premises including but not limited to services provided at the Buyer's premises.

1.1.9 **“Order”** means the Order submitted by the Buyer in the form approved by the Seller for the sale of the Products and/or the supply of Services.

1.1.10 **“Premises”** means Distington House, Atlas Way, Sheffield S4 7QQ and any other permanent address of the Seller.

1.1.11 **“Products”** means the Products which the Seller is to supply specified in the Order.

1.1.12 **“Seller”** means Skills for Justice (Enterprises) Limited (registered in England and Wales under number 6926458) trading as SFJ Awards.

1.1.13 **“Services”** means the Services which the Seller is to supply specified in the Order.

1.1.14 **“Working Day”** means any day excluding Saturday and Sunday and public holidays in the United Kingdom.

1.1.15 **“Writing”** includes facsimile transmissions, e-mails, electronic media, letters and comparable means of communication.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.4 Unless the context otherwise requires words denoting the singular shall include the plural and vice versa, references to any gender shall include all other genders and references to persons shall include bodies corporate, unincorporated associations and partnerships, in each case whether or not having a separate legal identity.

2. BASIS OF THE SALE

2.1 The Seller shall sell and the Buyer shall purchase the Products and/or Services in accordance with any Order submitted by the Buyer which is accepted by the Seller in Writing and such sale shall be subject to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions.

2.2 Quotations are made without commitment and are subject to the Seller sending confirmation of acceptance of an Order received from the Buyer in Writing. A price given in any quotation shall be valid for a period of 14 days, unless otherwise agreed in writing, from the date of issue or the date the quotation is withdrawn if earlier.

2.3 Payments made before a signed Order is submitted by the Buyer and accepted by the Seller shall be held “subject to contract” until such time as an Order has been submitted and accepted by the Seller and the Seller will then process the Order and the Payment.

2.4 No variation to these Conditions shall be binding unless agreed in Writing between Authorised Representatives of the Buyer and the Seller.

2.5 The Seller's personnel or agents are not authorised to make any representations concerning the Products and/or Services unless confirmed by an Authorised Representative of the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.

2.6 The descriptions and illustrations contained in leaflets, price lists or descriptive matter produced by the Seller in any medium or form do not form part of the Contract and are not binding on the Seller. Any description given of any Products and/or Services is by way of identification only and does not constitute a sale by description. In entering into the Contract the Seller agrees that it does not rely on and waives any claim for breach of any representation arising from such documentation.

2.7 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller and any such documents do not constitute offers made by the Seller.

3. ORDERS

3.1 No Order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until the Seller has confirmed in Writing that an External Quality Assurer (EQA) has been allocated for the provision of the Product and/or Service.

3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any Order submitted by the Buyer, and for giving the Seller any necessary information relating to the Products and/or Services within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3 The quantity and description of the Products and/or Services shall be those set out in the Buyer's Order.

3.4 The Seller reserves the right without the prior consent of the Buyer to make any changes in the specification of the Products and/or Services and in such instances the Seller shall be entitled to charge any costs associated with this to the Buyer.

3.5 The Seller shall be entitled to sub-contract any part of the delivery process without the consent of the Buyer.

3.6 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of an Authorised Representative of the Seller and on terms that all payments to the date of agreed cancellation are forfeited to the Seller and the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including without limitation the cost of all labour and materials used), damages, charges and expenses incurred or contracted by the Seller.

4. PRICE

4.1 The price of the Products and/or Services shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the centre application available on SFJ Awards' website (www.sfjawards.com) current at the date of acceptance of the Order. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.

4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery of the Products and/or performance of the Services, to adjust the price of the Products and/or Services to take account of and charge for any increase in the cost of third party labour, or services or increases of taxes or duties, or increase in the cost to the Seller in complying with the Contract as a result of changes in delivery dates, quantities or specifications for the Products and/or Services which is requested by the Buyer, any change in specifications arising from a modification made by the Seller under clause 3.4. or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information.

4.3 The price is exclusive of any applicable Value Added Tax, which the Buyer shall be additionally liable to pay to the Seller.

4.4 Any quotation or price which the Seller gives in any currency other than pounds sterling is provided for the purpose of guidance only and is not binding on the Seller unless otherwise agreed in Writing by an Authorised Representative of the Seller.

4.5 Prices under this agreement relate solely to the provision of Products and/or Services within the United Kingdom

5. TERMS OF PAYMENT

5.1 Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Products and/or Services on or at any time after accepting the Buyer's Order for the Products and/or the Services.

5.2 A Payment made in relation to an accepted Order is non-refundable. The Payment must be paid within 30 days of the date of the Invoice. No Order will be accepted or processed until the Payment has been made.

5.3 The Buyer shall pay the full price of the Products and/or Services together with VAT (which shall be chargeable unless the Buyer provides clear evidence it is not chargeable) and

all other applicable duties and charges and all other monies due pursuant to these Conditions without deduction or set-off on or before the due dates specified in the Order and in all cases prior to delivery or despatch or performance as the case may be. The time of payment of the price shall be of the essence of the Contract.

5.4 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to exercise all or any of the following remedies with immediate effect:

5.4.1 to suspend the Seller's obligations under the Contract; and

5.4.2 to cancel the Contract and forfeit any payments the Buyer has paid; and

5.4.3 to charge the Buyer compound interest (both before and after any judgment) on the amount unpaid under the Late Payment of Commercial Debs (Interest) Act 1998, until payment in full is made (interest be payable on demand and to accrue daily on the basis of a year of 365 days) together with all costs and expenses incurred by the Seller in the collection of overdue monies; and

5.4.4 where the Seller has not cancelled the Contract, to suspend any further deliveries of the Products and/or Services to the Buyer and the Seller shall not be bound to deliver the Products and/or Services within any previously agreed timescale and reserves the right to allocate resources for the Services to other customers and to deliver such Products and/or Services to the Buyer within as reasonable time period after payment has been made by the Buyer in full (together with all accrued interest) giving priority to customers who have agreed delivery times and have made payments to the Seller on time.

5.5 If for any reason payment by the Buyer is not made in the currency required/agreed under the Contract (the "Contractual Currency") then the Seller will convert the payment into the Contractual Currency at the rate of exchange prevailing at the bank used by the Seller from time to time. If the rates and cost of exchanging the currency together with any premiums, commissions, bank charges or other consequential costs incurred by the Seller when deducted from the payment made result in the Seller receiving less than full payment in the Contracted Currency then the Seller shall pay the shortfall upon demand.

5.6 Each Contract with the Buyer is subject to the Seller being satisfied with the Buyer's credit status. The Buyer agrees that the Seller may carry out enquiries with a licensed credit reference agency before processing the Buyer's order. If the Seller in its absolute discretion becomes dissatisfied with the Buyer's credit status the Seller may require security for payment before continuing with or delivery of any Order.

6. DELIVERY

6.1 Delivery of the Products and/or performance of the Services shall not be made until the Buyer has paid in full to the Seller the price of the Products and/or Services less any agreed discount but without any other deduction or set-off.

6.2 Unless otherwise agreed in Writing by an Authorised Representative of the Seller delivery of the Products and/or performance of the Services will be made at the Buyer's Premises or the Seller's Premises.

6.3 Any date or period quoted for delivery of the Products and/or performance of the Services is given in good faith by way of an estimate only and while the Seller shall endeavour to deliver/perform within the period stated the Seller shall not be liable for any loss, costs, damages, charges or expenses caused directly or indirectly by delay in delivery of the Products and/or performance of the Services.

6.4 Time for delivery shall not be of the essence of the Contract unless previously agreed by the Seller in Writing by an Authorised Representative of the Seller. The Products and/or Services may be delivered by the Seller in advance of the quoted delivery date.

6.5 Where the Products and/or Services are to be packed by the Seller, all such packaging shall be at the Seller's sole discretion. If the Buyer directs special or different packaging from that included in the price then such additional expenditure on packaging shall be at the Buyer's expense.

6.6 Where the Products and/or Services are to be delivered in instalments, each delivery shall constitute a separate Contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.7 If the Buyer requests delivery of the Products and/or Services to be postponed or refuses to accept delivery of the Products and/or Services in accordance with the terms of the Contract or otherwise fails to give the Seller adequate delivery instructions then:

6.7.1 with immediate effect any risk of damage to or loss of Products and/or Services will pass to the Buyer;

6.7.2 the Products and/or Services will be deemed to have been delivered;

6.7.3 the Seller may store the Products until actual delivery and charge the Buyer for all related costs including but not limited to insurance, storage and administrative charges;

6.7.4 the Seller may (in relation to the Products and/or Services) increase the price according to price lists supplied at the time of actual delivery.

6.8 After one calendar month of any postponement, refusal to accept delivery or failure to deliver under the terms of Condition 6.7, the Seller may cancel the Contract and forfeit the Payment made.

7. RISK AND PROPERTY

7.1 Risk of damage to or loss of the Products and/or Services shall pass to the Buyer:-

7.1.1 in the case of Products and/or Services to be delivered at the Premises, at the time when the Seller notifies the Buyer that the Products and/or Services are available; or

7.1.2 in the case of Products and/or Services to be delivered on-site, at the time of delivery; from which point the Seller shall have no further responsibility for loss, damage or

deterioration to the Products and/or Services. For the avoidance of doubt Condition 7.1.2 means that where the Seller agrees to deliver the Products and/or Services to the Buyer the Seller will have no liability for any such damage incurred up to and including the time of delivery. The Buyer is advised to insure against any such liability.

7.2 Notwithstanding delivery and the passing of risk in the Products and/or Services, or any other provision of these Conditions, the property in the Products and/or Services shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Products and/or Services and all other Products agreed to be sold to the Buyer or Services to be performed by the Seller for the Buyer for which payment is then due without deduction or set-off.

7.3 Until such time as the property in the Products and/or Services passes to the Buyer, the Buyer shall hold the Products and/or Services as the Seller's fiduciary agent and bailee, and shall keep the Products and/or Services separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property.

7.4 Until such time as the property in the Products and/or Services passes to the Buyer the Seller shall be entitled at any time to require the Buyer to deliver up the Products and/or Services to the Seller and, if the Buyer fails to do so forthwith, the Buyer hereby irrevocably grants to the Seller the right to immediately enter upon any premises of the Buyer or any third party where the Products and/or Services are stored to repossess the Products and/or Services.

7.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products and/or Services which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) become immediately due and payable.

7.6 If the Buyer provides property to the Seller to provide the Products and/or Services or for any other purpose:

7.6.1 the risk of damage to or the loss of any such property remains with the Buyer or the owner (as the case may be) and the Seller shall have no responsibility for damage to or

deterioration of such property whilst in its possession which shall remain the Buyer's responsibility to insure;

7.6.2 such property will be returned once the Seller has received payment in full for all Products and/or Services provided to the Buyer.

8. WARRANTIES AND LIABILITY

8.1 Subject to the Conditions set out below the Seller warrants that the Products and/or Services will correspond with their specification at the time of delivery and be in good condition.

8.2 The above warranty is given by the Seller subject to the following conditions:

8.2.1 the Seller shall be under no liability in respect of any defect in the Products and/or Services arising from any drawing, design or specification supplied by the Buyer;

8.2.2 the Seller shall be under no liability under any condition or guarantee if the total price for the Products and/or Services has not been paid by the due date for payment;

8.3 Subject as expressly provided in these Conditions, and except where the Products and/or Services are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

8.4 The Buyer must satisfy himself as to the suitability of the Products and/or Services and must rely on the Buyer's own safety and general testing and regular inspection of the Products and/or Services.

8.5 Any claim by the Buyer which is based on any defect in the quality or condition of the Products and/or Services or their failure to correspond with any drawing, design or specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within five days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time not exceeding one month after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Products and/or Services and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Products and/or Services had been delivered in accordance with the Contract.

8.6 Where any valid claim in respect of any of the Products and/or Services which is based on any defect in the quality or condition of the Products and/or Services or their failure to meet any drawing, design or specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Products and/or Services (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the

Products and/or Services (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.

8.7 In the case of any Products and/or Services not manufactured by the Seller and supplied by the Seller or incorporated with the Seller's Products and/or Services the Seller is unable to provide any warranty or guarantee.

8.8 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation, (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (and whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Products or their use by the Buyer or the supply of the Services to the Buyer, and the entire liability of the Seller under or in connection with the Contract (except in relation to death or personal injury as aforesaid) shall not exceed the price of the Products and/or Services.

8.9 The Buyer hereby acknowledges that the Buyer shall be solely responsible for and shall hold the Seller, its officers, employees and agents fully indemnified and harmless against all claims, demands, liabilities, losses, damages, proceedings, costs (including without limitation legal costs) and expenses which may be brought against or incurred by the Seller, its officers, employees or agents as a result of any accident or incident involving the Products and/or the Services sold to the Buyer (other than for death or personal injury resulting from the negligence of the Seller, its officers, employees or agents).

8.10 The Buyer undertakes to indemnify, keep indemnified and hold harmless the Seller against any loss, costs, claims, liability, expenses or fees the Seller may incur arising directly or indirectly out of any breach of the Contract by the Buyer.

9. ON-SITE SERVICES

9.1 The On-Site Services shall be limited to those identified in the Order.

9.2 The duties of the Seller's personnel in undertaking the On-Site Services may be varied in Writing by the Seller in its entire discretion from time to time and such variation will be at additional cost to the Buyer.

9.3 The Buyer may not require the Seller's personnel to undertake additional duties in respect of On-Site Services without the consent of an Authorised Representative of the Seller in Writing and for the avoidance of doubt in the absence of such consent any additional duties are performed entirely at the Buyer's risk.

9.4. The Buyer shall at the Buyer's expense provide a safe working environment for the performance of the On-Site Services and otherwise ensure that working conditions for the Seller's personnel meet all legislative and good practice requirements for the health and safety of the Seller's personnel whilst carrying out the On-Site Services;

9.5 Where the On-Site Services are to be performed outside the UK the Buyer shall in addition ensure that:

9.5.1 working conditions meet all local legislative health and safety requirements and where possible are at least to the equivalent standard to that required by UK health and safety legislation and good practice;

9.5.2 the Seller's personnel are fully informed of the applicable health and safety standards and of any legal restrictions or requirements affecting (directly or indirectly) the performance of the On-Site Services;

9.5.3 it provides all resources including suitable equipment and other such facilities, documentation and information (in the English language) reasonably necessary for the carrying out of the On-Site Services;

9.5.4 it obtains suitable and adequate public liability insurance for the Buyer's personnel and also for the benefit of the Seller and the Seller's personnel and the Buyer shall on demand show to the Seller the policy of insurance, the premium receipts and certificate of insurance. The Buyer shall hold harmless and indemnify and shall keep indemnified the Seller and the Seller's personnel against all actions, claims, liabilities, costs and demands arising out of the actions or failure to act of the Buyer, its employees, agents or sub contractors working with the Seller's personnel.

9.6 The Buyer shall pay for all accommodation, subsistence and travel costs incurred by the Seller in respect of the performance of the On-Site Services at the rate agreed or as advised by the Seller from time to time (and being equivalent to the amounts usually paid by the Seller to the Seller's personnel providing services away from the Seller's premises):

9.6.1 prior to performance of the On-Site Services, to the extent such costs are ascertained prior to performance.

9.7 The Seller may require the Buyer to make and pay for travel and accommodation arrangements directly and to pay subsistence costs directly to the Seller's personnel and in such circumstances the travel and accommodation arrangements the Buyer makes must be at least equivalent to the standard the Seller usually provides to the Seller's personnel and any amounts paid for subsistence must be equivalent to the amounts usually allowed by the Seller to the Seller's personnel.

9.8 Where the On-Site Services are to be performed partly or wholly outside the UK the Buyer shall in addition be responsible at the Buyer's expense for:

9.8.1 promptly obtaining all relevant licences permits and visas;

9.8.2 the Seller's reasonable travel costs to and from the UK;

9.8.3 the cost of medical insurance (any such cover to include repatriation costs) for the Seller's personnel (if required by the Seller).

9.9 The Buyer shall comply with its obligations promptly so as not to delay or otherwise interfere with the performance of the On-Site Services.

9.10 Where the Seller has agreed to provide personnel to carry out the On-Site Services the Seller shall be entitled to change or substitute the personnel it appoints to carry out the On-Site Services in its discretion.

9.11 The Buyer covenants with the Seller that the Buyer will not either on its own account or in partnership or association with any person, firm, company or organisation or otherwise and whether directly or indirectly during its business relationship with the Seller or for a period of 12 months after the date of termination of the business relationship between Buyer and the Seller solicit or entice away or attempt to solicit or entice away any member of staff of the Seller or any associated company of the Seller who has provided Products and/or Services to or for the Buyer at any time during the last 12 months of the Buyer's business relationship with the Seller.

10. SUSPENSION OF ORDERS

10.1 Subject to the agreement of the Seller in writing the Buyer may suspend all or any part of an Order or the Contract as the case may be by giving the Seller a written notice ("Stop Work Order") for a maximum period of twenty (20) working days (Monday to Friday inclusive) from and including the date the Stop Work Order is delivered to the Seller and for any other longer period the parties may agree in writing. Upon receipt of the Stop Work Order the Seller shall forthwith comply with its directive to stop work by taking all reasonable steps to minimise the costs relating to the work covered by the Stop Work Order. Before the expiry of the Stop Work Order the Buyer shall write to the Seller informing the Seller that it shall on or prior to expiry either:

10.1.1 cancel the Stop Work Order; or

10.1.2 terminate the Work covered by such Stop Work Order in which instance the Buyer shall pay to the Seller the sums set out in Condition 12.4.

10.2 If a Stop Work Order is cancelled or the period of the Stop Work Order or any extension thereof expires, the Seller shall resume work. If the Stop Work Order results in an increase in the time required for, and/or the cost of, performance of the Contract, and if the Seller asserts a claim for such increase within ninety (90) calendar days after the end of the period of work stoppage then subject to the Seller's obligation to minimise its costs under these

circumstances, the Buyer shall reimburse the Seller for the direct costs incurred by the Seller as a result of the Stop Work Order. In such circumstances an equitable adjustment shall be made to the delivery schedule and/or price and/or other affected contractual provisions, and the Contract shall be amended in writing accordingly.

10.3 In the event of termination of an Order or a Contract for any reason, the Seller shall be entitled to claim a termination charge consisting of all costs and expenses which have been reasonably and properly incurred by the Seller in connection with the Products and/or Services at the date of termination and all costs and expenses which shall arise following the date of termination as a direct result of termination of the Order or the Contract as the case may be, which costs shall comprise expenditure on materials, labour, overheads and payments to subcontractors and any other committed costs at the date of termination.

11. FORCE MAJEURE

11.1 The Seller shall not be liable for any failure to deliver the Products or provide the Services arising from circumstances outside the Seller's reasonable control (hereafter a "Force Majeure Event")

11.2 Force Majeure Events shall include (but are not limited to) Acts of God, war, threat of war, riot, terrorism, explosion, weather conditions, disease, explosion, flood, tempest, fire or accident, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, regulations, byelaws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority, import or export regulations or embargoes, strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party), power failure, computer hardware or software failure, interruptions to or breakdown of the national or international telecommunications systems, delay by suppliers, travel delays or cancellations or breach by the Buyer of its obligations under these Conditions.

11.3 Should the Seller be prevented from delivering the Products or providing the Services pursuant due to a Force Majeure Event it will provide notice in Writing of this fact as soon as reasonably practicable after discovering it.

11.4 In the event that the Seller is prevented from delivering the Products or providing the Services, the Seller shall use reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which the Contract may be performed despite the continuance of the Force Majeure Event.

11.5 If the circumstances preventing delivery of the Products or providing the Services are still continuing six months after the Buyer receives the Seller's notice then either party may give notice in Writing to the other cancelling the Contract with immediate effect.

11.6 If the Contract is cancelled pursuant to Condition 11.5 the Seller will refund any payment which the Buyer has already made on account of the price (subject to deduction of any amount the Seller is entitled to claim from the Buyer under the Contract and deduction of any payment for any Products which have been delivered and/or Services already provided but the Seller will not be liable to compensate the Buyer for any claims, loss or damage caused or expenses incurred by the failure to deliver.

12. INSOLVENCY, CHANGE IN CREDIT STATUS OR MATERIAL BREACH

12.1 In the event that:

12.1.1 The Buyer makes any voluntary arrangement with its creditors or become bankrupt or appoints a receiver, administrative receiver or administrator or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986) or the Buyer appoints a manager or official receiver over its affairs; or goes into liquidation, unless for the purpose of a solvent reconstruction or amalgamation; or has distress, execution, sequestration levied or issued against any part of its assets or are otherwise unable to pay its debts as they fall due within the meaning of section 123 of the Insolvency Act 1986; or

12.1.2 The Buyer ceases or threatens to cease to carry on its business or a substantial part of it or the Seller reasonably apprehends that the Buyer will do so; or

12.1.3 The Buyer suffers any similar proceedings under foreign law; then, without prejudice to any other right or remedy available to the Seller, the Seller will be entitled to cancel the Contract forthwith or to suspend any further deliveries under the Contract without any liability to the Buyer, and if the Products and/or Services have been delivered but not paid for then the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary and if the Buyer fails to pay immediately the Seller shall be entitled to immediate possession of the Products and/or Services.

12.2 The Seller shall be entitled to terminate the Contract forthwith upon notice in Writing to the Buyer if the Buyer is in material breach of the Contract and where such breach is capable of remedy, the Buyer fails to remedy the same within 21 days of written notice from the Seller requesting remedy or such shorter period as may be reasonable in the circumstances.

12.3 Termination of a Contract shall not release either of the parties from any liability which at the time of termination has already accrued to the other party, nor affect in any way the survival of any other right, duty or obligation of the parties which is expressly stated in these Conditions to survive such termination.

12.4 Upon termination under this clause all amounts due for payment in respect of any Order for Products and/or Services completed and/or delivered to the Buyer shall be paid by the

Buyer to the Seller without deduction or set-off within five working days from and including the date of termination. In respect of Products and/or Services ordered by the Buyer but not yet delivered to the Buyer such amounts shall be due and payable by the Buyer to the Seller without deduction or set-off within five working days from and including the date of termination. Where the Seller has incurred any costs relating to unfinished Products or part performed Services or has contracted to incur costs relating to the Products and/or Services at the date of termination, the Seller shall be entitled in addition to be reimbursed such costs without deduction or set-off within five working days of a statement being provided to the Buyer by the Seller.

13. CONFIDENTIALITY

13.1 For the purposes of this condition “Confidential Information” means all information, data or materials received by the Buyer from the Seller which relates to the Seller’s or its associated or group companies’ business, business affairs or technical matters, customers or suppliers, business methods, prices, finances, marketing, research, development, processes, market opportunities, computer systems or software, Product or Service information (including without limitation Intellectual Property Rights) new product details, business plans and such other matters as may be reasonably regarded by the disclosing party or its associated or group companies as confidential.

13.2 The Buyer agrees that Confidential Information will be maintained in strict confidence by the Buyer and that the Buyer will only use Confidential Information provided to it exclusively for the purpose authorised in Writing by the Seller. It shall be made accessible to only those personnel of the Buyer who need to be in possession of it insofar as it is required for such purpose, and may be disclosed to third parties only after receipt of the consent of the Seller in Writing and only on the basis that it remains confidential and the third party receiving signs a confidentiality condition on the same terms as this Condition.

13.3 All Confidential Information shall remain the property of the Seller save as expressly specified in Writing by an Authorised Representative of the Seller.

13.4 Immediately upon the Seller’s request the Buyer shall (at the direction of the Seller), deliver up to the Seller or destroy all Confidential Information received under this Contract and shall deliver up to the Seller any other property of the Seller in the Buyer’s possession or control (including in each case transcriptions, copies, records and further developments thereof) any time such a request is received, and automatically after termination of the Contract. If and to the extent the Seller requests the Buyer to destroy or have destroyed the Confidential Information then following destruction the Buyer shall certify that all such

Confidential Information has been destroyed and evidence of compliance will be provided to the Seller on request.

13.5 The obligations of confidence and non-disclosure do not apply to Confidential Information which

13.5.1 was public knowledge or already known to the Buyer at the time of disclosure;

13.5.2 subsequently becomes public knowledge other than by breach of the Contract;

13.5.3 subsequently comes lawfully into the Buyer's possession via a third party.

13.6 The Buyer accepts that any breach of this Condition could cause injury to the Seller and that monetary damages would not be an adequate remedy. In the event of a breach or threatened breach by the Buyer the Seller shall be entitled (without prejudice to any other remedy available to it) to injunctive relief in any court of competent jurisdiction and the Buyer shall reimburse the Seller for any costs (including without limitation legal costs), claims, demands or liabilities arising directly or indirectly out of such breach.

14. INTELLECTUAL PROPERTY

14.1 All Intellectual Property Rights in any Product or Service designed or manufactured by the Seller before the date of any Contract entered into by the Seller and the Buyer and any Intellectual Property Rights arising after the date of any such Contract shall belong exclusively to the Seller. No licence is hereby granted by the Seller to the Buyer in respect of any such Intellectual Property Right save for the right of the Buyer to use the Products and/or Services.

14.2 In particular but without limiting the Seller's Intellectual Property Rights:

14.2.1 The Buyer shall not add any image/decals/logos/trademarks relating to the Seller to the Products and/or Services or alter any image/decals/logos/trademarks relating to the Seller that are on the Products and/or Services on delivery without the prior consent in Writing of an Authorised Representative of the Seller; and

14.2.2 The Buyer shall not alter any software included in the Products and/or Services without the prior consent in Writing of an Authorised Representative of the Seller.

14.3 The Buyer shall not do or authorise any third party to do any act (including without limitation the copying or exploitation of any design or other specification of the Products and/or Services) in respect of the Products and/or Services which would or might invalidate or be inconsistent with the Intellectual Property Rights of the Seller or any of its associated companies and shall not omit or authorise any third party to omit to do any act in respect of the Products and/or Services which, by its own omission, would have that effect or character.

14.4 The Buyer shall not use or apply any trade mark, name, logo, copyright, image or other Intellectual Property Rights of the Seller or its sponsors without the prior consent in Writing of an Authorised Representative of the Seller.

15. NOTICES

15.1 Any notice to be served under these Conditions shall be in writing and is deemed to have been properly served if sent or delivered to the party concerned at its address specified in the Order or such other address as that party may from time to time notify in Writing. Any notice may be delivered personally, or by first class recorded delivery post or first class air mail letter or facsimile transmission or by e-mail and shall be deemed to have been served, if sent by first class post, three Working Days after posting or if sent by first class air mail then five Working Days after posting or if delivered by hand, upon delivery, if by facsimile transmission then upon transmission (subject to a successful delivery receipt) or if by e-mail then six hours after the e-mail was sent (subject to the e-mail address being correct and the sender has received a delivery receipt).

16. GENERAL

16.1 With the prior agreement of the Buyer, not to be unreasonably withheld or delayed, the Seller shall be entitled to refer to the Buyer as the customer of the Seller and refer to the fact that the Buyer has purchased Products and/or Services.

16.2 The Buyer may promote the fact that it has purchased Products and/or Services from the Seller but shall not and shall ensure that its personnel, agents, sub-contractors and associates do not make any adverse comments about the Products and/or Services or the Seller's name, business or its personnel to the media or public.

16.3 Any failure by the Seller to exercise or delay exercising any right or remedy shall not constitute a waiver of that right or remedy. Any waiver by the Seller must be in Writing by an Authorised Representative to be effective and any waiver so given by the Seller shall not be considered a waiver of any subsequent breach of the same or any other provision.

16.4 The Buyer confirms that it is contracting with the Seller as principal and not as agent for any other party.

16.5 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the remainder of the provision in question and the remaining Conditions shall not be affected.

16.6 Unless expressly provided in the Contract, no Condition is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to the Contract.

16.7 The Contract shall be governed by English Law, and all disputes arising under the Contract shall be submitted to the non-exclusive jurisdiction of the Courts of England and Wales.