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**1 Interpretation**

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

<b>Business Day</b>	a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business;
<b>Commencement Date</b>	has the meaning set out in clause 2.2;
<b>Completion</b>	completion is deemed to have occurred on practical completion of the Scope of Works;
<b>Conditions</b>	these terms and conditions as amended from time to time in accordance with clause 15.8;
<b>Contract</b>	the contract between the Supplier and the Customer for the supply of Equipment and/or Services in accordance with these Conditions;
<b>Customer</b>	the person or firm who purchases the Equipment and/or Services from the Supplier.
<b>Deliverables</b>	the deliverables set out in the Order;
<b>Delivery Location</b>	has the meaning set out in clause 4.2;
<b>Equipment</b>	the equipment (or any part of them) set out in the Order.
<b>Equipment Specification</b>	any specification for the Equipment, including any relevant plans or drawings, that is agreed in writing by the Customer and the Supplier;
<b>Force Majeure Event</b>	has the meaning given to it in clause 15.1.1:
<b>Intellectual Property Rights</b>	all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;
<b>Order</b>	the order form which includes the Scope of Works and the Equipment as provided by the Supplier to the Customer;
<b>Scope of Works</b>	the description or specification for the Services provided in writing by the Supplier to the Customer;
<b>Services</b>	the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Scope of Works.
<b>Supplier</b>	The Electric Playground Limited registered in England and Wales with company number 9088654;
<b>Supplier Materials</b>	has the meaning set out in clause 8.1.7.

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

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

1.2.2 a reference to a party includes its personal representatives, successors or permitted assigns;

1.2.3 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;

1.2.4 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

1.2.5 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 the Equipment and/or the Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when the Supplier either issues written acceptance of the Order or pays a deposit (as per clause 9.2) at which point and on which date the Contract shall come into existence (**Commencement Date**).

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

2.4 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Equipment or illustrations or descriptions of the Services contained in the Supplier's catalogues, brochures or website are issued or published for the sole purpose of giving an approximate idea of the Services and/or Equipment described in them. They shall

not form part of the Contract or have any contractual force.

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

2.6 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.

2.7 All of these Conditions shall apply to the supply of both Equipment and Services except where application to one or the other is specified.

**3 Equipment**

3.1 The Equipment is described in the Order.

3.2 To the extent that the Equipment are to be manufactured in accordance with an Equipment Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Equipment Specification. This clause 3.2 shall survive termination of the Contract.

3.3 The Supplier reserves the right to amend the Order if required by any applicable statutory or regulatory requirements.

3.4 In the event the Supplier is unable to supply the Equipment as specified in the Order for any reason, the Supplier may (upon written consent of the Customer and at the Customer's election) either:

3.4.1 require the Customer to choose alternative Equipment; or

3.4.2 wait until delivery of the requested Equipment. For the avoidance of doubt, the Supplier shall not be liable for any failed delivery times if the Supplier chooses this option; or



3.4.3 use substitute Equipment.

(together, the "Replacement Equipment")

For the avoidance of doubt, the Supplier does not guarantee the cost or the difference in cost of any of the Replacement Equipment options it chooses to elect. The Customer shall be liable to pay the difference in cost should the Replacement Equipment be more expensive than the Equipment set out in the Order and the Supplier shall reimburse the difference in cost of the Replacement Equipment should the Replacement Equipment be cheaper than the Equipment set out in the Order].

#### 4 Delivery of Equipment

4.1 The Supplier shall ensure that:

4.2 The Supplier shall deliver the Equipment to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Equipment is ready.

4.3 Delivery of the Equipment shall be completed on the Equipment's arrival at the Delivery Location.

4.4 Any dates quoted for delivery of the Equipment are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure Event, clause 3.4 or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.

4.5 If the Supplier fails to deliver the Equipment, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement equipment of similar description and quality in the cheapest market available, less the price of the Equipment. The Supplier shall have no liability for any failure to deliver the Equipment to the extent that such failure is caused by a Force Majeure Event, clause 3.4, the Customer's failure to provide the Supplier with adequate delivery instructions for the Equipment or any relevant instruction related to the supply of the Equipment.

4.6 If the Customer fails to accept or take delivery of the Equipment within 2 Business Days of the Supplier notifying

the Customer that the Equipment are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Equipment:

4.6.1 delivery of the Equipment shall be deemed to have been completed at 9.00 am on the 2nd Business Day following the day on which the Supplier notified the Customer that the Equipment were ready; and

4.6.2 the Supplier shall store the Equipment until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

4.7 If 5 Business Days after the Supplier notified the Customer that the Equipment were ready for delivery the Customer has not accepted or taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Equipment and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Equipment or charge the Customer for any shortfall below the price of the Equipment].

4.8 The Customer shall not be entitled to reject the Equipment if the Supplier delivers up to and including 5 per cent more or less than the quantity of Equipment ordered.

4.9 The Supplier may deliver the Equipment by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

#### 5 Quality of Equipment and Services

5.1 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (**Warranty Period**), the Equipment and Services shall:

5.1.1 conform with their description;

5.1.2 be free from material defects in design, material and workmanship.

5.2 Subject to clause 5.3, if:

5.2.1 the Customer gives notice in writing during the Warranty Period within a reasonable time of discovery that some

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- or all of the Equipment do not comply with the warranty set out in clause 5.1
- 5.2.2 the Supplier is given a reasonable opportunity of examining such Equipment and Services; and
- 5.2.3 the Customer (if asked to do so by the Supplier) returns such Equipment to the Supplier's place of business at the Customer's cost. Subject to clause 5.7 the Supplier shall, at its option, repair or replace the defective Equipment, or refund the price of the defective Equipment in full.
- 5.3 The Supplier shall not be liable for the Equipment's and/or the Services' (as applicable) failure to comply with the warranty in clause 5.1 if:
- 5.3.1 the Customer makes any further use of such Equipment and/or the Services after giving a notice in accordance with clause 5.2;
- 5.3.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment or (if there are none) good trade practice;
- 5.3.3 the defect arises as a result of the Supplier following any drawing, design or Equipment Specification supplied by the Customer or a Customer representative;
- 5.3.4 the Customer alters or repairs such Equipment and/or Services (as applicable) without the written consent of the Supplier;
- 5.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
- 5.3.6 the Equipment differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 5.4 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Equipment's failure to comply with the warranty set out in clause 5.1.
- 5.5 The terms of these Conditions shall apply to any repaired or replacement Equipment supplied by the Supplier under clause 5.2.
- 5.6 The Customer is entitled to the benefit of any manufacturer's guarantee to the Customer (subject to the terms of any such guarantee, including the requirement to complete and return a form to the manufacturer).
- 5.7 Any warranty provided under this clause 5 shall exclude the labour and travel time and any other associated expenses required to remove the defective item(s) and re-install repaired or replaced item(s).
- 6 Title and Risk**
- 6.1 The risk in the Equipment shall pass to the Customer on completion of delivery.
- 6.2 Title to the Equipment shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for the Equipment and the Services:
- 6.3 Until title to the Equipment has passed to the Customer, the Customer shall:
- 6.3.1 hold the Equipment on a fiduciary basis as the Supplier's bailee;
- 6.3.2 store the Equipment separately from all other equipment held by the Customer so that they remain readily identifiable as the Supplier's property;
- 6.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment;
- 6.3.4 maintain the Equipment in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
- 6.3.5 notify the Supplier immediately if it becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.6; and
- 6.3.6 give the Supplier such information relating to the Equipment as the Supplier may require from time to time.
- 6.4 If before title to the Equipment passes to the Customer the Customer becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.6, or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided the Equipment have not been resold, or irrevocably incorporated into another product, and



without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Equipment and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Equipment are stored in order to recover them.

## 7 Supply of Services

7.1 The Supplier shall provide the Services to the Customer in accordance with the Scope of Works in all material respects.

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

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

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

7.5 The Supplier shall supply:

7.5.1 such drawings or diagrams as are in the opinion of the Supplier necessary for the proper installation and operation of the Equipment supplied under these Conditions;

7.5.2 appropriate training and/or operating instructions and manuals to enable the Customer to use Equipment supplied under these Conditions;

7.5.3 suitably trained and experienced technicians and installers for the execution of the installation, programming and commissioning of the Equipment and Services.

7.6 In the event the Customer wishes to make reasonable changes to the Equipment and/or the Services and any relevant dates of delivery of Services and/or Equipment, the Supplier may comply with such change at the Supplier's sole discretion and may apply a price change to the prices listed in the Order upon such a change. The Customer must give the Supplier at

least 21 days' notice of any change to the agreed scope of Equipment and Services.

## 8 Customer's Obligations

8.1 The Customer shall:

8.1.1 ensure that the terms of the Order and (if submitted by the Customer) the Equipment Specification are complete and accurate;

8.1.2 co-operate with the Supplier in all matters relating to the Services;

8.1.3 provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;

8.1.4 provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;

8.1.5 prepare the Customer's premises for the supply of the Services and to meet all health and safety regulations and ensure the welfare of the Supplier's employees;

8.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

8.1.7 keep and maintain all materials, Equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation; and

8.1.8 give the Supplier 14 days prior written notice of the expected delivery times for the Services and/or the Equipment, as applicable.

8.2 If the Supplier's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):



8.2.1 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;

8.2.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 8.2; and

8.2.3 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.

## 9 Charges and Payment

9.1 The price for Equipment and/or the Services, as applicable shall be set out in the Order excluding VAT.

9.2 The Supplier may require a deposit from the Customer as security before providing the Services and/or the Equipment, as applicable. Such deposit amount shall be deducted and set off from the total charges payable under the Order.

9.3 The charges for Services shall be on a time and materials basis:

9.3.1 the charges shall be calculated in accordance with the Supplier's standard hourly rates.

9.3.2 the Supplier's standard hourly rates for each individual person are calculated from 8.00 am to 5.00 pm worked on Business Days;

9.3.3 the Supplier shall be entitled to charge an overtime rate of 20 per cent of the standard hourly rate on a pro-rata basis for each hour worked by individuals whom it engages on the Services outside the hours referred to in clause 9.3.2; and

9.3.4 the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including, but not limited to, travelling expenses, hotel

costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials. For the avoidance of doubt, Business Class tickets shall be issued for any air travel time which is greater than 6 hours of flight time and any international hotel accommodation shall be booked at a hotel with at least a national 3 star rating.

9.4 The Supplier reserves the right to:

9.4.1 increase its standard daily fee rates for the charges for the Services, provided that such charges cannot be increased more than once in any 12 month period. The Supplier will give the Customer written notice of any such increase 3 months before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify the Supplier in writing within 4 weeks of the date of the Supplier's notice and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving 4 weeks' written notice to the Customer; and

9.4.2 increase the price of the Equipment, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Equipment to the Supplier that is due to:

(a) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

(b) any request by the Customer to change the delivery date(s), quantities or types of Equipment ordered, or the Equipment Specification; or

(c) any delay caused by any instructions of the Customer in respect of the Equipment or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Equipment.

9.5 In respect of Equipment, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on a monthly basis

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- in arrears or on completion, which ever is the earliest.
- 9.6 The Customer shall pay each invoice submitted by the Supplier:
- 9.6.1 within 14 days of the date of the invoice; and
- 9.6.2 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. The Supplier may render invoices in accordance with the payment instalment timetable set out in the Scope of Works.
- 9.7 All amounts payable by the Customer under the Contract/Order are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Equipment at the same time as payment is due for the supply of the Services or Equipment.
- 9.8 Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (**Due Date**), the Supplier shall have the right to charge interest on the overdue amount at the rate of 5 per cent per annum above the then current LIBOR base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 9.9 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 9.10 The Supplier shall insure the Equipment supplied under these Conditions up to the time of delivery to the Delivery Location.
- 9.11 The Equipment shall be at the Customer's risk from delivery or deemed delivery (regardless of whether title and ownership have passed to the Customer in accordance with clause 6 of these Conditions) and it shall be the responsibility of the Customer to insure the Equipment from the time of delivery.
- 10 Intellectual Property Rights**
- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.
- 10.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.
- 10.3 All Supplier Materials are the exclusive property of the Supplier.
- 11 Confidentiality**
- A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 11 shall survive termination of the Contract
- 12 Limitation of Liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**
- 12.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:



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- 12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors
- 12.1.2 fraud or fraudulent misrepresentation
- 12.1.3 breach of the terms implied by section 2 of the Supply of Equipment and Services Act 1982 (title and quiet possession);
- 12.1.4 breach of the terms implied by section 12 of the Sale of Equipment Act 1979 (title and quiet possession); or
- 12.1.5 defective products under the Consumer Protection Act 1987
- 12.2 Subject to clause 12.1:
- 12.2.1 the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract ; and
- 12.2.2 the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the charges paid by the Customer to the Supplier during the 12 month period immediately preceding the date on which the cause of action first arose.
- 12.3 The terms implied by sections 13 to 15 of the Sale of Equipment Act 1979 and the terms implied by sections 3 to 5 of the Supply of Equipment and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 12.4 This clause 12 shall survive termination of the Contract
- 13 Termination**
- 13.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 13.1.1 the other party commits a material breach of its obligations (including any payment obligations) under this Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing of the breach;
- 13.1.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- 13.1.3 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;
- 13.1.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- 13.1.5 the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
- 13.1.6 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.
- 13.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract:
- 13.2.1 by giving the Customer 2 months' written notice;
- 13.2.2 with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 13.3 Without limiting its other rights or remedies, the Supplier shall have the
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- right to suspend the supply of Services or all further deliveries of Equipment under the Contract or any other contract between the Customer and the Supplier if:
- 13.3.1 the Customer fails to make pay any amount due under this Contract on the due date for payment; or
- 13.3.2 the Customer becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.6, or the Supplier reasonably believes that the Customer is about to become subject to any of them.
- 14 Consequences of Termination**
- On termination of the Contract for any reason:
- 14.1.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 14.1.2 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.
- 14.1.3 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- 14.1.4 clauses which expressly or by implication have effect after termination shall continue in full force and effect.
- 15 General**
- 15.1 Force majeure:
- 15.1.1 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, lightning strikes, electrical surges, lock-outs or other industrial disputes (whether involving the workforce of the party 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.
- 15.1.2 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.
- 15.1.3 If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Equipment for more than 2 weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.
- 15.2 Assignment and subcontracting:
- 15.2.1 The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
- 15.2.2 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 15.3 Notices:
- 15.3.1 Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing.
- 15.3.2 This clause 15.3 shall not apply to the service of any proceedings or other documents in any legal action.
- 15.4 Waiver and cumulative remedies:
- 15.4.1 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or



remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

15.4.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and to not exclude rights provided by law.

15.5 Severance:

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

15.5.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

15.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

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

15.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the Supplier.

15.9 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.