

AQUILANT SPECIALIST HEALTHCARE SERVICES:

TERMS AND CONDITIONS FOR THE SALE OF GOODS AND/OR SERVICES



1. DEFINITIONS & INTERPRETATIONS

1.1. The following words and/or expressions shall, for the purposes of these Terms and Conditions, have the following meanings:

"Aquilant": Aquilant Specialist Healthcare Services Limited (a private limited company incorporated in England & Wales) with registration number 08484746 and registered office at Ashfield House, Resolution Road, Ashby-De-La Zouch, Leicestershire, LE65 1HW, England or any of its Associated Companies and their trading businesses including Aquilant Analytical Sciences, Aquilant Critical Care, Aquilant Distribution, Aquilant Endoscopy, Aquilant Holland, Aquilant International Medicines, Aquilant Interventional, Aquilant Medical, Aquilant Nursing Care, Aquilant Orthopaedics, Aquilant Pharmaceuticals, Aquilant Scientific or Aquilant Surgical. **"Associated Company"**: means any company which is, in relation to another company, its holding company or its subsidiary or a subsidiary of its holding company in accordance with sections 1159 and Schedule 6 of the Companies Act 2006. **"Business Day"** a day (other than a Saturday, Sunday or public holiday) when banks in the place the Goods and/or Services are delivered are open for business. **"Conditions"**: these terms and conditions of purchase. **"Contract"**: the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions. **"Customer"** means the person or firm who purchases the Goods and/or Services from the Supplier. **"Deliverables"** means the deliverables set out in the Order. **"Delivery Location"** has the meaning set out in Condition 4.2. **"Force Majeure Event"** has the meaning given to it in Condition 20. **"Goods"**: any goods which the Supplier provides to Aquilant (including without limitation any of them or any part of them) under the Contract. **"Goods Specification"** means any specification of the Goods, including any relevant plans or drawings, as agreed in writing by the Customer and the Supplier. **"IPR"**: means patents (including patent applications), registered designs, trademarks and service marks (whether registered or otherwise), copyright, database rights, design rights and other intellectual property rights, including in other jurisdictions that grant similar rights as the foregoing, including those subsisting in inventions, drawings, performances, software, improvements, discussions, business names, goodwill and the style of presentation of goods or services, and in the applications for the protection thereof throughout the world. **"Order"** means the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or the Customer's acceptance of the Supplier's quotation (whether in writing or as a result of the Customer's acceptance of the delivery of Goods and/or Services). **"Services"** the services, including any Deliverables, supplied by the Supplier to the Customer. **"Service Specification"** means the description or specification for the Services provided in writing provided by the Supplier to the Customer. **"Supplier"** Aquilant or an Associated Company, as is identified to the Customer pursuant to the quotation or otherwise. **"Supplier Materials"** has the meaning given in Condition 10.1.7.

1.2. Any reference to "Aquilant" in these Conditions shall be deemed to be a reference to any Associated Company as may be notified to the Customer as the supplier of Goods and/or Services pursuant to the Contract.

1.3. A **"person"** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); references to a party includes its successors or permitted assigns; a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted and any subordinate legislation made under such statute or statutory provision; 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.

2. FORMATION

2.1. The Order constitutes an offer by the Customer to purchase the Goods and/or 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 or (if earlier) the Supplier delivers the Goods and/or Services to the Customer, at which point the Contract shall come into existence.

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. Any samples, drawings, descriptive matter or advertising issued by the Supplier and any description of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods 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 (including terms and conditions endorsed on, delivered with or contained in the Customer's acceptance, order, confirmation or order, specification or other document), 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 ten (10) Business Days from its date of issue.

2.7. No Order placed by the Customer can be withdrawn or cancelled by the Customer unless the Customer notifies the Supplier within two (2) Business Days' of placing the Order. Where the Customer places an Order for Goods and is notified by the Supplier (or is aware through course of dealing) that it is required to place a corresponding order with the manufacturer of such Goods, the Customer acknowledges and accepts that they shall not be entitled to withdraw or cancel any such Order save where they have the written consent of the Supplier. In such circumstances, the Supplier reserves its right to impose a restocking fee on the Customer equal to 15% (fifteen per cent) of the total invoice value for such Goods or such other fee as may be expressly notified by the Supplier.

2.8. No variation of these Conditions or to any quotations from the Supplier shall be binding unless expressly agreed in by the Supplier.

2.9. To the extent the Customer and the Supplier have entered into a specific and express supply agreement, duly executed in writing by the Supplier and the Customer (a **"Supply Agreement"**) and there is any conflict between any terms contained in the Supply Agreement, the Supplier's quotation and these Conditions, then such conflict shall be resolved in the following order of priority of precedence:

2.9.1. The Supply Agreement;

2.9.2. The Supplier's quotation;

2.9.3. The Conditions.

3. GOODS

3.1. The Goods are described in the Supplier's catalogue as may be modified by any applicable Goods Specification (where applicable).

3.2. To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses 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 Goods Specification. This Condition 3.1 shall survive termination of the Contract.

3.3. The Supplier reserves the right to amend the Goods Specification (where applicable) if required by applicable statutory or regulatory requirements.

4. DELIVERY OF GOODS

4.1. The Supplier shall ensure that:

4.1.1. each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods, special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

4.1.2. if the Supplier requires the Customer to return any packaging material to the Supplier, that fact shall be clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

4.2. The Supplier shall deliver the Goods 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 Goods are ready.

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

4.4. Any dates quoted for delivery of the Goods 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 Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.5. If the Customer fails to accept or take delivery of the Goods within two (2) Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

4.5.1. delivery of the Goods shall be deemed to have been completed at 9.00 am on the second Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and

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

4.6. If five (5) Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, charge the Customer for any shortfall incurred below the price of the Goods (where applicable).

4.7. The Customer shall not be entitled to reject the Goods if the Supplier delivers up to and including five per cent (5%) more or less than the quantity of Goods ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.

4.8. The Supplier may deliver the Goods 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 GOODS

5.1. Where the Supplier is not the manufacturer of the Goods, the Supplier shall use commercially reasonable endeavours (but shall not be obliged) to

transfer to the Customer the benefit of any warranty and/or guarantee given to the Supplier.

5.2. Subject to the conditions set out below, the Supplier warrants that on delivery, and for a period of six (6) months from the date of delivery or such period as is expressly notified to the Customer (whether pursuant to the Supplier's quotation, the warranty provided by the manufacturer to the Supplier or otherwise) (the "**warranty period**"), the Goods shall:

5.2.1. conform in all material respects with their description and any applicable Goods Specification; and

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

5.3. Subject to Condition 5.4, if:

5.3.1. the Customer gives notice in writing during the warranty period within five (5) Business Days of discovery that some or all of the Goods do not comply with the warranty set out in Condition 5.2;

5.3.2. the Supplier is given a reasonable opportunity of examining such Goods; and

5.3.3. the Customer (where requested by the Supplier) returns such Goods to the Supplier's place of business, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods.

5.4. The Supplier shall not be liable for Goods' failure to comply with the warranty in Condition 5.2 if:

5.4.1. the Customer makes any further use of such Goods after giving a notice in accordance with Condition 5.3;

5.4.2. 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 Goods or (if there are not) good trade practice;

5.4.3. the defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Customer;

5.4.4. the Customer alters or repairs such Goods without the written consent of the Supplier;

5.4.5. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or

5.4.6. the Goods differ from the Goods Specification as a result of the changes made to ensure they comply with applicable statutory or regulatory standards.

5.5. Except as provided in this Condition 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in Condition 5.2.

5.6. These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier under Condition 5.3.

5.7. Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods is notified to the Supplier in accordance with these Conditions, the Supplier shall be entitled (at its option) to replace or repair the Goods (or the part in question) free of charge, or (in the Supplier's sole discretion) refund to the Customer the price of the Goods (or a proportionate part of the price). The remedies provided in this Condition 5.7 shall be the Supplier's only liability for breach of the warranty in Condition 5.2.

5.8. Save for the warranties specified in this Condition 5, all other warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law. The Supplier specifically disclaims the implied warranties of merchantability and fitness for a particular purpose.

6. CONSIGNMENT STOCK

6.1. Where any of the Goods supplied pursuant to these Conditions are sent on a consignment basis, the following additional terms shall apply to such

consignment Goods (in addition to all other terms and conditions contained herein, as applicable):

6.1.1. the Customer shall ensure that it takes out the usual all risks insurance cover with a reputable insurance company in respect of the risk of loss or damage to consignment Goods whilst same are in the Customer's possession;

6.1.2. any consignment Goods sold and/or used by the Customer shall be replaced forthwith by placing an order with the Supplier and such consignment stock sold and/or used shall be invoiced at the then current price (or such price as may be agreed in writing by the Supplier);

6.1.3. Goods supplied pre-packaged and sterile shall be deemed used by the Customer if the packaging has been opened, damaged or marked in any way;

6.1.4. the Customer agrees to return any consignment Goods to the Supplier within five (5) Business Days of receiving a written request for their return. In the event the consignment Goods are not returned, the Customer will accept and pay an invoice that will be raised in connection with such consignment Goods at the then current price;

6.1.5. the Customer shall be responsible for the rotation of the consignment Goods on a first in first out (FIFO) basis. In the event that the Supplier discovers that the Customer has breached this Condition 6.1.5, the Customer shall be invoiced by the Supplier at the then current price (or such price as may be agreed in writing by the Supplier) for such older consignment Goods as should have been disposed of on FIFO basis;

6.1.6. consignment Goods which pass their expiry date shall become the property of the Customer and will be invoiced by the Supplier at the then current price (or such price as may be agreed to by the Supplier); and

6.1.7. the Supplier reserves the right to inspect the consignment Goods on a regular basis at a time agreed with personnel of the Customer (such consent not to be unreasonably withheld, conditioned or delayed). Any consignment Stock found to be missing by the Supplier shall be deemed used/sold and will be invoiced at the then current price (or such price as may be agreed in writing by the Supplier).

7. SALE OR RETURN

7.1. Where any Goods supplied pursuant to these terms and conditions are agreed by the Supplier (in its sole discretion) to be delivered to the Customer on a "Sale or Return/SOR" basis, the following additional terms shall apply to such SOR Goods (in addition to all other terms and conditions contained herein, as applicable):

7.1.1. the Customer shall have three (3) Business Days (or such other time as may be expressly agreed by the Supplier in writing) to return such Goods and in the event they are not returned within the applicable period above or are used by the Customer, the Customer shall be deemed to have purchased the Goods;

7.1.2. to the extent the SOR Goods returned are damaged or if the packaging has been opened, damaged or marked in any way, such SOR Goods will be deemed used and purchased by the Customer; and

7.1.3. in the event that all Goods supplied on an SOR basis pursuant to any one order are returned to the Supplier, the Supplier shall be entitled to charge (whether by way of set off or otherwise) the Customer a restocking fee to the Supplier in the amount of £50 (fifty pounds sterling) or 15% (fifteen per cent) of the total invoice value for such Goods, whichever is the greater, provided that such restocking fee shall not be applicable where the Customer has used some (but not all) of the Goods supplied on an SOR basis pursuant to any one order.

8. TITLE AND RISK

8.1. The risk in the Goods shall pass to the Customer on completion of delivery.

8.2. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the title and property in and to the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods and any other goods or Services that the Supplier has supplied to the Customer in respect of which payment has become due.

8.3. Until title to the Goods has passed to the Customer, the Customer shall:

8.3.1. hold the Goods on a fiduciary basis as the Supplier's bailee;

8.3.2. store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

8.3.3. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

8.3.4. maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;

8.3.5. notify the Supplier immediately if it becomes subject to any of the events listed in Conditions 14.1.2 to 14.1.9; and

8.3.6. give the Supplier such information relating to the Goods as the Supplier may from time to time require, but the Customer may resell or use the Goods in the ordinary course of its business.

8.4. If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in Conditions 14.1.2 to 14.1.9, or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, providing the Goods 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 Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

9. SUPPLY OF SERVICES

9.1. The Supplier shall provide the Services to the Customer in accordance with the Service Specification in all material respects.

9.2. The Supplier shall use reasonable commercial endeavours to meet any performance dates for the Services agreed in writing between the Supplier and the Customer, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

9.3. 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.

9.4. The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill. Subject to Condition 10.2, the Supplier's sole liability for breach of this warranty shall be, at its option, to take all reasonable steps to remedy any failure to supply the Services which are notified to the Supplier, or to re-perform or perform correctly the Services in respect of which this warranty has been breached.

10. CUSTOMER'S OBLIGATIONS

10.1. The Customer shall:

10.1.1. ensure that the terms of the Order and (if submitted by the Customer) the Goods Specification are complete and accurate;

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

10.1.3. 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;

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

10.1.5. prepare the Customer's premises for the supply of the Services;

10.1.6. 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; and

10.1.7. keep and maintain all materials, equipment, documents and other property of the Supplier (the "**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.

10.2. 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 the relevant obligation (a "**Customer Default**"):

10.2.1. 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;

10.2.2. 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 Condition 10.2; and

10.2.3. 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.

11. CHARGES

11.1. The price of the Goods and/or Services shall be (i) as set out in the Supplier's quotation (and whether, in respect of the Services, on a fixed price or time and materials basis in accordance with the Supplier's daily rate) or, (ii) where no price has been quoted, the price listed in the Supplier's published price list current at the date of acceptance of the Order. All prices quoted in the quotation are valid for 30 days only or if earlier, acceptance by the Customer.

11.2. Provided that the Supplier has not previously withdrawn the quotation, if the Customer accepts a quotation after the expiration of the 30 days period referred to in Condition 11.1, the Supplier reserves the right to increase the price of the Goods and/or Services. Any increase shall be notified in writing to the Customer and the Customer has ten (10) Business Days from receipt of the notice to accept or reject the price increase. If the Customer rejects the price increase, the Contract shall be terminated forthwith and neither party shall have any further liability thereunder to the other party.

11.3. Without prejudice to the foregoing Conditions, the Supplier reserves the right at any time to increase the price of its Goods and/or Services (or where applicable, its daily rate for Services) upon prior reasonable written notice to the Customer, but not so far as it varies the price of the Goods and/or Services provided in any valid or subsisting quotation. The Supplier shall give the Customer reasonable prior written notice of any such increase prior to it coming into effect and if such increase is not acceptable to the Customer, it shall notify the Supplier in writing within ten (10) Business Days of the date of the Supplier's notice and the Supplier shall have the right (without limiting its other rights and remedies) to terminate the Contract by giving fifteen (15) Business Days' written notice to the Customer.

11.4. Except as otherwise stated under the terms of any quotation or in any price list of the Supplier, and unless otherwise agreed in writing between the Customer and the Supplier, all prices are given by the Supplier on an ex works basis (EXW according to Incoterms 2010).

11.5. The price for the Goods shall be exclusive of any Value Added Tax or other similar taxes or levies or insurance, which the Customer shall be additionally liable to pay to the Supplier. The Supplier reserves the right to charge the Customer a fee to deliver the Goods to the Customer's premises, as may be notified to the Customer. Such fee will be charged in addition to the price of the Goods and/or Services.

11.6. The price for the Services shall be exclusive of any expenses reasonably incurred by individuals whom the Supplier engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses.

12. PAYMENT TERMS

12.1. Subject to any special terms agreed in writing between the Customer and the Supplier, the Customer shall pay the price for the Goods and/or Services within 30 days of the date of the Supplier's invoice together with VAT and other similar taxes or levies or insurance. The time for payment shall be of the essence and payment of the price of Goods and/or Services is due in pounds Sterling unless agreed in writing otherwise.

12.2. The Supplier shall invoice only in respect of:

12.2.1. such Goods and/or Services which have been delivered, and

12.2.2. such other charges which have at the date of the invoice been incurred.

12.3. No payment shall be deemed to have been received until the Supplier has received cleared funds.

12.4. The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, withholding, counterclaim, discount, abatement or otherwise.

12.5. If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to:

12.5.1. cancel the Contract or suspend any further deliveries to the Customer; or

12.5.2. appropriate any payment made by the Customer to such of the Goods and/or Services (or the goods or services supplied under any other contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer); and

12.5.3. charge the Customer interest (both before and after any judgment) on the amount unpaid in the manner and at the rate set out in the Late Payment of Commercial Debts Regulations 2002 (SI 2002/1674).

13. LIMITATION OF LIABILITY (YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION)

13.1. Nothing in these Conditions shall limit or exclude the Supplier's liability for:

13.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

13.1.2. fraud or fraudulent misrepresentation; or

13.1.3. such liability that cannot, as a matter of law, be limited.

13.2. Subject to Condition 13.1:

13.2.1. 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, loss of business or business opportunity, loss of reputation or goodwill, loss of data or any indirect or consequential loss arising under or in connection with the Contract ; and

13.2.2. 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 total monies paid by the Customer in respect of the Goods and/or Services supplied pursuant to the Contract.

13.3. This Condition 13 shall survive termination of the Contract.

14. TERMINATION

14.1. 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:

14.1.1. the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within thirty (30) days after receipt of notice in writing to do so;

14.1.2. 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 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;

14.1.3. 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 other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

14.1.4. 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;

14.1.5. the other party (being an individual) is the subject of a bankruptcy petition or order;

14.1.6. a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days;

14.1.7. 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);

14.1.8. the holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

14.1.9. 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;

14.1.10. 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 Conditions 14.1.2 to 14.1.9 (inclusive);

14.1.11. the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;

14.1.12. 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

14.1.13. 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.

14.2. 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.

14.3. Without limiting its other rights or remedies, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in Conditions 14.1.2 to 14.1.13 (inclusive) or the Supplier reasonably believes that the Customer is about to become subject to any of them.

15. CONSEQUENCES ON TERMINATION

15.1. On termination of the Contract for any reason:

15.2. 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;

15.3. 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;

15.4. 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

15.5. clauses which expressly or by implication have effect after termination shall continue in full force and effect.

16. INTELLECTUAL PROPERTY RIGHTS

16.1. All IPR in or arising out of or in connection with the Services shall be owned by the Supplier.

16.2. The Customer acknowledges that, in respect of any third party IPR in the Services, the Customer's use of any such IPR is conditional on the Supplier obtaining a licence from the relevant licensor on such terms as will entitle the Supplier to licence such rights to the Customer.

16.3. All Supplier Materials are the exclusive property of the Supplier.

17. CONFIDENTIALITY

17.1. A party (a "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 (a "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 Condition 17 shall survive termination of the Contract.

18. NOTICES

18.1. Any notices must be in writing and may be delivered only by hand, special delivery post or fax, addressed to the recipient at its registered office, or to any other address or fax number as notified in writing to the sender by the other party. Notices shall be deemed to be served on the Business Day following receipt of the recipient of the notice.

19. SUBCONTRACTING & ASSIGNMENT

20. 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.

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

22. FORCE MAJEURE

22.1. For the purposes of these Conditions, 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.

22.2. 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.

22.3. If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Goods for more than six 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

23. GOVERNING LAW AND JURISDICTION

23.1. The Contract shall (i) in the case of Goods and/or Services being delivered in the United Kingdom or any country save for the Republic of Ireland, be governed by and construed in accordance with the laws of England & Wales and the parties agree to submit to the exclusive jurisdiction of the English courts in the event of any dispute, (ii) in the case of Goods and/or Services being delivered in the Republic of Ireland, be governed by and construed in accordance with the laws of Ireland and the parties agree to submit to the exclusive jurisdiction of the Irish courts in the event of any dispute. Where Goods and/or Services are delivered pursuant to any Contract in both the United Kingdom and the Republic of Ireland, the laws of England & Wales shall apply and the English courts shall have exclusive jurisdiction in respect of any dispute.

23.2. References to any English legislation in these Conditions shall, where any dispute is to be governed by the laws of Ireland, be interpreted in accordance with the equivalent (if any) legislation in force in Ireland.

24. GENERAL

24.1. If any part of the Contract is found by any court or authority to be illegal, invalid or unenforceable then that part will be removed from the Contract to the extent required, but the other parts of the Contract will remain in full force and effect.

24.2. If, at any time, either party fails to exercise any right or remedy in connection with any part of the Contract, this will not operate as a waiver of that right or remedy.

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

24.4. 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

24.5. Nothing in the Contract is intended 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.