

# Terms and Conditions

**Between Cybanetix Limited ("Cybanetix")** whose registered office is at Tintagel House, 92 Albert Embankment, London, SE1 7TY and  
**(("Buyer"))** whose registered office is at [REDACTED]

The Sale of Goods and Services are subject to these Terms and Conditions. Any variation to these Terms and Conditions shall have no effect unless expressly agreed in writing and agreed by suitably authorized representatives of the parties.

## 1 Interpretation

In these Terms & Conditions

- 1.1 **"Buyer"** means the person who accepts a quotation of the Seller for the sale of the Goods and/or Services or whose order for the Goods and/or Services is accepted by the Seller.  
**"Goods"** means the goods, both hardware and software, (including any installation of the goods or any parts for them) which the Seller is to supply in accordance with these conditions.  
**"Services"** means the installation, maintenance or other services which the Seller is to supply in accordance with these conditions  
**"Manufacturer"** means the original manufacturer of the Goods or for software the author or licensor of the program or where appropriate their legal representation in the United Kingdom.  
**"Order"** means an order placed by the Buyer on the Seller to purchase Goods and/or Services in accordance with these conditions  
**"Published Specifications"** means the Manufacturers specifications for Goods listed valid at the time of acceptance of an Order from the Buyer.  
**"Seller"** means Cybanetix Limited Registration Number 10558582, whose registered office is Thornton House, Thornton Road, London, SW19 4NG.  
**"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 specified in writing by the Seller.  
**"Contract"** means the contract for the purchase and sale of the Goods and/or Services.  
**"Premises"** means the Buyer's place of business or such other place specified by the Buyer to the Seller as being the place for performance of the Contract.  
**"Writing"** includes letter post, email, telex and facsimile transmission.  
**"Working Days"** means Monday to Friday excluding UK public holidays.  
**"Professional Services"** means work undertaken by Cybanetix staff, including but not limited to advisory, technical work and project management.  
**"SOW"** means Statement Of Work.  
**"Statement Of Work"** means Professional Services activities, deliverables and associated timeline for activities.  
**"Services Agreement"** means a document that defines the scope of support, the services covered within the support, the availability of the support, how the buyer access/use the support and, limitations and restrictions of the support.  
**"Service Level Agreement"** means a document with defines key performance metrics associated with a Managed Service including but not limited to response times, service credits, escalation times.  
**"Managed Service"** means the full management of a solution or technology which buyer has procured from Cybanetix. A managed service includes ongoing monitoring, management and support of all the technologies within the scope which is associated with Service Level Agreement.  
**"Solution"** means a technical architecture of multiple technologies, which has been designed to solve a technical requirement.  
**"Advisory Capacity"** means providing advice, undertaking gap assessments, writing reports, writing documentation, running workshops.

- 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.

## 2 FORMATION OF CONTRACT

- 2.1 Any Order sent to the Seller by the Buyer shall be accepted entirely at the discretion of the Seller, and, if so accepted, will only be accepted upon these Conditions.
- 2.2 These Conditions shall override any contrary different or additional terms or conditions (if any) contained on or referred to in an order form or other documents or correspondence from the Buyer, and no addition, alteration or substitution of these terms will bind the Seller or form part of any Order unless they are expressly accepted in writing by a person authorised to sign on the Seller's behalf.
- 2.3 No Order placed by the Buyer shall be deemed to be accepted by the Seller until a written acknowledgement of the order is issued to the Buyer or (if earlier) the Seller supplies the Goods and/or Services.
- 2.4 All quotations are given on the basis that no contract will come into existence until the Seller dispatches an acknowledgement of the Order to the Buyer. Each quotation is only valid for a period of 30 days from the date of the quotation unless a different period is stated in writing on the quotation (provided the Seller has not previously withdrawn it).
- 2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, order acknowledgement, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

## 3 BASIS OF THE SALE

- 3.1 The Seller shall sell and the Buyer shall purchase the Goods and/or Services in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written Order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such Order is made or purported to be made, by the Buyer.
- 3.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

- 3.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods and/or Services unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 3.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 3.5 No charges shall be payable by the Buyer in respect of services and/or parts reasonably required to remedy defects in the Goods arising or reported in the warranty period as defined in Clause 11.1 after delivery of the Goods, the cost of such services and/or parts being deemed to be included within the price paid for the Goods.
- 3.6 The Seller will provide the maintenance services expeditiously, diligently, with reasonable skill and care and using suitably skilled and appropriately experienced personnel.

## 4 ORDERS AND SPECIFICATIONS

- 4.1 All Goods supplied by the Seller shall be in accordance with:
- 4.1.1 the current edition of the relevant Published Specifications as published from time to time by the Manufacturer (copies of which are available from the Seller upon request) and;
- 4.1.2 those further specifications or descriptions (if any) expressly listed or set out on the face of the Order. No other specification, descriptive material, written or oral presentation, correspondence or statement, promotional or sales literature shall form part of or be incorporated by reference into the Order.
- 4.2 No Order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller's authorised representative.
- 4.3 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any Order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods and/or Services to enable the Seller to perform the Contract in accordance with its terms.
- 4.4 The quantity and description of and any specification for the Goods and/or Services shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's Order (if accepted by the Seller).
- 4.5 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.
- 4.6 All intellectual property rights of whatever nature in all the Sellers drawings, specifications and documents at all times remains vested in the Seller and the Buyer shall not use the same without the Seller's express consent in writing except in respect for the specific use for which they were supplied.
- 4.7 No Goods Order that has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller. If the Seller agrees to cancel an order the following fee will be payable by the Buyer calculated according to the schedule number of days remaining between the Seller receiving written notice of cancellation and the agreed delivery date.
- 4.7.1 more than 60 days - no charge;
- 4.7.2 30-60 days - 10% of order value.
- 4.7.3 15-30 days - 40% of order value.
- 4.7.4 0-15 days - 70% of order value.
- 4.8 In respect of Professional Services, the cancellation charges are:
- 4.8.1 Managed services: 100% of contract value
- 4.8.2 Support services: 100% of contract value
- 4.8.3 Advisory services: 70% of contract value
- 4.8.4 Implementation services: 70% of contract value

- 4.9 For cancellation of internet and circuits before installation, Seller will charge Buyer any 3<sup>rd</sup> party cost associated with + 5% admin charge.

## 5 PRICE OF GOODS AND SERVICES

- 5.1 The price of the Goods and/or Services shall be stated in the Order and unless otherwise agreed in writing by the Buyer shall be exclusive of value added tax, where applicable import duty and tax and for supply of Goods and/or Services outside of the UK, the relevant Local Sales Tax.
- 5.2 The Seller shall be entitled by notice served upon the Buyer at any time up to the 10 Working Days before delivery to revise prices to take into account increases in costs including (without limitation) costs of any goods, material, carriage, labour or overheads, the increase or imposition of any tax, duty or other levy and any variation in exchange rates. Upon receipt of a notice under this condition the Buyer may on not less than 9 Working Days notice prior to delivery be entitled to terminate the contract to which the Seller's notice relates.

## 6 TERMS OF PAYMENT

- 6.1 The price for the supply of goods and services are as set out in the Specification Document. The Supplier shall invoice the Customer within 30 days.
- 6.2 Unless otherwise stated in the Order or unless clause 3.3 applies, payment of the Price shall occur as follows:
- 6.2.1 In respect of Goods and/or Services;
- (i) 100% of Goods are payable upon the Customer signing the Order;
- (ii) Cybanetix Professional Services of 5 days or fewer; 100% is payable upon successful installation of the Goods;

	(iii)	Cybanetix Professional Services of 6 days or greater; 50% is payable upon the Customer signing the Order and the balance upon successful installation of the Goods;	10.1	Risk of damage to or loss of the Goods shall pass to the Buyer:
	(iv)	Cybanetix Support or Managed Service costs are payable from the start date agreed between both parties;	10.2	10.1.1 in the case of Goods delivered at the Buyer's premises, at the time when delivery to the Buyer is complete (including off-loading and stacking).
	(v)	Internet and/or connectivity services will invoice as follows: - Implementation and Project Management will be charged on order. - Rental will be charged quarterly in advance and the first invoice will include current quarter stub in addition to the following quarters full service charge.		10.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the legal title to the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full for the Goods but even though title has not passed the Seller shall be entitled to sue for the price once its payment has become due;
	(v)	100% of Vendor Professional Services and Support is payable upon the scheduled date agreed between both parties.	10.3	Until ownership of the Goods has passed to the Buyer, the Buyer must:
6.3		Any changes to Products or Services provided under the agreement will be agreed between the parties and will be charged in accordance with 6.2	10.3.1	hold the Goods on a fiduciary basis as the Seller's bailee;
6.4		Invoiced amounts shall be due and payable within 30 days of receipt of invoice. The Supplier shall be entitled to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment at a rate of 5.00% per annum above the base rate of the Bank of England. In the event that the Customer's procedures require that an invoice be submitted against a purchase order to payment, the Customer shall be responsible for issuing such purchase order before the goods and services are supplied.	10.3.2	store the Goods (at no cost to the Seller) separately from all other goods of the Buyer and/or any third party in such a way that it remains readily identifiable as the Sellers property;
6.5		The Supplier shall be entitled by notice served upon the Customer at any time up to the 10 Working Days before delivery to revise prices to take into account increases in costs including (without limitation) costs of any goods, material, carriage, labour or overheads, the increase or imposition of any tax, duty or other levy and any variation in exchange rates.	10.3.3	not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
6.6		In the event that Professional Services are cancelled or rescheduled by the Customer, Cybanetix reserve the right to bill for additional Professional Services payable immediately.	10.3.4	maintain the Goods in satisfactory condition and keep it insured on the Sellers behalf for its full price against all risks to the reasonable satisfaction of the Seller. On request the Buyer shall immediately produce the policy of insurance to the Seller; and
6.7		If expenses are applicable this will be agreed between both parties and will be invoiced separately to the main project charges upon successful installation of the Goods.	10.3.5	hold any proceeds of the insurance referred to in Clause 9.3.4 on trust for the Seller, separately from any other money held by the Buyer and not pay the proceeds into an overdrawn bank account.
7	<b>ACCEPTANCE</b>		10.4	Until such time as the legal title to the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled in the event of a breach by the Buyer of the terms of this Contract to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or third party where the Goods are stored and repossess the Goods; and
7.1		The Buyer shall be deemed to have accepted all Goods upon their delivery by the Seller to the address specified in the Order.	10.5	The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods legal title to which remain in 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) forthwith become due and payable.
8	<b>DELIVERY AND SUPORT</b>		11	<b>SOFTWARE LICENCE</b>
8.1		The Buyer accepts that the Seller is dependent upon the manufacture and supply of Goods by third parties and therefore all times or dates given for delivery of the Goods and for the performance of the Services are intended to be estimates and shall not be made of the essence of any contract. If no dates are specified then delivery shall be within a reasonable time. Any time or date for delivery given by the Seller is given in good faith, but is an estimate only.	11.1	Where Software is supplied or incorporated as part of the Goods it will be supplied subject to a third party's Software Licence from the owner of the Software. The Buyer shall sign and return such licence and/or registration card relating thereto (as maybe appropriate) to the Software producer by return or as otherwise specified. If the Buyer fails either to communicate its acceptance of the terms of the Software Licence in accordance with this clause or to pay any relevant licence fee for the Software the Buyer's right to use the Software shall immediately cease and it shall remove the Software from its computer systems and return all physical copies thereof to the Seller and will (upon request) provide a signed declaration (from a director of the Buyer if a body corporate) that this clause has been complied with and the Buyer shall indemnify the Seller in respect of all loss, damages, costs and expenses howsoever incurred in such circumstances.
8.2		The Goods shall be delivered, to the Buyer's place of business or such other place of delivery as is agreed by the Buyer in Writing prior to delivery of the Goods. The Seller shall off-load the Goods at its own risk as directed by the Buyer.	11.2	Where Software is supplied only, without Cybanetix Professional Services, the responsibility for the registration of software licences rests solely with the Customer. It is the Customer's responsibility to ensure that licences are registered within the timeframes specified by the vendor. Cybanetix accepts no liability should licences expire prior to their registration.
8.3		Unless otherwise stipulated by the Buyer deliveries shall only be accepted by the Buyer in normal business hours.	12	<b>WARRANTY</b>
8.4		The Buyer shall prepare the area of delivery and installation for the Goods and/or Services and provide the Seller (including its employees and/or agents and/or subcontractors) with free access to the premises and area of installation and to any information required for the performance of its obligations or services of facilities that it may be required to deliver. Where the same has not been provided the Seller shall be entitled to charge the Buyer for the same and the Buyer shall indemnify the Seller in respect of all loss, damage, costs and expenses howsoever incurred in such circumstances.	12.1	The Buyer acknowledges that the Seller is not the manufacturer of the Goods and that each item of Goods is subject to its own warranty with its Manufacturer. The Seller will either:-
8.5		Where any of the Sellers employees and/or agents and/or subcontractors enter onto the Premises for any purpose, the Buyer shall procure that the owner of the Premises shall take all such measures as are necessary to ensure that, as far as reasonably practicable, the Premises and any plant, equipment, articles or substances in such Premises are safe and without risks to the health and safety of the Sellers employees and/or agents and/or subcontractors and that they are in compliance with all relevant health and safety legislation. The Buyer shall indemnify the Seller against all losses, claims and demands suffered by the Seller as a result of its employees and/or agents and/or subcontractors attending the Premises.	12.1.1	obtain for the Buyer the benefit of any standard end-user warranties in respect of the Goods (whether by assignment from the Seller or directly from the Manufacturer); or
8.6		The Buyer will take delivery of the Goods within 5 Working Days of the Seller giving it notice that the same are ready for delivery.	12.1.2	grant the Buyer the same warranties that the Seller receives from the Manufacturer in respect of the Goods subject to the conditions and limitations relating to those warranties contained in contractual documents between the Manufacturer and the Seller.
8.7		If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller will serve a written notice on the Buyer specifying details of where the Buyer may collect the Goods from. If the Buyer has not arranged collection of the Goods within 14 days of receipt of the aforementioned notice the Seller may:-	12.2	Any sums recoverable under Clause 11.1.2 above shall be limited to the sums recovered by the Seller from the relevant Manufacturer in respect of the relevant claim. Details of these warranties and the conditions and limitations applicable to them shall be made available to the Buyer upon reasonable written request.
	8.7.1	store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage;	12.3	The Seller warrants that:
	8.7.2	sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess (if any) over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.	12.3.1	it is entitled to enter into this Contract; and
8.8		If the Seller shall be unable, through circumstances beyond its control (including without limitation lack of shipping instructions from the Buyer), to deliver the goods within 14 days after notification to the Buyer or its agent that the goods are ready for delivery, the Seller shall be entitled to arrange storage on behalf of the Buyer, whereupon delivery shall be deemed to have taken place, all risk in the goods shall pass to the Buyer, and delivery to the Buyer of the relevant warehouse receipt shall be deemed to be delivery of the goods for the purposes of Clause 8. All charges incurred by the Seller for storage or insurance shall be paid by the Buyer within 30 days of submission of an invoice.	12.3.2	the Services will be carried out with reasonable care and skill.
9	<b>Professional Services</b>		12.4	The Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer; and
9.1		Where the Seller is providing more than 24 days of Professional Services for implementation of a Solution or a technology, this will be done in accordance with a separately defined SOW document, which is to be agreed before the commencement of any work.	12.4.1	the Seller shall be under no liability in respect of any defect arising from wilful damage, negligence, abnormal working conditions, failure to follow the Seller's written instructions, misuse or alteration or repair of the Goods without the Seller's approval;
9.2		Where the Seller is providing support services for a Solution or a technology, this will be done in accordance with a separately defined Services Agreement, which is to be agreed before the commencement of any support.	12.4.2	the Seller shall be under no liability under the warranty (or any other warranty or condition or guarantee) if the total price for Goods delivered has not been paid.
9.3		Where seller is providing Managed Services for a Solution or a technology, this will be done in accordance with a Service Agreement and a Services Level Agreement.	12.5	Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
9.4		Where the Seller is providing Professional Services in an Advisory Capacity for a duration of 25 days or more, the scope of the work will be defined separately defined SOW document, which is to be agreed before the commencement of any work.	12.6	Any claim by the Buyer that the Goods have been damaged in transit (whether or not delivery is refused by the Buyer) shall be notified to the Seller giving full details of the notice and extent of the damage suffered in writing within 10 days from the date of delivery. If the delivery is not refused and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such damage, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
10	<b>RISK AND LEGAL TITLE</b>		12.7	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, or any implied warranty, or any duty at common law, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential 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 Goods or their use or resale by the Buyer, except as expressly provided in these Conditions.
			13	<b>LIABILITY</b>
			13.1	Subject to Clause 11, the following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees and/or agents and/or sub-contractors) to the Buyer in respect of:
			13.1.1	any breach of these Terms and Conditions; and
			13.1.2	any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
			13.2	Subject as expressly provided in these Terms and Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

- 13.3 Nothing in these Terms and Conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's negligence or fraudulent misrepresentation.
- 13.4 Subject to Clauses 12.2 and 12.3, and where appropriate Clause 17:
- 13.4.1 The Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the supply of Goods and/or Services under this Contract shall be limited to the Contract price paid or payable by the Buyer to the Seller in respect of the Goods and/or Services;
- 13.4.2 in respect of any damage to the property of the Buyer resulting from the negligence of the Seller or its employees and/or agents and/or sub-contractors, the sum of £1,000,000 (one million pounds sterling)
- 13.4.3 The Buyer is responsible for making its own arrangements for the insurance of any excess loss over and above the total liability of the Seller set out above.
- 13.5 Subject to Clause 18, and notwithstanding anything contained in these Conditions (other than Clause 18) or the Order, in no circumstances shall the Seller be liable, in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever, and whatever the cause thereof (i) for any loss of profit, business, contracts, revenues, or anticipated savings, or (ii) for any special indirect or consequential damage of any nature whatsoever

#### 14 SPECIFICATIONS AND INFORMATION

- 14.1 Unless expressly agreed in writing by the Seller, all descriptions, drawings, designs, specifications and particulars of weight and dimensions submitted by the Seller are approximate only and the Seller shall have no liability in respect of any designs or specifications not prepared by the Seller and the Seller shall be indemnified by the Buyer against any and all liabilities and expenses incurred by the Seller arising therefrom.
- 14.2 All drawings, designs, specifications, manuals, software, listings, object code or source code and information imparted by the Seller are to be treated as confidential and shall not be disclosed to any third party without the Seller's prior written consent unless they are public knowledge at the time they are provided or from such future time when it becomes public knowledge (provided that it does not come into public knowledge through any fault of the Buyer).

#### 15 CONFIDENTIALITY

- 15.1 Both the Seller and the Buyer shall each keep confidential and shall not without the prior consent in writing of the other disclose to any third party any technical or commercial information which it has acquired from the other as a result of discussions, negotiations and other communications between them relating to the Goods and/or Services and the Order.

#### 16 TERMINATION

- 16.1 This clause applies if:
- 16.1.1 the Buyer makes any arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction) or;
- 16.1.2 an encumbrancer takes possession, or a receiver or administrative receiver is appointed, of any of the property or assets of the Buyer; or
- 16.1.3 the Buyer ceases, or threatens to cease, to carry on business; or
- 16.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 16.2 If this clause is applied then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 16.3 The Buyer shall have the right at any time by giving notice in writing to the Seller to terminate the Contract forthwith if:
- 16.3.1 any distress, execution or other process is levied upon any of the assets of the Seller; or
- 16.3.2 the Seller has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Seller or notice of intention to appoint an administrator is given by the Seller or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Seller or for the granting of an administration order in respect of the Seller, or any proceedings are commenced relating to the insolvency or possible insolvency of the Seller; or
- 16.3.3 the Seller commits a material breach of any of the Terms and Conditions of the Contract.
- 16.4 The termination of the Contract, howsoever arising, shall be subject to clause 4.7 without prejudice to the rights and duties of the Buyer accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.
- 16.5 In the event where Seller terminate the contract for convenience during the term of the contract, Seller will be charged and 3<sup>rd</sup> party cost associated with the termination and the higher of a 5% administration fee or £1000.

#### 17 UNFAIR CONTRACT TERMS ACT 1977

- 17.1 If and to the extent that Section 6 and/or Section 7(3A) of the Unfair Contract Terms Act 1977 applies to the Order, no provision of these Terms and Conditions shall operate or be construed to operate so as to exclude or restrict the liability of the Seller for breach of the express warranties contained in Clause 9, or for breach of the applicable warranties as to title and quiet possession implied into the terms and conditions of the Order by Section 12(3) of the Sale of Goods Act 1979, or Section 2(3) of the Supply of Goods and Services Act 1982, whichever Act applies to the Order.
- 17.2 Where the Buyer is a natural person and if to the extent that Section 2(1) of the Unfair Contract Terms Act 1977 applies to the Order, nothing in these Terms and Conditions shall operate or be construed as to operate so as to exclude or restrict the liability of the Seller for death or personal injury caused [to the Buyer] by reason of the negligence of the Seller or of its servants, employees or agents.

- 17.3 No provision of these Terms and Conditions shall have effect or operate so as to exclude or restrict the liability of one of the parties in respect of a fraud or a fraudulent misrepresentation made by that party to the other, or to restrict or exclude any remedy which the other party may have in respect of such fraud or fraudulent misrepresentation.

#### 18 FORCE MAJEURE

- 18.1 The Seller reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods and/or Services ordered by the Buyer (without liability to the Seller) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Seller. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:
- 18.1.1 Act of God, explosion, flood, epidemic, lightning, fire or accident;
- 18.1.2 war or threat of war, rebellion, riot, act of terrorism, sabotage, insurrection, civil disturbance, protests or requisition;
- 18.1.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 18.1.4 import or export regulations or embargoes;
- 18.1.5 strikes, lock outs or other industrial actions or trade or labour disputes (whether involving employees of the Seller or of a third party);
- 18.1.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 18.1.7 power failure or breakdown of machinery; and
- 18.1.8 restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials
- 18.1.9 anything, event or occurrence outside the reasonable control of the party affected thereby.
- 18.1.10 If the event in question continues for a continuous period in excess of 30 days, the Buyer shall be entitled to give notice in writing to the Seller to terminate the Contract.
- 18.2 Following notification by the Seller to the Buyer of any cause set out in Clause 17.1 above, the Seller shall be allowed a reasonable extension of time for the performance of its obligations.

#### 19 COMPLIANCE WITH RELEVANT REQUIREMENTS

- 19.1 The Buyer shall;
- 19.1.1 comply with all applicable law, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);
- 19.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- 19.1.3 have and shall maintain in place throughout the term of the Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and Clause 18.1.2 and will enforce them where appropriate;
- 19.1.4 promptly report to the Seller any request or demand for any undue financial or other advantage of any kind received by the Buyer in connection with the performance of the Contract.
- 19.1.5 immediately notify the Seller (in writing) if a foreign public official becomes an officer or employee of the Buyer or acquires a direct or indirect interest in the Buyer (and the Buyer warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of the Contract); and
- 19.1.6 shall when requested certify to the Seller in writing, signed by an officer of the Buyer, compliance with this Clause 18 by the Buyer and all persons associated with it under clause 18.2. The Buyer shall provide such supporting evidence of compliance as the Seller may reasonably request.
- 19.2 the Buyer shall ensure that any person associated with the Seller who is performing services or providing goods in connection with the Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Buyer in this Clause 18 (Relevant Terms). The Buyer shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Seller for any breach by such persons of any of the Relevant Terms.
- 19.3 Breach of this Clause 18 shall be deemed a material breach of these Conditions and shall entitle the Seller to terminate the Contract forthwith on written notice under Clause 15.3.3 of these Conditions.
- 19.4 For the purpose of this Clause 18, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this Clause 18 a person associated with the Buyer includes but is not limited to any subcontractor of the Buyer.

#### 20 GENERAL

- 20.1 The Buyer cannot assign or transfer the whole or any part of its rights or obligations under the Contract to any person, firm or company.
- 20.2 Where responsibility to collect, recycle and/or dispose of electrical and electronic equipment (EEE) applies to the Seller as a producer by virtue of the Waste and Electrical and Electronic Equipment Regulations 2006 (or any other subsequent regulations), the Buyer, being a business and not a private household, must finance the costs of the collection, treatment, recycling, recovery and environmentally sound disposal of the EEE when it is discarded as waste (WEEE) in the United Kingdom.
- 20.3 The Contract shall be governed by and construed in accordance with English law and the parties hereby submit to the non-exclusive jurisdiction of the English Courts
- 20.4 All notices hereunder shall be in writing and shall be given by hand or sent by prepaid first class post, or fax to the party concerned at its last known address. Notices sent by first class post shall be deemed (in the absence of evidence of earlier receipt) to have been delivered forty-eight hours after despatch and notices sent by fax shall be deemed to have been delivered on the first customary working day in the addressee's country following the day of its despatch.

<b>Buyer</b>	<b>Cybanetix Limited</b>
Signed	Signed
Name	Name
Title	Title
Company Name	Dated
Registration Number	
Registered Office	
VAT Number	