

Praxis42 Limited Terms and Conditions

PRAXIS42 LIMITED – DIGITAL TERMS AND CONDITIONS

The Customer's attention is particularly drawn to the provisions of clause 12 (Limitation of liability).

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

"Business Day" a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

"Commencement Date" has the meaning given in clause 2.2.

"Conditions" these terms and conditions as amended from time to time in accordance with clause 16.8.

"Contract" the contract between the Supplier and the Customer consisting of these Conditions and the Proposal for the supply of Products and/or Services.

"Control" has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.

"Customer" the person or firm who purchases the Products and/or Services from the Supplier.

"Force Majeure Event" has the meaning given to it in clause 15.

"Licenses" the licenses provided to the Customer as detailed in the Proposal and needed to access and use the Products.

"Products" the goods (or any part of them) set out in the Proposal.

"Proposal" the proposal document specifying the Products and/or Services to be supplied by the Supplier to the Customer attached to these Conditions.

"Intellectual Property Rights" patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

"Services" the services to be supplied by the Supplier to the Customer as set out in the Proposal.

“Supplier” Praxis 42 Limited registered in England and Wales with company number 4152524 and whose registered office is at Mercury House, Hadleigh Enterprise Park, Crockatt Road, Hadleigh IP7 6RJ.

“Supplier Materials” has the meaning given in clause 8.1.8.

1.2 Interpretation

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 and permitted assigns.

1.2.3 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.2.4 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.5 A reference to writing or written includes email but not fax.

1.2.6 In the case of any difference, discrepancy or conflict between any provision, clause, paragraph or otherwise in the Proposal and these Conditions, the provision, paragraph, clause or otherwise in the Proposal shall prevail.

2. Basis of contract

2.1 The Proposal constitutes an offer by the Customer to purchase Products and/or Services in accordance with these Conditions.

2.2 The Proposal shall be deemed accepted by the Customer either upon the Customer's signature on the Proposal document, through a written agreement (including electronic communications deemed legally acceptable) between the Supplier and the Customer clearly confirming the terms of the Proposal, or by the Customer's use of the Supplier's services and payment of the corresponding invoice. In cases where the Customer utilises the services and pays the invoice without a formal signature or written agreement, such actions shall be considered as acceptance of the terms of the Proposal by the Customer. The Contract shall come into existence on the date when any of these events occur, which shall be referred to as the Commencement Date.

2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Products 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 Products described in them. They shall not form part of the Contract nor have any contractual force.

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

2.5 Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 20 Business Days from its date of issue.

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

3. Products

3.1 The Products that are “off the shelf” or “pre-made” are described on the Supplier’s website and/or on each Product’s product sheet. In respect of bespoke, tailored, varied, changed and/or not “off the shelf” Products, such Products are described in the Proposal.

3.2 To the extent that the Products are created by the Supplier in accordance with a request by the Customer and/or are bespoke in nature due to a request by the Customer for such bespoke Products, 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 costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or 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 specification(s) set out in the Proposal. This clause 3.2 shall survive termination of the Contract.

3.3 The Supplier reserves the right to amend the Proposal if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

3.4 If Products are bespoke, tailored, varied, changed and/or not “off the shelf” Products, once the Supplier has completed work on such Products the Customer will be asked to sign off on the Product to confirm that it meets the Customers requirements. There will be a period of 30 days from the point of receipt of the Product in which the Customer may bring to the attention of Supplier any content issues or errors that did not meet the specification set out in the Proposal. If after the period of 30 days the Customer has not notified the Supplier of any problems, the Customer will be deemed to have accepted the Products. After this 30-day time period, the Supplier will charge for any additional work required or requested by the Customer in respect of any Product.

3.5 Where a Customer has purchased a Service, bespoke or tailored Product with a support and maintenance package, the Supplier will notify the Customer of any major updates that have occurred to health, safety and environment legislation or improvements regarding best practice. The Customer will be upgraded and a new package made available to the Customer for its own integration as part of the support and maintenance fee set out in the Proposal.

3.6 Customers who use a Product will be notified of any changes or updates or enhancements to the ‘off the shelf’ versions of the Products and at renewal will be offered the opportunity to update their versions. Where a change in legislation occurs Customers will be offered the updates to affect at the date of the intended changes.

3.7 If the Customer reports a problem with a Product or Service which is causing a system or application failure, the problem will be reviewed and addressed by a member of the services and/or technical support team within 48 hours of being notified of the problem. Where the problem is caused by the software, the Supplier will endeavour to fix the problem and offer an update as soon as is reasonably possible.

3.8 Support for Products and Services is available via email 09.00hrs to 17.00hrs UK time, Monday to Friday except Bank Holidays.

3.9 Where server downtime is required to undertake upgrades or critical maintenance is required then a Product or Service may be unavailable for a period of time and the Customer will be notified of such changes and the planned duration.

3.10 Setup costs and any costs of IT support to enable the Customer to use certain Products either on-line or delivered using the Customers own IT server or system shall be separately charged and agreed with the Customer as part of the charges payable to the Supplier as set out in the Proposal.

3.11 For certain Products there is a capability of generating a printed certificate by the trainee at the end of the training. Replacement certificates can be supplied at the cost of £40 each plus VAT.

3.12 The Customer may either appoint a System Administrator(s) to manage Products and undertake other activities or appoint Supplier to act as System Administrator. Where the Supplier acts as System Administration the charges shall be agreed with the Customer before proceeding.

3.13 Any changes and/or additions to the Services, Products and/or these Conditions shall be notified to the Customer at least 30 days in advance of the change(s) and/or addition(s) coming into effect. The Supplier may at any time without notifying the Customer make changes to the specified Services or Products which are necessary to comply with any applicable safety or statutory requirements or which do not materially affect the nature or quality of the specified service.

3.14 Any time lost and not re-assignable as a result of prevention from or delay in proceeding with the Services through or principally through any act or neglect on the part of the Customer (or its agents or sub-contractors) shall be charged by Supplier at the prevailing rate.

3.15 In the event that a renewal of a Service is not agreed, the Supplier will close access to the Service and if requested will provide a record of the training and assessments undertaken during the life of the contract arrangements. Further copies will be charged at £795 each however the records will be deleted after 30 days of the account closing.

3.16 All specifications for “off the shelf” or “pre-made” Products can be found on the Supplier’s website and such specifications shall be the specifications that apply to such Products.

3.17 For certain Products, the number of Licenses required to access and use such Products as stated in the Proposal will be issued to the Customer. The Customer undertakes that it

shall not allow any person access to the Products who has not been issued with or had allocated by the Supplier, a Licence. The Customer undertakes to ensure that no person without a Licence or who has not been allocated a Licence by the Supplier uses the Product. The Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any breach of any of the undertakings contained in this clause 3.17.

4. Supply of Products

4.1 The Supplier shall deliver the Products to the Customer via an online cloud service. The individuals who will use the Product shall require a user login and password.

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

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

5. Quality of Products

5.1 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (warranty period), the Products shall:

5.1.1 conform in all respects with their description and any applicable specification;

5.1.2 be free from material defects; and

5.1.3 be of satisfactory quality (within the meaning of the Sale of Products Act 1979); and

5.1.4 be fit for any purpose held out by the Supplier.

5.2 Subject to clause 5.2.2, the Supplier shall, at its option, repair or replace the defective Products, or refund the price of the defective Products in full if:

5.2.1 the Customer gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Products do not comply with the warranty set out in clause 5.1; and

5.2.2 the Supplier is given a reasonable opportunity of examining such Products.

5.3 The Supplier shall not be liable for the Products' failure to comply with the warranty in clause 5.1 if:

5.3.1 the Customer makes any further use of such Products 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 use of the Products;

5.3.3 the defect arises as a result of the Supplier following any instructions and/or proposal supplied by the Customer;

5.3.4 the Customer alters or repairs such Products without the written consent of the Supplier;

5.3.5 the defect arises as a result of wilful damage, negligence, or abnormal working conditions; or

5.3.6 the Products 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 Products' 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 Products supplied by the Supplier.

6. Title and risk

6.1 The risk in the Products shall not pass to the Customer unless otherwise agreed in writing by the Supplier and the Customer.

6.2 Title to the Products shall not pass to the Customer unless otherwise agreed in writing by the Supplier and the Customer.

7. Services and the Supply of Services

7.1 The Supplier shall supply the Services to the Customer in accordance with the Proposal in all material respects.

7.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Proposal, 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 reserves the right to amend the Proposal if necessary to comply with any applicable law or regulatory requirement, or if the amendment will 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 by competent employees and/or independent consultants using reasonable care and skill.

7.5 All specifications for "premade" or "pre-determined" Services can be found on the Supplier's website and such specifications shall be the specifications that apply to such Services.

8. Customer's obligations

8.1 The Customer shall:

8.1.1 ensure that the terms of the Proposal 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 in order to supply the Services, and ensure that such information is complete and accurate in all material respects;

8.1.5 prepare the Customer's premises for the supply of the Services;

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 comply with all applicable laws, including health and safety laws;

8.1.8 keep 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

8.1.9 comply with any additional obligations as set out in the Proposal.

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

8.2.1 without limiting or affecting any other right or remedy available to it, the Supplier shall 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 in each case 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 Products:

shall be the price set out in the Proposal or, if no price is quoted, the price set out in the Supplier's published price list as at the date of the Proposal.

9.2 The charges for Services shall be:

9.2.1 the charges set out in the Proposal; and

9.2.2 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.

9.2.3 Where the customer has purchased credits for use against courses, assessments, or any other products delivered via SHINE or via a 3rd party platform, the credit is deemed as used at the point a product is assigned to a user regardless of the completion status of the course, assessment or product.

Where a customer exceeds the number of credits or licenses purchased, the customer will be charged for the amount of overuse at the same unit rate as the initial products purchased.

The Customer may purchase a subscription to access specified courses on the Supplier's, or any third party platform. Subscriptions are based on a defined number of user seats (the "Subscription Licences"), which provide designated users with open access to the subscribed courses or course packs. Course packs may include, but are not limited to, Health and Safety, HR, Wellbeing, and Business Protection.

The Subscription Licences are provided under a fair usage policy that allows for a staff attrition rate of up to 10% per annum. This means that if employees leave the organisation, their licences may be reallocated to new staff within this attrition rate.

If the Customer's usage exceeds the number of Subscription Licences purchased, including any reallocation of licences exceeding the 10% staff attrition allowance, the Supplier reserves the right to charge the Customer for each additional user at the agreed rate per licence. This charge will be calculated based on the overuse identified at any point during the subscription term and invoiced accordingly.

9.3 The Supplier reserves the right to:

9.3.1 increase the price of the Products, by giving notice to the Customer at any time before the Customer has accessed the Products, to reflect any increase in the cost of the Products to the Supplier that is due to:

- (a) any factor beyond the control of the Supplier (including but not limited to 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 date(s) of access to the Products, quantities or types of Products ordered, or the Proposal; or
- (c) any delay caused by any instructions of the Customer in respect of the Products or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Products.

9.4 In respect of Products and the Services, the Supplier shall invoice the Customer on or at any time after the Contract is formed.

9.5 The Customer shall pay each invoice submitted by the Supplier:

9.5.1 within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer; and

9.5.2 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.

9.5.3 in full prior to any instructor led, or virtual training courses taking place.

9.6 All amounts payable by the Customer under the Contract 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 Products at the same time as payment is due for the supply of the Services or Products.

9.7 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 13 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.7 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 5% a year for any period when that base rate is below 0%.

9.8 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

10. Intellectual property rights

10.1 All Intellectual Property Rights in or arising out of or in connection with the Services and the Products (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.

10.2 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy, use, utilise, distribute, sell modify and/or otherwise for any purpose any materials provided by the Customer to the Supplier for the term of the Contract and in perpetuity after the term of the Contract.

10.3 The Customer shall not copy, modify, create derivative works from, or use the Products or Services as a basis for creating competing products or services, either directly or indirectly, without the prior written consent of the Supplier.

The Customer shall not access, use, copy, or reverse engineer any part of the Products, Services, or Supplier Materials for the purpose of creating, developing, or distributing any product or service that competes directly or indirectly with the Products and/or Services provided by the Supplier.

11. Confidentiality

11.1 Each party undertakes that it shall not at any time during this agreement, and for a period of five years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, Customers or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 11.2.

11.2 Each party may disclose the other party's confidential information:

11.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 11; and

11.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

12. Limitation of liability

12.1 The Supplier has obtained insurance cover in respect of its own legal liability for individual claims not exceeding £2,000,000 per claim. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

12.2 The restrictions on liability in this clause 12 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

12.3 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

12.4 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

12.4.1 death or personal injury caused by negligence;

12.4.2 fraud or fraudulent misrepresentation;

12.4.3 breach of the terms implied by section 12 of the Sale of Products Act 1979 or section 2 of the Supply of Products and Services Act 1982 (title and quiet possession); and

12.4.4 defective products under the Consumer Protection Act 1987.

12.5 Subject to clause 12.4, the Supplier's total liability to the Customer shall not exceed £2,000,000

12.6 This clause 12.6 sets out specific heads of excluded loss and exceptions from them:

12.6.1 Subject to clause 12.4, the types of loss listed in clause 12.6.2 are wholly excluded by the parties, but the types of loss and specific losses listed in clause 12.6.3 are not excluded.

12.6.2 The following types of loss are wholly excluded:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) wasted expenditure
- (d) loss of agreements or contracts;
- (e) loss of anticipated savings;
- (f) loss of use or corruption of software, data or information;
- (g) loss of or damage to goodwill; and
- (h) indirect or consequential loss.

12.6.3 The following types of loss and specific loss are not excluded:

- (a) sums paid by the Customer to the Supplier pursuant to the Contract, in respect of any Products or Services not provided in accordance with the Contract;
- (b) additional costs of procuring and implementing replacements for, or alternatives to, Products or Services not provided in accordance with the Contract. These include consultancy costs, additional costs of management time and other personnel costs, and costs of equipment and materials; and
- (c) losses incurred by the Customer arising out of or in connection with any third party claim against the Customer which has been caused by the act or omission of the Supplier. For these purposes, third party claims shall include demands, fines, penalties, actions, investigations or proceedings, including those made or commenced by subcontractors, the Supplier's personnel, regulators and customers of the Customer.

12.7 The Supplier has given commitments as to compliance of the Products and Services with relevant specifications in clause 5 and clause 7. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Products Act 1979 and sections 3, 4 and 5 of the Supply of Products and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

12.8 This clause 12 shall survive termination of the Contract.

13. Termination

13.1 Subject to clause 13.2, the initial fixed term of the Contract shall be defined and detailed within the initial proposal ("**Initial Term**"). After the Initial Term, the Contract will automatically renew for a period equal to the Initial Term and will continue to do so at the end of each subsequent term, unless not less than 30 calendar days notice is served in writing by either party to terminate the Contract, such notice to expire at the end of the Initial Term or at the end of any subsequent term. Upon renewal for any additional period, a minimum increase of 3.5% will be applied to fees.

13.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

13.2.1 the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing to do so;

13.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

13.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

13.2.4 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

13.3 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:

13.3.1 the Customer fails to pay any amount due under the Contract on the due date for payment; or

13.3.2 there is a change of Control of the Customer.

13.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or the supply of Products under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause

13.2.2 to clause 13.2.4, or the Supplier reasonably believes that the Customer is about to become subject to any of them.

14. Consequences of termination

14.1 On termination of the Contract:

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 and Products supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;

14.1.2 the Customer shall return all of the Supplier Materials and any Deliverables or Products 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.

14.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, 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.

14.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

15. Force majeure

15.1 Force Majeure Event means any circumstance not within a party's reasonable control including, without limitation:

15.1.1 acts of God, flood, drought, earthquake or other natural disaster;

15.1.2 epidemic or pandemic;

15.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

15.1.4 nuclear, chemical or biological contamination or sonic boom;

15.1.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;

15.1.6 collapse of buildings, fire, explosion or accident;

15.1.7 any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party); and

15.1.8 interruption or failure of utility service.

15.2 Provided it has complied with clause 15.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

15.3 The Affected Party shall:

15.3.1 as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and

15.3.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

15.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than eight (8) weeks, the

party not affected by the Force Majeure Event may terminate this agreement by giving 8 weeks' written notice to the Affected Party.

16. General

16.1 Assignment and other dealings

16.1.1 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

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

16.2 Notices.

16.2.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by email to the address specified in the Proposal.

16.2.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
- (c) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 16.2.2 (c), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

16.2.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

16.3 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause

16.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

16.4 Waiver. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or

restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

16.5 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

16.6 Entire agreement.

16.6.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

16.6.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

16.6.3 Nothing in this clause shall limit or exclude any liability for fraud.

16.7 Third party rights.

16.7.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

16.7.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

16.8 Variation.

16.8.1 Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

16.8.2 In the event the Customer wishes to modify, amend or change the scope of the Services or Products contained in the Proposal, the Supplier may perform such modified, amended or changed Services or provide such Products at its discretion. In this event the Customer agrees to allow the Supplier to make modifications to the Proposal including, but not limited to, completion dates and charges if the Supplier deems such changes to be necessary to perform those Services or provide the Products as modified, amended or changed. If the modifications require Services valued at a greater amount than is remaining to be delivered under this Contract, the charges for any additional Services beyond the Customer's original commitment will be governed by Supplier's prevailing rates.

16.9 Governing law. The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

16.10 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation