



Terms and Conditions for the Supply of Goods and Services

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1 Interpretation

The following definitions and rules of interpretation apply in this Agreement. Any clause, schedule or other headings in this Agreement are for convenience only and shall have no effect on the interpretation of this Agreement.

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 18.9;
Contract	the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions;
Customer	the person or firm who purchases the Goods and/or Services from the Supplier;
Data Protection Legislation	all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications);
Delivery Location	has the meaning given in clause 5.1;
Force Majeure Event	has the meaning given to it in clause 17;
GDPR	General Data Protection Regulation ((EU) 2016/679);
Goods	all goods inclusive of Dry Hire Goods and Wet Hire Goods;
Goods Specification	any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Customer and the Supplier;
Dry Hire Goods	the goods and/or equipment (or any part of them) set out in the Order and/or the Goods Specification, including all substitutions, replacements or renewals of such goods and/or equipment and all related accessories, manuals and instructions provided for it; which are provided for hire and are installed, operated or used by the Client;
Hire Period	the period of hire of the Goods, commencing on the date stipulated in the Contract, and continuing until the end date of the Contract, unless terminated early in accordance with these Conditions, or such Hire Period is extended by written agreement between parties;
Intellectual Property Rights	patents, utility models, rights to inventions, copyright and neighbouring 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;

Order	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 written acceptance of the Supplier's quotation;
Services	the services supplied by the Supplier to the Customer as set out in the Service Specification;
Service Specification	the description or specification for the Services provided in writing by the Supplier to the Customer;
Site	the location at which the Goods are to be delivered and/ or installed and/or at which the Services are to be provided, as detailed in the Order;
Supplier	RIGGER.CO.UK LIMITED registered in England and Wales with company number 06180674;
Supplier Premises	the Suppliers premises at Mayfield Blind Lane, Barton St David, Somerton, Somerset, United Kingdom, TA11 6BW or such other premises as notified to Customer by the Supplier;
Supplier Materials	has the meaning given in clause 7.1.9;
Wet Hire Goods	the goods and/or equipment (or any part of them) set out in the Order and/or the Goods Specification, including all substitutions, replacements or renewals of such goods and/or equipment and all related accessories, manuals and instructions provided for it; which are provided for hire and are installed, operated or used by the Supplier on behalf of the Customer.

1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) 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.
- (d) 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.
- (e) A reference to **writing** or **written** includes email.

2 Basis of Contract

- 2.1** The Order constitutes an offer by the Customer to purchase Services and/or Goods 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 at which point and on which date the Contract shall come into existence (**Commencement Date**).

- 2.3** Any samples, drawings, manuals, descriptive matter or advertising issued by the Supplier and any illustrations or descriptions of the Services and/or Goods 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.
- 2.4** 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 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 5 Business Days from its date of issue.
- 2.6** All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3 Supply of Services

- 3.1** The Supplier shall supply the Services to the Customer in accordance with the Service Specification, and any amendments to the Service Specification as agreed in writing by the parties from time to time, in all material respects.
- 3.2** Subject to clause 3.3, the Supplier shall use reasonable endeavours to meet any performance dates for the Services specified in the Order.
- 3.3** The Supplier shall not be liable to the Customer for any delays or discontinuation in the supply of the Services where such has arisen due to what the Supplier reasonably deems to be safety-related reasons.
- 3.4** The Supplier reserves the right to amend the Service Specification 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.
- 3.5** The Supplier shall notify the Customer where any amendments as agreed in clause 3.1 can no longer be carried out due to time constraints.

4 Goods

- 4.1** The Supplier shall hire the Goods to the Customer subject to these Conditions.
- 4.2** 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 (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 Goods Specification. This clause 4.2 shall survive termination of the Contract.
- 4.3** The Supplier reserves the right to amend the Goods Specification without notice to the Customer if required by any applicable statutory or regulatory requirement.
- 4.4** In respect of Wet Hire Goods, where labour services may be required by the Customer in accordance with the Service Specification, the Customer shall:
- 4.4.1** co-operate with the Supplier in all matters relating to the labour services;
 - 4.4.2** provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to all the premises, office accommodation, data and other facilities as reasonably required by Supplier for the provision of the labour services;
 - 4.4.3** at its sole expense provide all requisite materials, facilities, access and suitable working conditions to enable the Supplier to carry out the labour services safely and expeditiously; and

4.4.4 inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at the premises at which the Customer requires the Supplier to carry out the labour services.

4.5 In respect of Dry Hire Goods, the Customer shall:

4.5.1 warrant to only operate, install or otherwise use the Dry Hire Goods in accordance with the directions, instructions or manuals provided by the Supplier.

4.5.2 return all Dry Hire Goods following the expiry or termination of the Contract, or any other such time as specified by the Supplier in writing or the Services Specification.

5 Delivery and Installation of Goods

5.1 The Customer shall have the option to either:

5.1.1 collect the Goods from the Supplier's Premises as set out in these conditions; or

5.1.2 agree to have the Goods delivered by the Supplier to the Site or such other location as the parties may agree (**Delivery Location**).

5.2 In the event the option set out in 5.1.1 is chosen by the Customer, the parties shall agree a date and time for the Customer or its representative to attend the Suppliers Premises. The risk in the Goods shall pass to the Customer on collection. The collection of the Goods by the Customer from the Suppliers premises shall constitute conclusive evidence that the Customer has examined the Goods and has found them to be in good condition, complete and fit in every way for the purpose for which it is intended. If required by the Supplier, the Customer's duly authorised representative shall sign a receipt confirming such acceptance.

5.3 In the event the option set out in 5.1.2 is chosen by the Customer, the parties shall agree a date and time for the Supplier to deliver the Goods. The risk in the Goods shall pass to the Customer on delivery. The acceptance by the Customer of the Goods at the Delivery Location shall constitute conclusive evidence that the Customer has examined the Goods and has found them to be in good condition, complete and fit in every way for the purpose for which it is intended. If required by the Supplier, the Customer's duly authorised representative shall sign a receipt confirming such acceptance.

5.4 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.

5.5 If the Supplier fails to deliver the Goods, 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 Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

5.6 To facilitate delivery and installation, the Customer shall at its sole expense provide all requisite materials, facilities, access and suitable working conditions to enable delivery and installation to be carried out safely and expeditiously.

5.7 The Supplier reserves the right not to attempt to deliver the Goods via any route which in the reasonable opinion of the driver is considered not to be safe, may lead to the injury of passengers, or may lead to damage to the Goods or the vehicle. In the event that transportation or delivery of the Goods is not possible due to adverse site conditions or unsafe routes, pursuant to this clause 5.7 or as a result of the Customer's breach of clause 5.6, the charges will still be payable.

5.8 If the Customer chooses, the Supplier shall at the Customer's expense (unless such installation is part of the Services) install the Goods at the Delivery Location.

6 Quality of Goods

- 6.1** The Supplier warrants that the Goods shall substantially conform to the Goods Specification, be of satisfactory quality and fit for any purpose held out by the Supplier. The Supplier shall use all reasonable endeavours to remedy, any material defect in the Goods, provided that:
- 6.1.1** the Customer notifies the Supplier of any defect in writing within 3 Business Days of the defect occurring;
 - 6.1.2** the Supplier is permitted to make a full examination of the alleged defect;
 - 6.1.3** the defect did not materialise as a result of the Customers breach of these conditions, or otherwise the misuse, neglect, alteration, mishandling or unauthorised manipulation by any person other than the Supplier's authorised personnel;
 - 6.1.4** the defect did not arise out of any information, design or any other assistance supplied or furnished by the Customer or on its behalf; and
 - 6.1.5** the defect is directly attributable to defective material, workmanship or design.
- 6.2** Insofar as the Goods comprises or contains equipment or components which were not manufactured or produced by the Supplier, the Customer shall be entitled only to such warranty or other benefit as the Supplier has received from the manufacturer.
- 6.3** The Supplier shall not be liable in respect of any defect or issue with the Goods if:
- 6.3.1** the Customer makes any further use of such Goods after giving a notice in accordance with clause 6.1.1;
 - 6.3.2** the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
 - 6.3.3** the defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Customer;
 - 6.3.4** the Customer alters or repairs such Goods without the written consent of the Supplier;
 - 6.3.5** the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
 - 6.3.6** the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 6.4** The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

6.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

7 Customer's Obligations

- 7.1** The Customer shall:
- 7.1.1** make payments to the Supplier in accordance with these Conditions;
 - 7.1.2** ensure that the terms of the Order and any information it provides in the Service Specification and the Goods Specification are complete and accurate;
 - 7.1.3** co-operate with the Supplier in all matters relating to the Services;
 - 7.1.4** 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;

- 7.1.5 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;
 - 7.1.6 prepare the Customer's premises for the supply of the Services;
 - 7.1.7 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;
 - 7.1.8 comply with all applicable laws, including health and safety laws;
 - 7.1.9 keep all materials, equipment, documents, manuals 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;
 - 7.1.10 comply with any additional obligations as set out in the Service Specification and the Goods Specification;
 - 7.1.11 take reasonable steps to ensure compliance, by all of its employees, contractors, suppliers or any other such third party, with the Supplier's Health and Safety policy, a copy of which the Supplier will provide upon request.
- 7.2 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**):
- 7.2.1 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;
 - 7.2.2 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 7.2; and
 - 7.2.3 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.
- 7.3 Specifically in relation to the Goods, the Customer shall during the term of this Contract:
- 7.3.1 ensure that the Goods are kept and operated in a suitable environment, used only for the purposes for which it is designed, and operated by the Supplier, or in a proper manner by trained competent staff approved by the Supplier at its sole discretion, in accordance with any operating instruction provided by the Customer;
 - 7.3.2 take such steps (including compliance with all safety and usage instructions provided by the Supplier) as may be necessary to ensure, so far as is reasonably practicable, that the Goods are at all times safe and without risk to health when it is being set, used, cleaned or maintained by a person at work;
 - 7.3.3 maintain at its own expense the Goods in good and substantial repair in order to keep it in as good an operating condition as it was on the Commencement Date;
 - 7.3.4 make no alteration to the Goods, attempt to repair the Goods or remove any existing component(s), labels or signage from the Goods without the prior written consent of the Supplier;
 - 7.3.5 keep the Supplier fully informed of all material matters relating to the Goods;
 - 7.3.6 give immediate written notice to the Supplier in the event of any loss, accident or damage to the Goods arising out of or in connection with the Customer's possession or use of the Goods;
 - 7.3.7 keep the Goods at all times at the Site and shall not move or attempt to move any part of the Goods to any other location without the Supplier's prior written consent;

- 7.3.8** permit the Supplier or its duly authorised representative to inspect the Goods at all reasonable times and for such purpose to enter upon the Site or any premises at which the Goods may be located, and shall grant reasonable access and facilities for such inspection;
 - 7.3.9** not, without the prior written consent of the Supplier, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Goods or allow the creation of any mortgage, charge, lien or other security interest in respect of any Goods;
 - 7.3.10** not without the prior written consent of the Supplier, attach the Goods to any land or building so as to cause the Goods to become a permanent or immovable fixture on such land or building. If the Goods do become affixed to any land or building then the Goods must be capable of being removed without material injury to such land or building and the Customer shall repair and make good any damage caused by the affixation or removal of the Goods from any land or building and indemnify the Supplier against all losses, costs or expenses incurred as a result of such affixation or removal;
 - 7.3.11** not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of the Supplier in the Goods and, where the Goods have become affixed to any land or building, the Customer must take all necessary steps to ensure that the Supplier may enter such land or building and recover the Goods both during the term of this agreement and for a reasonable period thereafter, including by procuring from any person having an interest in such land or building, a waiver in writing and in favour of the Supplier of any rights such person may have or acquire in the Goods and a right for the Supplier to enter onto such land or building to remove the Goods;
 - 7.3.12** not suffer or permit the Goods to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Goods are so confiscated, seized or taken, the Customer shall notify the Supplier and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Goods and shall indemnify the Supplier on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
 - 7.3.13** not use the Goods for any unlawful purpose;
 - 7.3.14** ensure that at all times the Goods remain identifiable as being the Supplier's property and wherever possible shall ensure that a visible sign to that effect is attached to the Goods; and
 - 7.3.15** not do or permit to be done anything which could invalidate the insurances referred to in clause 10.
 - 7.3.16** return the Goods at the end of the Hire Period or on earlier termination of the Contract at such address as the Supplier requires, or if necessary allow the Supplier or its representatives access to the premises where the Goods are located for the purpose of removing the Goods. The Customer shall return the Goods to the Supplier without delay in accordance with clause 4.4.2; and
 - 7.3.17** make all arrangements necessary to protect the Goods from all risks including theft, fire and vandalism whilst the Goods are in its possession or control.
- 7.4** The Customer acknowledges that the Supplier shall not be responsible for any loss of or damage to the Goods arising out of or in connection with any negligence, misuse, mishandling of the Goods or otherwise caused by the Customer or its officers, employees, agents, suppliers and/or contractors, and the Customer undertakes to indemnify the Supplier on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of any such loss or damage or in connection with any failure by the Customer to comply with the terms of the Contract.
- 7.5** In the event of any such loss of or damage to the Goods arising out of or in connection with any negligence, misuse, mishandling of the Goods or otherwise caused by the Customer or its officers, employees, agents, suppliers and/or contractors, the Customer hereby acknowledges:

7.5.1 that it shall be liable in respect of the replacement costs for such damaged or lost Goods and that any such replacements will need to be new and that the Customer indemnified such costs; and

7.5.2 that it shall be liable to the Supplier in respect of any lost income arising in relation to the time it takes for such replacements to be obtained.

7.6 It is agreed by the Customer that regarding the use of any Goods provided by the Customer, if the Supplier (or any of its personnel) are the first to use any such Goods on a given day, the Supplier shall carry out the safety checks to the Goods it intends to make use of, that the Supplier reasonably considers are necessary and prudent. When the Supplier (or any of its personnel) uses any such Goods and are not the first to do so on a given day, it shall be entitled to assume that such safety checks have already been carried out and the Customer shall procure that this, is in fact, the case. For the avoidance of any doubt, the Supplier shall not be liable for any maintenance, replacement or other charges or costs in respect of such any Goods.

8 Charges and Additional Goods and/or Services

8.1 The charges for Goods and/or Services shall be calculated on a time and materials basis, as follows:

8.1.1 the charges shall be calculated in accordance with the Supplier's daily fee rates, as set out in the Order;

8.1.2 the Supplier's daily fee rates for each individual person are calculated on the basis of a maximum 10-hour day worked on Business Days;

8.1.3 a 10-hour day shall include a full hour for lunch as well as welfare breaks as deemed necessary by the Supplier;

8.1.4 the Supplier shall be entitled to charge an overtime rate of 150% of the hourly charge included in the daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 8.1.2 up to a maximum of 2 additional hours;

8.1.5 the Supplier may permit individuals whom it engages on the Services to work beyond the 2 additional hours as described in clause 8.1.4 at a rate to be set by the Supplier;

8.1.6 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 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;

8.1.7 the Supplier may require the Customer to make "Per Diem" payments to cover out-of-pocket expenses including telephone calls, facsimile calls, internet charges and laundry. The Supplier shall set the rate of "Per Diem" charges in the Order. Per Diem payments shall exclude, either in whole or part, and travel or subsistence expenses; and

8.2 Where the Supplier requires the Customer to supply catering and/or subsistence, the Customer shall provide a minimum of three meals per day and access to fresh clean drinking water for the full duration of the Supplier's performance of the Services. The Supplier shall set out any catering requirements in the Order.

8.3 Where any charge is expressed to be an estimate, the Supplier shall provide a confirmed charge as soon as reasonably practicable and shall not be held to any estimated charge.

8.4 The charges shall be adjusted if:

8.4.1 The performance of the Services and/or the delivery of the Goods is materially delayed, disrupted or impacted in any way due to a change in the scope, size, complexity or duration of the Customer's project to which the Services and/or Goods relates; or any other cause outside the Supplier's reasonable control; and/or

8.4.2 The Customer requires any modification to the Services or Goods.

- 8.5** The Supplier shall notify the Customer of its intention to claim an adjustment to the charges promptly after it becomes aware of the need for such an adjustment or after notification of the Customer's required modification. The Supplier's notice shall include a written estimate of:
- 8.5.1** the proposed adjustment to the charges; and
 - 8.5.2** the likely effect of the delay or disruption or the required modification on the Services and/or the Goods and the time for performance.
- 8.6** Unless the parties agree otherwise, the charges shall be adjusted by a reasonable amount by reference to the hourly rates set out in the Order and any time schedules shall be equitably adjusted.
- 8.7** The Supplier, by giving notice to the Customer at any time before delivery or acceptance of Goods, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- 8.7.1** any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - 8.7.2** any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
 - 8.7.3** any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 8.8** Where the Customer is in breach of clause 4.5.2 of these Conditions, the Supplier shall be entitled to charge the Customer additional fees, on a per-day basis, in accordance with the Supplier's daily fee rates, as set out in the Order.
- 9 Payment**
- 9.1** The Customer shall pay each invoice submitted by the Supplier:
- 9.1.1** within 30 days of the date of the invoice; and
 - 9.1.2** 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.
- 9.2** 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 Goods at the same time as payment is due for the supply of the Services or Goods.
- 9.3** 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 15 (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 9.3 will accrue each day at 8% a year above the Bank of England's base rate from time to time, but at 8% a year for any period when that base rate is below 0%.
- 9.4** An administration charge to cover costs incurred by the Supplier in pursuing late payments shall be levied at the rate of £50 per hour or part thereof. The Customer acknowledges and agrees that this is a fair and genuine estimate of the actual costs that will be incurred by the Supplier in such an event, and that such charges shall be recoverable from the Customer.
- 9.5** 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 Title, Risk and Insurance

- 10.1** The Goods shall at all times remain the property of the Supplier, and the Customer shall have no right, title or interest in or to the Goods (save the right to possession and use of the Goods subject to the terms and conditions of the Contract).
- 10.2** The risk of loss, theft, damage or destruction of the Goods shall pass to the Customer in accordance with clause 5.2 and 5.3. The Goods shall remain at the sole risk of the Customer from the times defined in clauses 5.2 and 5.3,, to the time they are collected or returned to the Supplier (**Risk Period**). During the Risk Period, the Customer shall, at its own expense, obtain and maintain the following insurances:
- 10.2.1** insurance of the Goods to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as the Supplier may from time to time nominate in writing;
- 10.2.2** insurance for such amounts as a prudent owner or operator of the Goods would insure for, or such amount as the Supplier may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Goods; and
- 10.2.3** insurance against such other or further risks relating to the Goods as may be required by law, together with such other insurance as the Supplier may from time to time consider reasonably necessary and advise to the Customer.
- 10.3** The Supplier may request from the Customer, a copy of their insurance certificate and evidence that it is up to date with payments thereunder.
- 10.4** The Customer shall give immediate written notice to the Supplier in the event of any loss, accident or damage to the Goods arising out of or in connection with the Customer's possession or use of the Goods.
- 10.5** If the Customer fails to effect or maintain any of the insurances required under this agreement, the Supplier shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Customer.

11 Data Protection and Data Processing

- 11.1** Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 11.2** The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Data Controller and the Supplier is the Data Processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).
- 11.3** Without prejudice to the generality of clause 11.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to the Supplier for the duration and purposes of the Contract.
- 11.4** Without prejudice to the generality of clause 11.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:
- 11.4.1** process that Personal Data only on the written instructions of the Customer unless the Supplier is required by UK law to process Personal Data (**Applicable Data Processing Laws**). Where the Supplier is relying on UK Laws as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Data Processing Laws unless those Applicable Data Processing Laws prohibit the Supplier from so notifying the Customer;
- 11.4.2** ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the

unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

- 11.4.3** ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 11.4.4** not transfer any Personal Data outside of the UK unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (a) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (b) the Data Subject has enforceable rights and effective legal remedies;
 - (c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (d) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.

12 Confidentiality

- 12.1** Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, fees, costings, customers, clients or suppliers of the other party, except as permitted by clause 12.2.
- 12.2** Each party may disclose the other party's confidential information:
- 12.2.1** to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract provided always that in the case of the Customer, this shall only be permitted once the Order has been accepted by the Supplier; and
 - 12.2.2** as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.3** Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12.
- 12.4** Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
- 12.5** This clause 12 shall survive termination of the Contract.

13 Limitation of Liability

- 13.1** Without prejudice to 13.2 the Supplier's maximum aggregate liability for breach of the Contract (including any liability for the acts or omissions of its employees, agents and subcontractors), whether arising in contract, tort (including negligence), misrepresentation or otherwise, shall in no circumstances exceed £5,000,000.
- 13.2** Nothing in this agreement shall exclude or in any way limit:
- (a) either party's liability for death or personal injury caused by its own negligence;
 - (b) either party's liability for fraud or fraudulent misrepresentation; or
 - (c) liability for any breach of the terms implied by section 8 of the Supply of Goods (Implied Terms) Act 1973 or any other liability which cannot be excluded by law.

- 13.3** These Conditions sets forth the full extent of the Supplier's obligations and liabilities in respect of the Goods and the Services. In particular, there are no conditions, warranties or other terms, express or implied, including as to quality, fitness for a particular purpose or any other kind whatsoever, that are binding on the Supplier except as specifically stated in these Conditions. Any condition, warranty or other term concerning the Goods or Services which might otherwise be implied into or incorporated within this agreement, whether by statute, common law or otherwise, is expressly excluded.
- 13.4** Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- 13.4.1** death or personal injury caused by negligence;
 - 13.4.2** fraud or fraudulent misrepresentation; and
 - 13.4.3** breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 13.5** Subject to clause 13.1, the Supplier shall not be liable to the Customer for any losses, damage, costs, expenses or other claims arising under or in connection with the Contract.
- 13.6** Subject to clause 13.1, 13.2 and clause 7.5, the types of loss listed in clause 13.6.1 are wholly excluded by the parties.
- 13.6.1** The following types of loss are wholly excluded:
- (a) Loss of profits.
 - (b) Loss of sales or business.
 - (c) Loss of agreements or contracts.
 - (d) Loss of anticipated savings.
 - (e) Loss of use or corruption of software, data or information.
 - (f) Loss of or damage to goodwill.
 - (g) Indirect or consequential loss.
 - (h) Wasted costs.
- 13.7** Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 13.8** This clause 13 shall survive termination of the Contract.
- 13.9** The Supplier shall not have any liability in respect of any damage that may be caused to existing structural elements of the Site, furnishings, or any decorative elements thereof, including but not limited to flooring and/or paintwork and/or woodwork, and the Customer shall indemnify the Supplier against any and all losses, costs or expenses that may be incurred as a result of any claims that may arise in connection with any such damage.
- 13.10** The Supplier shall not have any liability in respect of any handheld radio systems or other communications devices that may be provided by the Customer, or in relation to any lost, damaged or unreturned security passes.
- 13.11** The Supplier shall not have any liability in respect of any third party's actions and/or omissions and shall not be deemed to assume any such responsibility or liability, notwithstanding the fact that the Supplier may notify the Customer in the event that it has concerns about the conduct of any third party. The Supplier shall not have liability in respect of any modifications by the Customer or third parties or improper use of the Goods.

14 Cancellation

- 14.1** The Customer shall have the right to cancel the Services or the delivery or pickup of the Goods from the Supplier pursuant to clause 14.2.
- 14.2** In the event that the Customer wishes to cancel the Services or the delivery or pickup of the Goods, where the cancellation notice is made to the Supplier:
- 14.2.1** 7 days before the Services were due to start, or 7 days before the scheduled delivery or pickup date of the Goods, the Supplier shall be entitled to retain 100% of the charges for the Goods and/or Services, or in the event that the charges have not yet been applied, 100% of the charges for the Goods and/or Services shall be due and payable by the Customer to the Supplier;
- 14.2.2** 14 days before the Services were due to start, or 14 days before the scheduled delivery or pickup date of the Goods, the Supplier shall be entitled to retain 50% of the charges for the Goods and/or Services, or in the event that the charges have not yet been applied, 50% of the charges for the Goods and/or Services shall be due and payable by the Customer to the Supplier; or
- 14.2.3** 21 days before the Services were due to start, or 21 days before the scheduled delivery or pickup date of the Goods, the Supplier shall be entitled to retain 25% of the charges for the Goods and/or Services, or in the event that the charges have not yet been applied, 25% of the charges for the Goods and/or Services shall be due and payable by the Customer to the Supplier.
- 14.3** Notice shall only be deemed effective when it has been provided to the Supplier in writing, pursuant to clause 18, and subject to the Supplier's written acknowledgement of such notice.

15 Suspension and Termination

- 15.1** 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:
- 15.1.1** the Customer commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 24 hours after receipt of notice in writing to do so;
- 15.1.2** the Customer 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;
- 15.1.3** the Customer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 15.1.4** the Customer's financial position deteriorates to such an extent that in the Supplier's opinion Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 15.2** 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:
- 15.2.1** the Customer fails to pay any amount due under the Contract on the due date for payment; and/or
- 15.2.2** there is a change of control of the Customer.
- 15.3** Without affecting any other right or remedy available to it, 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 the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 15.1.2 to clause 15.1.4, or the Supplier reasonably believes that the Customer is about to become subject to any of them.

16 Consequences of termination

16.1 On termination of the Contract:

16.1.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods or Services 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;

16.1.2 the Customer shall return all of the Supplier Materials and any Goods. 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.

16.2 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.

16.3 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.

17 Force Majeure

The Supplier shall not be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the Supplier shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for a period of time exceeding 50% of the time in which the Services would otherwise have been provided, the Supplier may terminate this agreement by giving written notice to the affected party.

18 General

18.1 Assignment and other dealings

18.1.1 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.

18.1.2 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.

18.2 Goods and Third Parties

18.2.1 The Customer is not permitted to contract or permit any third party to carry out work, whether directly or indirectly, on Goods that have been installed, supplied and/or sourced by the Supplier for the duration of the Supplier's performance of the Contract, without the prior written consent of the Supplier.

18.3 Notices

18.3.1 Any notice or other communication given to a party under or in connection with this Agreement 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 Order.

18.3.2 Any notice or communication shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt ;

- (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 18.3.2(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.

18.3.3 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.

18.4 Severance

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

18.5 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.

18.6 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.

18.7 Entire Agreement

18.7.1 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.

18.7.2 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.

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

18.8 Third Parties Rights

18.8.1 The Contract does not give rise to any rights to any third parties to enforce any term of the Contract, under the Contracts (Rights of Third Parties) Act 1999, or otherwise

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

18.9 Variation

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).

18.10 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.

18.11 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.

18.12 Intellectual Property Rights

18.12.1 All Intellectual Property Rights in or arising out of or in connection, directly or indirectly, with the Goods and/or Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.

18.12.2 The Supplier grants the Customer a licence to use materials which contain the Suppliers intellectual property, inclusive of, but not limited to, instructional documents, manuals, videos and designs.

18.12.3 The Customer hereby undertakes that it shall not disclose any documents created by the Supplier to any third party without the express written permission on the Supplier.