



CONTINENTAL TYRE GROUP LIMITED:

**TERMS AND CONDITIONS FOR THE
PURCHASE OF GOODS AND SERVICES**

Last update: June 2018



1 Interpretation

1.1 Definitions.

In these Conditions, the following definitions apply:

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 set out in clause 2.2.

Conditions

These terms and conditions as amended from time to time in accordance with clause 16.7.

Contract

The contract between the Customer and the Supplier for the supply of Goods and/or Services in accordance with these Conditions.

Customer

Continental Tyre Group Limited registered in England and Wales with company number 296602.

Customer Materials

Has the meaning set out in clause 5.3.9.

Deliverables

All documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Goods

The goods (or any part of them) set out in the Order.

Goods Specification

Any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.

Intellectual Property Rights

Patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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 written order for the supply of Goods and/or Services, or as set out in the Customer's written acceptance of the Supplier's quotation, or overleaf, as the case may be.

Services

The services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

Service Specification

The description or specification for Services agreed in writing by the Customer and the Supplier.



Supplier

The person or firm from whom the Customer purchases the Goods and/or Services.

TUPE

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

1.2 Construction.

In these Conditions, the following rules apply:

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

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

1.2.3 A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.2.4 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

1.2.5 A reference to **writing or written** includes faxes and e-mails.

2 Basis of contract

2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services from the Supplier in accordance with these Conditions.

2.2 The Order shall be deemed to be accepted on the earlier of:

2.2.1 The Supplier issuing written acceptance of the Order; or

2.2.2 Three Business Days after receipt by the Supplier of the Order, subject to prior rejection of the Order in writing by the Supplier; or

2.2.3 Any act by the Supplier consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 The Customer shall not be liable to pay for any Goods or Services in respect of which there is no Order.

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

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

3 Supply of goods

3.1 The Supplier shall ensure that the Goods shall:

3.1.1 Correspond with their description and any applicable Goods Specification;

3.1.2 Be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgment;



3.1.3 Where applicable, be free from defects in design, materials and workmanship and remain so for 24 months after delivery;

3.1.4 Comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods (including, without limitation, all laws and regulations relating to hazardous and dangerous goods and materials, all EU regulations and laws and regulations, including those governing safety standard of technical equipment and accident prevention and others relating to occupational safety and health); and

3.1.5 Be packaged in materials which are reusable or recyclable (and identified as such), without CFC's, chlorine-free, chemically inactive, ground-water-neutral and non-toxic when incinerated.

3.2 The Supplier shall ensure that at all times it has and maintains:

3.2.1 An adequate quantity of Goods to meet the Customer's requirements; and

3.2.2 All the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

3.3 The Customer shall have the right to inspect and test the Goods at any time before delivery.

3.4 If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

3.5 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Customer shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

3.6 If the Supplier refuses to allow the Customer to inspect or test the Goods in breach of clause 3.3, or if after remedial actions undertaken by the Supplier the Customer believes the Supplier remains in breach of its obligations under clause 3.1, the Customer shall not be obliged to accept such Goods and shall have no liability in respect of such Goods.

4 Delivery of goods

4.1 The Supplier shall ensure that:

4.1.1 The Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;

4.1.2 Each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the Supplier's name and number, the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered;

4.1.3 If the Supplier requires the Customer to return any packaging material for the Goods to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier; and



4.1.4 At all times it complies with the Customer's Environment, Safety, Security and Health Policy and Quality and Environment provided by the Customer to the Supplier as may be amended by the Customer from time to time.

4.2 The Supplier shall deliver the Goods:

4.2.1 On the date specified in the Order or on the date otherwise specified by the Customer or, if no such date is specified, then on the earlier of either (i) the date upon which the Supplier carries out an act consistent with fulfilling the Order (in accordance with clause 2.2.3) or (ii) 14 days of the date of the Order; without prejudice to any other terms of these Conditions, the Supplier shall notify the Customer of any potential or known delays in delivery of the Goods immediately upon becoming aware of such delays.

4.2.2 To the Customer's premises at Continental House, 191 High Street, Yiewsley, West Drayton, UB7 7XW or such other location as is set out in the Order or as instructed by the Customer before delivery (**Delivery Location**);

4.2.3 During the Customer's normal hours of business on a Business Day, or as instructed by the Customer.

4.3 Delivery of the Goods shall be completed on completion of unloading of the Goods at the Delivery Location.

4.4 If the Supplier delivers less or more than the quantity of Goods ordered, the Customer may reject the Goods or excess Goods and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer

accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

4.5 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately and the provisions of these Conditions relating to delivery notes and invoices shall apply to each instalment as though each were in respect of a separate Order. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 6.1.

4.6 Subject to clause 4.1.3, the Supplier shall remove all packaging and materials used in delivery of the Goods at its own expense and if it fails to do so the Customer shall dispose of such packaging and materials on behalf of the Supplier and at the Supplier's sole expense.

4.7 Title and risk in the Goods shall pass to the Customer on completion of delivery.

4.8 On delivery of the Goods, the Supplier shall enter into a quality assurance agreement with the Customer in the form provided by the Customer.

5 Supply of services

5.1 The Supplier shall from the Commencement Date or, if different, the date set out in the Order and for the duration of the Contract provide the Services to the Customer in accordance with the terms of the Contract.

5.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Customer.



5.3 In providing the Services, the Supplier shall:

5.3.1 Co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;

5.3.2 Perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;

5.3.3 Use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;

5.3.4 Ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Customer;

5.3.5 Provide all equipment, tools and vehicles and such other items as are required to provide the Services, unless otherwise agreed in writing by the Customer;

5.3.6 Use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;

5.3.7 Obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;

5.3.8 Observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;

5.3.9 Hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (Customer Materials) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;

5.3.10 Not cause damage, nor allow any damage to be caused, to any property or assets of the Customer (including without limitation all equipment and vehicles) provided by the Customer to the Supplier for use in the provision of the Services;

5.3.11 Not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;

5.3.12 Notify the Customer in writing immediately upon the occurrence of a change of control of the Supplier; and

5.3.13 Comply with the Customer's "Business Partner Code of Conduct" as notified by the Customer to the Supplier and as may be amended by the Customer from time to time.

6 Customer remedies

6.1 If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, the Customer shall, without limiting its other rights or remedies, have one or more of the following rights:

6.1.1 To terminate the Contract with immediate effect by giving written notice to the Supplier;



6.1.2 To refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;

6.1.3 To recover from the Supplier any costs incurred by the Customer in obtaining substitute goods and/or services from a third party;

6.1.4 Where the Customer has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and

6.1.5 To claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting its other rights or remedies, the Customer shall have one or more of the following rights, whether or not it has accepted the Goods:

6.2.1 To reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;

6.2.2 To terminate the Contract with immediate effect by giving written notice to the Supplier;

6.2.3 To require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods;

6.2.4 To refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;

6.2.5 To recover from the Supplier any expenditure incurred by the Customer in obtaining substitute goods from a third party; and

6.2.6 To claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 3.1.

6.3 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier from the date such services or goods are provided to the Customer.

6.4 The Customer's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

7 Customer's obligations

The Customer shall:

7.1.1 Provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services; and

7.1.2 Provide such information as the Supplier may reasonably request for the provision of the Services and the Customer considers reasonably necessary for the purpose of providing the Services.

8 Charges and payment

8.1 The price for the Goods:

8.1.1 Shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date; and



8.1.2 Shall be inclusive of the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by the Customer. The price for the Goods shall not be subject to any increases nor shall extra charges shall be effective unless agreed in writing and signed by the Customer.

8.2 The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services and the charges shall not be subject to any increases nor shall extra charges be effective unless agreed in writing and signed by the Customer.

8.3 In respect of Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on completion of the Services. Each invoice shall be issued in duplicate and shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the information to be included in the delivery note pursuant to clause 4.1.2, the Order number, the call-off number (in the case of call-off Orders) and the Supplier's number.

8.4 In consideration of the supply of Goods and/or Services by the Supplier, the Customer shall pay the invoiced amounts within 60 days of the end of the month in which the Customer receives a correctly rendered invoice from the Supplier. The Customer shall be entitled to apply a 3% (three per cent) discount on all invoices it receives from the Supplier if the

Customer pays such invoices on the first invoice payment date of the Customer which falls after 14 (fourteen) days after the date on which the Customer receives a correctly rendered invoice from the Supplier. The payment will be made to a bank account nominated in writing by the Supplier, unless otherwise agreed in writing between the Customer and the Supplier. The 3% (three per cent) discount referred to in this clause shall apply to all invoiced amounts between the Supplier and the Customer unless otherwise agreed between them in writing. For the avoidance of doubt, the Customer shall not be obliged to pay any invoice which it receives before it receives the Goods or Services nor any invoice which is incorrectly rendered to the Customer.

8.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued 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 Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

8.6 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not



apply to payments that the defaulting party disputes in good faith.

8.7 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.

8.8 The Customer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Customer or any Customer within the Customer's corporate group of companies against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

9 Intellectual property rights

9.1 In respect of the Goods and any goods that are transferred to the Customer as part of the Services under this Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Customer, it will have full and unrestricted rights to sell and transfer all such items to the Customer.

9.2 The Supplier assigns to the Customer, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including for the avoidance of doubt the Deliverables.

9.3 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV

of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

9.4 The Supplier shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with clause 9.2.

9.5 All Customer Materials are the exclusive property of the Customer.

10 Indemnities and liability

10.1 The Supplier shall keep the Customer indemnified 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 professional costs and expenses) suffered incurred by the Customer as a result of or in connection with:

10.1.1 Any breach by the Supplier of its obligations in clause 5.3;

10.1.2 Any damage to assets or property of the Customer arising out of or in connection with the use of such assets or property by the Supplier or any subcontractor engaged by the Supplier in the provision of the Services;

10.1.3 Any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply



or use of the Goods, or receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

10.1.4 Any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

10.1.5 Any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and

10.1.6 The transfer of any contract of employment or engagement of a worker from the Supplier to the Customer pursuant to TUPE and any termination of such contract by the Customer and any act or omission before such transfer which, by virtue of TUPE, is deemed to be an act or omission of the Buyer.

10.2 Nothing in this agreement limits or excludes the liability of the Customer for death or personal injury resulting from its negligence or fraud or fraudulent misrepresentation. All liability of the Customer implied by statute or common law are, to the fullest extent permitted by law, otherwise excluded from the Contract.

10.3 This clause 10 shall survive termination of the Contract.

11 Insurance

During the term of the Contract and for a period of two (2) years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

12 Confidentiality

12.1 A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

12.2 This clause 12 shall survive termination of the Contract.

13 Personal Data

13.1 The Supplier and the Customer undertake to comply with the legal provisions in force regarding personal data and especially those of the EU Regulation 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. The Supplier warrants to the Customer to be compliant with all obligations entrusted regarding the processing of personal data for the performance of the Contract. As such, the Supplier warrants in particular:

13.1.1 A processing in compliance with the Customer's instructions, the defined purpose and the adequate security norms;

13.1.2 The exercise of data subject's rights and the communication without delay to the Customer of any data breach;

13.1.3 A use of subcontracting only with the prior and written approval of the Customer, given that any subcontracting must be materialized by a written agreement concluded with the subcontractor and with requirements of same obligations entrusted to the Supplier. The Supplier remains entirely and sole responsible to the Customer of any breach of the subcontractor.

13.2 Any development regarding data protection, which could give rise to a reinforcement of the parties' obligations, will be implemented as soon as possible by the parties and at their own costs.

13.3 In case that the purpose of the Contract is directly a processing of personal data, the Supplier and the Customer undertake to conclude a separate data processing agreement.

13.4 At the end of the Contract and unless otherwise provided by law or by agreement, each party undertakes to destroy or return to the other party all personal data that was processed under the aforesaid Contract.

14 Termination

14.1 Without limiting its other rights or remedies, the Customer may terminate the Contract:

14.1.1 In respect of the supply of Services, by giving the Supplier 3 months' written notice; and

14.1.2 In respect of the supply of Goods, in whole or in part at any time before delivery with immediate effect by giving written notice to the Supplier, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.

14.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract by giving the Customer 6 months' written notice.

14.3 In any of the circumstances in these Conditions in which a party may terminate the Contract, where both Goods and Services are supplied, that party may terminate the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.

14.4 Without limiting its other rights or remedies, the Customer may terminate the



Contract with immediate effect by giving written notice to the Supplier if:

14.4.1 The Supplier commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 days of receipt of notice in writing to do so;

14.4.2 The Supplier repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;

14.4.3 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;

14.4.4 The Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

14.4.5 The Supplier (being an individual) is the subject of a bankruptcy petition or order;

14.4.6 The Supplier suspends or ceases, or threatens to suspend, or cease, to carry on all or a substantial part of its business;

14.4.7 The other party's financial position deteriorates to such an extent that in the

Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

14.4.8 The Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

14.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

14.6 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

15 Consequences of termination

On termination of the Contract for any reason, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

16 Force majeure

16.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from an event, circumstances or cause beyond its reasonable control (**Force Majeure Event**).

16.2 The Supplier shall use all reasonable endeavours to mitigate the effect of a Force



Majeure Event on the performance of its obligations.

16.3 If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than 6 months, the Customer may terminate the Contract immediately by giving written notice to the Supplier.

17 General

17.1 Assignment and other dealings.

17.1.1 The Customer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

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

17.2 Notices

17.2.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.

17.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 16.2.1; 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.

17.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

17.3 **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.

17.4 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

17.5 **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, nor constitute either party the agent of the other for any purpose. Neither



party shall have authority to act as agent for, or to bind, the other party in any way.

16.6 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

17.7 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Customer.

17.8 **Governing law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be exclusively governed by, and construed in accordance with the law of England and Wales. For the avoidance of doubt the United Nations' Convention on Contracts for the International Sale of Goods, 1980, shall not apply to these Conditions.

17.9 **Jurisdiction.** Each party irrevocably agrees, for the sole benefit of the Customer that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with these Conditions (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Customer to take proceedings against the Supplier in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

Acceptance Signature:

Title:

Date:

Name:

Company: