

# EXCITECH TERMS & CONDITIONS

## 1. Definitions and Interpretation

### 1.1 In these Conditions:

**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 meaning set out in clause 3.3;

**Confidential Information:** all information relating to the business, organisation, pricing, transactions, finances, customers, suppliers, technology, processes, specifications, methods, designs, formulae, technology and business activities or affairs of the Supplier including technical or commercial know-how, specifications, inventions, processes or initiatives which have been disclosed to the Customer by the Supplier or its agents;

**Contract:** the contract between the Supplier and the Customer for the supply of Equipment and/or Services in accordance with these Conditions and, if applicable, any Maintenance Agreement and/or Software Licence;

**Contract Schedule:** the description or specification of Equipment and/or Services provided in writing by the Supplier to the Customer;

**Customer:** the person, firm or company who purchases Equipment and/or Services from the Supplier;

**Delivery Date:** has the meaning set out in clause 8.1;

**Equipment:** the equipment (including computer hardware, Software and related services) purchased by the Customer from the Supplier;

**Excitech:** Excitech Limited, a company incorporated and registered in England with company number 01894181 and having its registered office at Design Technology Centre, 8 Kinetic Crescent, Innova Business Park, Enfield, Middlesex, EN3 7XH;

**Force Majeure Event:** has the meaning set out in clause 21;

**Insolvency Situation:** the Customer (a) enters liquidation; (b) has a receiver, liquidator, administrator, trustee or an individual with a similar role appointed over any of its assets; or (c) proposes to make arrangements with its creditors or goes into liquidation;

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trademarks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

**Location:** the premises where Equipment is to be installed and/or delivered and/or Services are to be provided (if applicable), as set out in the Contract Schedule or otherwise agreed in writing between the parties;

**Maintenance Agreement:** has the meaning set out in clause 9.1;

**Maintained Goods:** the Equipment in respect of which Support Services are to be provided in accordance with the applicable Maintenance Agreement;

**Period of Cover:** the length of time that the Supplier has agreed to provide Services to the Customer, as specified in the Contract Schedule;

**Purchase Order:** the Customer's written order for Equipment and/or Services from the Supplier;

**Services:** any support, consultancy, training, services or supplies supplied to the Customer by the Supplier as specified in the Contract including Support Services;

**Software:** any operating system or application software to be provided to Customer by Supplier under the Contract;

**Software Licence:** has the meaning set out in clause 14.1;

**Support Services:** has the meaning set out in clause 9.1; and

**VAT:** value added tax or any equipment tax chargeable in the UK or elsewhere.

### 1.2 Condition headings do not affect the interpretation of these conditions.

### 1.3 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

- 1.4 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 2. Application of Conditions**
- 2.1 These Conditions apply to the Contract to the exclusion of all other terms or conditions that the Customer seeks to impose or incorporate or which are implied by law, trade custom, practice or course of dealing.
- 2.2 No variation of the Contract shall be effective unless in writing and signed by each party.
- 3. Basis of sale**
- 3.1 Any quotation given by the Supplier does not constitute an offer and is valid for a period of 30 days from its date of issue. The Supplier may withdraw a quotation at any time.
- 3.2 Each Purchase Order constitutes an offer by the Customer to purchase Equipment and/or Services in accordance with these Conditions. The Customer shall ensure that the Purchase Order is complete and accurate.
- 3.3 The Purchase Order shall only be deemed accepted when the Supplier issues written acceptance of the Purchase Order or, if earlier, when the Supplier provides Services and/or Equipment to the Customer, at which point the Contract shall come into existence (the "**Commencement Date**").
- 3.4 The Supplier may deliver Equipment by separate instalments or provide Services in stages. Each separate instalment or stage shall be invoiced and paid for in accordance with the provisions of the applicable Contract. Each instalment or stage shall be a separate Contract and no cancellation or termination by either party of any one Contract relating to an instalment or stage shall entitle the Customer to repudiate or cancel any other Contract, instalment or stage.
- 4. Quantity and Description**
- 4.1 The quantity and description of the Services and/ or Equipment shall be as set out in the Contract Schedule.
- 4.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are issued or published for illustrative purposes only and do not form part of the Contract nor have any contractual force.
- 4.3 The Supplier reserves the right to make any changes to the Equipment and/or Services which are necessary to comply with any applicable law or safety requirement or which do not materially affect their quality or performance. The Supplier shall use reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee given by the manufacturer to the Supplier.
- 4.4 Any advice or recommendation given by the Supplier's employees, contractors or agents to the Customer or its employees, contractors or agents about the storage, application or use of the Equipment which is not confirmed in writing by an authorised representative of the Supplier is followed or acted on entirely at the Customer's own risk.
- 5. Prices**
- 5.1 The price of Equipment and Services shall be the Supplier's quoted price or, where a quoted price is no longer valid, the price listed in the Supplier's price list current at the date of acceptance of the Purchase Order (the "**Price**").
- 5.2 The Price is exclusive of delivery, packaging, packing, shipping, expenses, carriage, VAT and insurance unless agreed in writing.
- 5.3 All reasonable accommodation and travel expenses incurred by the Supplier in the course of delivering the Services and/or providing the Equipment will be payable by the Customer.
- 5.4 The Supplier reserves the right, by giving notice to the Customer prior to delivery of the Equipment and/or performance of the Services, to increase the Price to reflect any increase in the cost to the Supplier which is due to any factor beyond the Supplier's control.
- 6. Payment**
- 6.1 The Supplier may invoice the Customer for the Price before, on or after the Delivery Date.
- 6.2 Unless otherwise agreed in writing, the Customer shall pay to the Supplier the Price plus all taxes:

- 6.2.1 within 30 (thirty) days of the date of the invoice; and
- 6.2.2 in full and cleared funds to a bank account nominated in writing by the Supplier.
- 6.3 Time for payment of the Price shall be of the essence.
- 6.4 If the Customer fails to make payment in full on the due date, the outstanding Price shall become immediately due and payable and, the Supplier may: (a) terminate the Contract or suspend any further supply of Services or deliveries of Equipment under the Contract and/or any other contract between the Supplier and Customer; (b) appropriate any payment made by the Customer to such of the Services or Equipment (or the services or equipment supplied under any other contract between the Customer and the Supplier) as it thinks fit; (c) claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and/or (d) make a storage charge for any undelivered Equipment at the Supplier's storage rates as are in place from time to time;
- 6.5 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.

## **7. Training**

- 7.1 In order to secure bookings for training courses, payment will need to be made at the time of booking. This may result in payment being made prior to the training being delivered.
- 7.2 The Supplier may modify course dates or discontinue courses. If the Supplier modifies a course date, the Customer shall be offered alternative course dates. If the Supplier discontinues a course, the Customer shall be entitled to a refund of any sums paid for such course.
- 7.3 The Customer shall pay the following sums if it wishes to cancel or transfer a course:
  - 7.3.1 if notification is received less than 2 weeks before the training date, the Customer will be charged 100% of the total course fee;
  - 7.3.2 if notification is received between 2 and 4 weeks before the training date, the Customer will be charged 50% of the total course fee;
  - 7.3.3 if notification is received more than 4 weeks before the training date, the customer will be charged 25% of the total course fee.

## **8. Delivery and Acceptance**

- 8.1 The Supplier shall use reasonable endeavours to deliver the Equipment and/or provide Services to the Customer on the dates specified in the Contract Schedule or otherwise confirmed in writing by the Supplier (the "**Delivery Date**"). Time is not of the essence as to the delivery of Equipment and / or performance of the Services and the Supplier is not liable for any delay in delivery, however so caused.
- 8.2 If the Supplier is prevented from delivering and/or installing Equipment on the Delivery Date because the Customer has not provided suitable access, the Customer shall be liable for any costs, expenses or losses incurred by the Supplier as a result.
- 8.3 The Supplier shall not be responsible for any failure or delay in delivery or damage, shortage or loss caused in transit unless the Customer notifies the Supplier of such failure, delay, damage, shortage or loss within 7 days of the Delivery Date. Any remedy under this clause shall be limited, at the sole option of the Supplier to:
  - 8.3.1 in the case of failure or delay in delivery of the Equipment, replacement of such Equipment or the issuing of a credit note for the Price paid or payable for such Equipment; and
  - 8.3.2 in the case of Equipment which has, in the reasonable opinion of the Supplier, been lost or damaged in transit, repair or replacement of such Equipment.

## **9. Services**

- 9.1 The parties may agree in writing that the Supplier shall provide maintenance and support services in respect of the Equipment (the "**Support Services**") (a "**Maintenance Agreement**"), in which case the Supplier shall provide the Support Services for the Period of Cover. If the Supplier is on the Customer's premises to deliver and/or install Equipment and/or provide Services, the Customer shall:
  - 9.1.1 provide, free of charge, reasonable usage of machine time, communications, media, suitable working accommodation and access deemed necessary by the Supplier;
  - 9.1.2 ensure the accuracy and validity of all data and technical information provided to the Supplier;

- 9.1.3 allow the Supplier reasonable access to its employees for the purpose of investigation and discussion and ensure that its employees cooperate fully with the Supplier in relation to the provision of the Equipment and Services; and
- 9.1.4 indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit and loss of reputation) incurred by the Supplier as a result any damage to property, injury to or death of any persons caused by an act or omission, negligence or wilful misconduct of the Customer, its employees or agents.

## **10. Support Services**

10.1 The Support Services shall not include:

- 10.1.1 maintenance and/or support of Equipment if such Equipment is located at a place other than the address contained within the Maintenance Agreement;
- 10.1.2 maintenance and/or support of Equipment if, in the Supplier's reasonable opinion, the Equipment cannot be repaired to a reasonable or justifiably economic condition; and
- 10.1.3 operational supplies including any hardware components, accessories including media such as tapes and disks, batteries (including laptop batteries) or ink cartridges.

## **11. Maintenance Agreement Exclusions**

11.1 The Supplier will not be obliged to provide Support Services if the Support Services are required as a result of:

- 11.1.1 the improper or incompetent use, operation or neglect of either the Maintained Goods or Equipment;
- 11.1.2 the Customer and/or its employees, contractors, consultants, agents or otherwise not having been trained to (in the reasonable opinion of the Supplier) an acceptable level of competence in respect of the use of the Maintained Goods and/or Equipment or if it is deemed that the Customer is using the Support Services for training or consultancy purposes;
- 11.1.3 the integration (in whole or in part) of the Equipment with any other software, hardware and/or other equipment;
- 11.1.4 use of the Equipment other than in accordance with the terms of the Maintenance Agreement;
- 11.1.5 failure or delay by the Customer to implement recommendations or solutions advised by the Supplier;
- 11.1.6 any repair, adjustment, re-configuration, alteration, modification of the Maintained Goods by any person other than the Supplier without the Supplier's prior written consent, including the installation of any third party product, software or hardware;
- 11.1.7 the Customer not taking reasonable precautions against the threat of a computer virus, malicious attack, bug, Trojan, worms, logic bombs or other material which is malicious or technologically harmful or a Force Majeure Event.

11.2 Notwithstanding clause 11.1, if the Supplier provides services to the Customer as a result of any of the circumstances set out in clause 11.1 above, the Supplier shall be entitled to issue an invoice to the Customer for such services and the Customer shall pay such invoice in accordance with clause 6.

## **12. Health & Safety**

12.1 The Customer shall take all reasonable precautions to ensure the health and safety of the Supplier's employees, agency workers or contractors while on the Customer's premises.

## **13. Risk, Property and Ownership**

13.1 Equipment shall be at the risk of the Supplier until delivery to the Customer at the Location. The Supplier shall off-load the Equipment at the Customer's risk.

13.2 Title to the Equipment shall pass to the Customer when the Supplier receives payment in full and cleared funds for the Equipment (and any other equipment that the Supplier has supplied to the Customer in respect of which payment has become due), in which case title to the Equipment shall pass at the time of payment of all such sums.

13.3 Until title has passed to the Customer under clause 13.2, the Customer shall: (a) hold the Equipment on a fiduciary basis as the Supplier's bailee; (b) store the Equipment (at no cost to the Supplier) in satisfactory conditions and separately from all the Customer's other equipment or that of a third party,

so that it remains readily identifiable as the Supplier's property; (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Equipment; and (d) keep the Equipment insured on the Supplier's behalf for its full price against all risks to the reasonable satisfaction of the Supplier, and hold the proceeds of such insurance on trust for the Supplier and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

- 13.4 If before title to the Equipment passes to the Customer any of the circumstances set out in clause 20.1 arises, the Supplier may at any time:
- 13.4.1 require the Customer to deliver up all the Equipment in its possession; and
  - 13.4.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## 14. Software

- 14.1 The Supplier grants, subject to the terms of the Contract, the Customer a non-exclusive, non-transferable right to use the Software for any purpose related to the business of the Customer (the "**Software Licence**") subject to the following conditions:
- 14.1.1 the Customer shall not copy (except to the extent permissible under applicable law or for normal operation of the Equipment), reproduce, disassemble, decompile, translate, adapt, vary or modify the Software, nor communicate it to any third party, without the Supplier's prior written consent;
  - 14.1.2 the Customer shall not remove, adapt or otherwise tamper with any copyright notice, legend or logo which appears in or on the Software;
  - 14.1.3 the Software Licence shall be terminable by either party giving 28 days written notice, provided that the Supplier terminates only if the continued use or possession of the Software by the Customer infringes the developer's or a third party's rights (including any Intellectual Property Rights), or the Supplier is compelled to do so by law, or if the Customer has failed to comply with any term of the Contract;
  - 14.1.4 on or before the expiry of the Software Licence, the Customer shall return to the Supplier all copies of the Software in its possession.
- 14.2 Software which has been unsealed, installed or licensed is deemed to have been accepted and cannot be returned.
- 14.3 Nothing contained in these Conditions shall be construed as an assignment of any Intellectual Property Rights in the Software or user manuals.
- 14.4 The Customer shall be subject to the rights and restrictions imposed by the Supplier as owner (as between Supplier and Customer) of the Intellectual Property Rights in the Software and user manuals, and shall comply with all licence agreements (including any Software Licence), terms of use and registration requirements relating to them.

## 15. Warranty

- 15.1 The Supplier warrants to the Customer that as at delivery the Equipment is free from material defects of workmanship and materials. Subject to clauses 15.2 to 15.4, the Supplier shall, at its option, repair or replace Equipment which is found to be defective as a result of faulty materials or workmanship within 6 months of the Delivery Date (the "**Warranty Period**") or such longer period as may be provided for in any relevant manufacturer's warranty relating to the Equipment.
- 15.2 The Supplier shall not be liable for a breach of the warranty in clause 15.1 unless: (a) the Customer gives written notice of the defect to the Supplier within 3 days of the date when the Customer discovers or ought to have discovered the defect; and (b) after receiving the notice, the Supplier is given a reasonable opportunity of examining such Equipment and the Customer (if asked to do so by the Supplier) returns such Equipment to the Supplier's place of business at the Supplier's cost for the examination to take place there. If, following examination of the Equipment, the Supplier believes the warranty in clause 15.1 has not been breached, the Customer shall pay all costs incurred by the Supplier in respect of the transport and examination of the Equipment.
- 15.3 The Supplier shall not be liable for a breach of the warranty in clause 15.1 if: (a) the Customer makes further use of any Equipment in respect of which it has given written notice under Clause 15.2 ; (b) the defect arises because the Customer failed to follow the manufacturer's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment or (if there are none)

good trade practice; (c) the defect arises as a result of fair wear and tear, wilful damage, negligence or abnormal storage or working conditions or improper use of the Equipment or use outside its normal application; (d) the Equipment differs from its description as a result of changes made to ensure it complies with applicable statutory or regulatory requirements; or (e) the Customer alters or repairs the relevant Equipment without the written consent of the Supplier.

15.4 Any repaired or replacement Equipment shall be under warranty for the unexpired portion of the Warranty period.

## **16. Limitation of Liability**

16.1 All warranties, conditions and other terms implied by statute or common law including the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are excluded from the Contract to the fullest extent permitted by law.

16.2 Nothing in these Conditions excludes or limits the liability of the Supplier for: (a) death or personal injury caused by the Supplier's negligence; (b) fraud or fraudulent misrepresentation; or (c) any other liability which cannot be limited or excluded at law.

16.3 Subject to clause 16.2:

16.3.1 the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty or otherwise arising under or in connection with the Contract, its subject matter or formation for: (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 damage to goodwill; and (g) any indirect or consequential loss; and

16.3.2 the Supplier's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, arising under or in connection with the Contract, its subject matter or formation shall be limited to a sum equal to the Price.

## **17. Intellectual Property Rights**

17.1 The Customer shall indemnify the Supplier against all losses, damages, costs, claims, demands, liabilities and expenses (including indirect and consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Supplier in connection with, , any claim made against the Supplier for actual or alleged infringement of any third party's Intellectual Property Rights which result from the Supplier's use of any information or materials provided by the Customer.

17.2 The Customer acknowledges that all Intellectual Property Rights used by or subsisting in Equipment systems, software (including the Software), hardware, documentation, tools, utilities, methodologies, specifications, techniques and other materials and know-how, in the delivery of Services, documents and any other materials provided by Supplier to Customer are and shall as between the Supplier and the Customer remain the sole property of the Supplier.

17.3 The Supplier's Intellectual Property Rights shall remain the exclusive property of the Supplier, and the Customer shall not at any time make any unauthorised use of such Intellectual Property Rights, nor authorise or permit any of its agents or contractors or any other person to do so.

## **18. Confidentiality and Supplier's Property**

18.1 The Customer shall keep confidential all Confidential Information.

18.2 The Customer shall restrict disclosure of the Confidential Information to such of its employees, agents or sub-contractors as strictly necessary ensuring that such persons are subject to the same obligations of confidentiality as the Customer pursuant to this clause. The Customer shall be entitled to disclose Confidential Information as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

18.3 All materials, equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer shall at all times be and remain the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.

18.4 The Customer, its employees, agents and sub-contractors shall not make copies of any Confidential Information or in any way part with possession of any Confidential Information.

18.5 This Clause shall survive termination of the Contract, however arising.

## 19. Non-Solicitation

19.1 No Customer shall at any time during the continuation of the Contract or at any time during the period of 6 months immediately following the date of termination of the Contract employ, subcontract or otherwise engage or attempt to employ, subcontract or otherwise engage any of the Supplier's employees, agents, consultants or sub-contractors.

19.2 Should any employee, agent or sub-contractor be employed, subcontracted or otherwise engaged by the Customer at any time during the continuation of the Contract or at any time during the period of 6 months immediately following the date of termination of the Contract, the Customer shall immediately pay to the Supplier a sum equal to the recruitment costs reasonably incurred by Supplier in finding a replacement for the relevant employee, consultant, agent or subcontractor together with a sum equal to the remuneration paid to the relevant employee, consultant, agent or subcontractor during the last 12 months of their employment or other engagement with the Supplier.

19.3 This clause 19 shall not prevent the Customer engaging any of the Supplier's employees, agents or sub-contractors by means of a national advertising campaign open to all-comers and not specifically targeted at such employees, agents or sub-contractors.

## 20. Termination and Auto-Renewal

20.1 The Supplier may immediately terminate the Contract by giving notice to the Customer and/or suspend any further deliveries under the Contract without liability to the Customer if: (a) the Customer is unable to accept delivery of Equipment and/or performance of Services as a result of a Force Majeure Event; (b) the Customer stops trading or is in a position whereby it cannot pay its debts and/or an Insolvency Situation arises; or (c) the Customer materially breaches a term of the Contract and, if such breach is remediable, fails to remedy the breach within 7 (seven) days of receipt of notice of the breach.

20.2 Termination of the Contract shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive or implicitly surviving termination.

20.3 If the Contract is terminated for any reason, Customer shall pay Supplier for all completed work, all sums outstanding under any other Contract, work in progress and any irrecoverable costs incurred by the Supplier.

20.4 The parties may agree in writing that the Services and/or Equipment purchased by the Customer on a subscription basis shall be purchased on an automatic-renewal basis (each such Service and/or Equipment being an "**Auto-Renew Product**"), in which case the Customer's purchase of the Auto-Renew Product shall be automatically renewed at the end of the initial term of the subscription (the "**Initial Period**") for subsequent terms of the same length as the Initial Period (each a "**Subsequent Period**"). If the Customer does not wish its purchase of the Auto-Renew Product to automatically renew, the Customer shall notify the Supplier in writing at least 3 Business Days prior to the end of the Initial Period or the relevant Subsequent Period (as applicable).

20.5 The Supplier reserves the right to amend the Price payable for the Auto-Renew Product for each Subsequent Period and the Supplier shall provide the Customer with at least 20 Business Days' written notice prior to the end of the current Subsequent Period of any such change in Price. The Customer shall be entitled to terminate the Contract for the purchase of such Auto-Renew Products in accordance with the process set out in clause 20.4.

## 21. Force Majeure

21.1 The Supplier reserves the right to delay delivery, or to cancel the Contract if it is prevented from or delayed in performing any of its obligations under the Contract by circumstances beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, tsunami, storm or default of suppliers or sub-contractors ("**Force Majeure Event**"). If the Supplier is prevented, hindered or delayed from

performing its obligations as a result of a Force Majeure Event, the Supplier shall not be in breach of the Contract or otherwise liable for any such failure or delay in performance of such obligations. The time for performance of such obligations shall be extended accordingly.

## **22. Waiver**

22.1 No failure or delay by a party to exercise any right or remedy provided under these Conditions or by law shall constitute a waiver of 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.

## **23. Severance**

23.1 If any provision of these Conditions (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

## **24. Assignment**

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

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

## **25. Third Party Rights**

25.1 No one other than a party to the Contract shall have any right to enforce any of these Conditions.

## **26. Independent Contractors**

26.1 The relationship of Supplier and Customer is that of independent contractors. Under no circumstances shall any employees of one party be deemed to be the employee of the other for any purpose. Nothing in these Conditions shall be construed as creating an agency or joint venture, consortium or partnership between the parties, and neither party shall have the right to assume or create an obligation or responsibility on behalf of the other.

## **27. Entire Agreement**

27.1 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.

## **28. Notices**

28.1 Any notice required to be given pursuant to these Conditions shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office or principal place or business.

28.2 Any notice shall be deemed to have been received: if delivered personally, on delivery; or if sent by post, on the second Business Day after it was posted provided that, if in any case notice would be deemed to be given outside of 9am to 5.30pm on a Business Day, such notice shall instead be deemed to have been given at the start of the next Business Day.

## **29. Governing Law and Jurisdiction**

29.1 The Contract and these Conditions any disputes or claims arising out of or in connection with their subject matter are governed by and construed in accordance with the law of England and the parties agree that the English courts shall have exclusive jurisdiction.