

TRANSENSE TECHNOLOGIES PLC

TERMS AND CONDITIONS FOR THE SALE OF PRODUCTS

<p>1 Definitions and interpretation</p> <p>1.1 In these Conditions the following definitions apply:</p> <p>Affiliate means any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;</p> <p>Bribery Laws means the Bribery Act 2010 and all other applicable UK legislation, statutory instruments and regulations in relation to bribery or corruption and any similar or equivalent legislation in any other relevant jurisdiction;</p> <p>Business Day means a day other than a Saturday, Sunday or bank or public holiday in England;</p> <p>Conditions means the Supplier's terms and conditions of sale set out in this document;</p> <p>Confidential Information means any commercial, financial or technical information, information relating to the Products, plans, know-how or trade secrets which is obviously confidential or has been identified as such, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract;</p> <p>Contract means the agreement between the Supplier and the Customer for the sale and purchase of Products incorporating these Conditions and the Order;</p> <p>Control has the meaning given to it in section 1124 of the Corporation Tax Act 2010;</p> <p>Customer means the person who purchases the Products from the Supplier and whose details are set out in the Order;</p> <p>Force Majeure means an event or sequence of events beyond a party's reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster; war, riot or civil unrest; interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service; or material required for performance of the Contract; strike, lockout or boycott or other industrial action including strikes or other industrial disputes involving the Supplier's or its suppliers workforce, but excluding the Customer's inability to pay or circumstances resulting in the Customer's inability to pay;</p> <p>Intellectual Property Rights means copyright, patents, know-how, trade secrets, trademarks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing-off, domain names and all similar rights and, in each case: whether registered or not including any applications to protect or register such rights including all renewals and extensions of such rights or applications whether vested, contingent or future to which the relevant party is or may be entitled, and in whichever part of the world existing;</p> <p>Location means the address(es) for delivery of the Products as set out in the Order;</p> <p>Order means an order for the Products from the Supplier placed by the Customer;</p> <p>Price has the meaning given in clause 3.1;</p> <p>Specification means the description, any samples, or specification of the Products and their packaging set out or referred to in the Order;</p> <p>Products mean the Products and related accessories, spare parts and documentation and any other physical material set out in the Order and to be supplied by the Supplier to the Customer;</p> <p>Supplier means Transense Technologies Plc a company registered in England with company number 01885075 whose registered office is at 1 Landscape Close, Weston on the Green, Bicester, Oxfordshire OX25 3XK; and</p> <p>VAT means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Products.</p>	<p>8 Title</p> <p>8.1 Title to the Products shall pass to the Customer once the Supplier has received payment in full and cleared funds for the Products.</p> <p>8.2 Until title to the Products has passed to the Customer, the Customer shall:</p> <p>8.2.1 hold the Products as bailee for the Supplier;</p> <p>8.2.2 store the Products separately from all other material in the Customer's possession;</p> <p>8.2.3 take all reasonable care of the Products and keep them in the condition in which they were delivered;</p> <p>8.2.4 insure the Products from the date of Delivery: (i) with a reputable insurer (ii) against all risks (iii) for an amount at least equal to their Price (iv) noting the Supplier's interest on the policy;</p> <p>8.2.5 ensure that the Products are clearly identifiable as belonging to the Supplier;</p> <p>8.2.6 not remove or alter any mark on or packaging of the Products;</p> <p>8.2.7 inform the Supplier immediately if it becomes subject to any of the events or circumstances set out in clause 16.1.1; and</p> <p>8.2.8 on reasonable notice permit the Supplier to inspect the Products during the Customer's normal business hours and premises, and the Supplier with such information concerning the Products as the Supplier may request from time to time.</p> <p>8.3 If, at any time before title to the Products has passed to the Customer, the Customer informs the Supplier, or the Supplier reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clause 16.1.1, the Supplier may:</p> <p>8.3.1 require the Customer at the Customer's expense to re-deliver the Products to the Supplier; and</p> <p>8.3.2 if the Customer fails to do so promptly, enter any premises where the Products are stored and repossess them.</p> <p>9 Warranty and Intellectual Property</p> <p>9.1 The Supplier's warranty, if any, will be as notified to the Customer at the time of order.</p> <p>9.2 The Customer shall not (a) modify, adapt, translate or create derivative works of any Intellectual Property Rights belonging to the Supplier (b) sell, lease, rent, loan, distribute, assign, sublicense, convey or otherwise transfer, pledge as security or otherwise encumber the rights and licenses granted hereunder with respect to any Supplier Intellectual Property Rights; or (c) translate, copy, reverse engineer, re-engineer, decompile, reverse compile or disassemble any Supplier Intellectual Property Rights. The Customer will indemnify, defend and hold harmless the Supplier against any losses, costs, claims, demands, actions, proceedings and/or any other costs or charges incurred by the Supplier arising out of or related to the Customer's breach of this clause 9.2 or the Customer's use of the Supplier's Intellectual Property Rights.</p> <p>10 Anti-bribery</p> <p>10.1 For the purposes of this clause 10 the expressions 'adequate procedures' and 'associated with' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.</p> <p>10.2 Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and ensure that:</p> <p>10.2.1 all of that party's personnel;</p> <p>10.2.2 all others associated with that party; and</p> <p>10.2.3 all of that party's subcontractors;</p> <p>involved in performing the Contract so comply.</p> <p>10.3 Without limitation to clause 10.2, neither party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.</p> <p>10.4 Each party shall immediately notify the other as soon as it becomes aware of a breach of any of the requirements in this clause 10.</p> <p>11 Anti-slavery</p> <p>11.1 The Customer undertakes, warrants and represents that:</p> <p>11.1.1 neither the Customer nor any of its officers, employees, agents or subcontractors has: (a) committed an offence under the Modern Slavery Act 2015 (a MSA Offence); or (b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or</p> <p>11.1.2 it is aware if any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;</p> <p>11.1.2 it shall comply with the Modern Slavery Act 2015; and</p> <p>11.1.3 it shall notify the Supplier immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of Customer's obligations under clause 11.1. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Customer's obligations.</p> <p>11.2 Any breach of clause 11.1 by the Customer shall be deemed a material breach of the Contract and shall entitle the Supplier to terminate the Contract with immediate effect.</p> <p>12 Indemnity and insurance</p> <p>12.1 The Customer shall indemnify the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses which the Supplier may suffer or incur directly or indirectly from the Customer's breach of any of its obligations under the Contract.</p> <p>12.2 The Customer shall have in place contracts of insurance with reputable insurers to cover its obligations under the Contract. On request, the Customer shall supply so far as is reasonable evidence of the maintenance of the insurance and all of its terms from time to time applicable.</p> <p>13 Limitation of liability</p> <p>13.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in clause 13.</p> <p>13.2 Subject to clauses 13.5 and 13.6, the Supplier's total liability to the Customer under each Order shall not exceed the total Price paid by the Customer to the Supplier under that Order.</p> <p>13.3 Subject to clauses 13.5 and 13.6, the Supplier shall not be liable for consequential, indirect or special losses.</p> <p>13.4 The Supplier shall not be liable for any of the following (whether direct or indirect) (a) loss of profit; (b) loss of data; (c) loss of use; (d) loss of production; (e) loss of contract; (f) loss of opportunity; (g) loss of savings, discount or rebate (whether actual or anticipated); nor (h) harm to reputation or loss of goodwill.</p> <p>13.5 The limitations of liability set out in clauses 13.2 to 13.4 shall not apply in respect of any indemnities given by either party under the Contract.</p> <p>13.6 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:</p> <p>13.6.1 death or personal injury caused by negligence;</p> <p>13.6.2 fraud or other fraudulent misrepresentation; nor</p> <p>13.6.3 any other losses which cannot be excluded or limited by applicable law.</p> <p>14 Confidentiality and announcement</p> <p>14.1 The Customer shall keep confidential all Confidential Information of the Supplier and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:</p> <p>14.1.1 any information which was in the public domain at the date of the Contract;</p> <p>14.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;</p> <p>14.1.3 any information which is independently developed by the Customer without using information supplied by the Supplier; or</p> <p>14.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.</p> <p>14.2 This clause 14 shall remain in force for a period of five years from the date of the Contract and, if longer, three years from the termination of the Contract.</p> <p>14.3 The Customer shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.</p> <p>15 Force majeure</p> <p>15.1 A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:</p> <p>15.1.1 promptly notifies the other of the Force Majeure event and its expected duration; and</p> <p>15.1.2 uses best endeavours to minimise the effects of that event.</p> <p>16 Termination</p> <p>16.1 The Customer may terminate the Contract at any time by giving notice in writing to the Customer if:</p> <p>16.1.1 the Supplier commits a material breach of the Contract and such breach is not remediable;</p> <p>16.1.2 the Customer commits a material breach of the Contract which is not remedied within 14 days of receiving written notice of such breach;</p> <p>16.1.3 the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid within 30 days after the Supplier has given notification that the payment is overdue.</p> <p>16.2 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if 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.</p> <p>16.3 The Customer may terminate the Contract at any time by giving not less than four weeks' notice in writing to the Supplier if the Customer undergoes a change of Control.</p> <p>16.4 If the Customer becomes aware that any of the events specified in clause 16.1, it shall immediately notify the Supplier in writing.</p> <p>16.5 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Supplier at any time up to the date of termination.</p> <p>17 Dispute resolution</p> <p>17.1 Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 17.</p> <p>17.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.</p> <p>17.3 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:</p>	<p>17.3.1 within 7 days of service of the notice, the contract managers of the parties shall meet to discuss the dispute and attempt to resolve it;</p> <p>17.3.2 if the dispute has not been resolved within 7 days of the first meeting of the contract managers, then the matter shall be referred to the chief executives (or persons of equivalent seniority). The chief executives (or equivalent) shall meet within 7 days to discuss the dispute and attempt to resolve it.</p> <p>17.4 The specific format for the resolution of the dispute under clause 17.3.1 and, if necessary, clause 17.3.1 shall be left to the reasonable discretion of the parties, but may include the preparation and submission of statements of fact or of position.</p> <p>17.5 If the dispute has not been resolved within 14 days of the first meeting of the chief executives (or equivalent) under clause 17.3.1 then the matter shall be referred to mediation in accordance with the London Court of International Arbitration Mediation Rules.</p> <p>17.6 Either party may issue formal legal proceedings or commence arbitration at any time whether or not the steps referred to in clauses 17.3 and 17.5 have been completed.</p> <p>18 Notices</p> <p>18.1 Any notice or other communication given by a party under these Conditions shall:</p> <p>18.1.1 be in writing and in English;</p> <p>18.1.2 be signed by, or on behalf of, the party giving it (except for notices sent by email); and</p> <p>18.1.3 be sent to the relevant party at the address set out in the Contract</p> <p>18.2 Notices may be given, and are deemed received:</p> <p>18.2.1 by hand: on receipt of a signature at the time of delivery;</p> <p>18.2.2 by Royal Mail Recorded Signed For post: at 9:00 am on the second Business Day after posting;</p> <p>18.2.3 by Royal Mail International Tracked & Signed post: at 9:00 am on the fourth Business Day after posting; and</p> <p>18.2.4 by email provided confirmation is sent by first class post: on receipt of a delivery receipt email from the correct address.</p> <p>19 Cumulative remedies</p> <p>The rights and remedies provided in the Contract for the Supplier only are cumulative and not exclusive of any rights and remedies provided by law.</p> <p>20 Miscellaneous</p> <p>20.1 Further assurance</p> <p>The Customer shall, at the request of the Supplier, and at the Customer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.</p> <p>20.2 Entire agreement</p> <p>20.2.1 The parties agree that the Contract and any documents entered into pursuant to it constitute the entire agreement between them and supercedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.</p> <p>20.2.2 Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.</p> <p>20.2.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.</p> <p>20.3 Variation</p> <p>No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and is duly signed or executed by, or on behalf of, the Supplier.</p> <p>20.4 Assignment</p> <p>20.4.1 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's prior written consent.</p> <p>20.4.2 Notwithstanding clause 20.4.1, the Customer may perform any of its obligations and exercise any of its rights granted under the Contract through any Affiliate provided that it gives the Supplier prior written notice of such subcontracting or assignment including the identity of the relevant Affiliate. The Customer acknowledges and agrees that any act or omission of its Affiliate in relation to the Customer's rights or obligations under the Contract shall be deemed to be an act or omission of the Customer itself.</p> <p>20.5 Set off</p> <p>20.5.1 The Supplier shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract.</p> <p>20.5.2 The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.</p> <p>20.6 No partnership or agency</p> <p>The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.</p> <p>20.7 Equitable relief</p> <p>The Customer recognises that any breach or threatened breach of the Contract may cause the Supplier irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the Supplier, the Customer acknowledges and agrees that the Supplier is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.</p> <p>20.8 Severance</p> <p>20.8.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.</p> <p>20.8.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.</p> <p>20.9 Waiver</p> <p>20.9.1 No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.</p> <p>20.9.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Supplier shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Supplier.</p> <p>20.10 Compliance with law</p> <p>The Customer shall comply with all laws, enactments, regulations, regulatory policies, guidelines and industry codes applicable to it and shall maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.</p> <p>20.11 Conflicts within contract</p> <p>If there is a conflict between the terms contained in the Conditions and the terms of the Order, schedules, appendices or annexes to the Contract, the terms of the Conditions shall prevail.</p> <p>20.12 Third party rights</p> <p>20.12.1 Except as expressly provided for in clause 20.12.2, a person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.</p> <p>20.12.2 Any Affiliate of the Supplier shall be entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract. The consent of any such Affiliate is not required in order to rescind or vary the Contract or any provision of it.</p> <p>20.13 Governing law</p> <p>The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.</p> <p>20.14 Jurisdiction</p> <p>The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).</p>
<p>2 Application of these conditions</p> <p>2.1 These Conditions shall form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.</p> <p>2.2 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Supplier otherwise agrees in writing.</p> <p>2.3 No variation of these Conditions or to an Order or to the Contract shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of the Supplier.</p> <p>2.4 Each Order by the Customer to the Supplier shall be an offer to purchase Products subject to these Conditions.</p> <p>2.5 An Order may be withdrawn or amended by the Customer at any time before acceptance by the Supplier. If the Supplier is unable to accept an Order, it shall notify the Customer as soon as reasonably practicable.</p> <p>2.6 The Supplier may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Products shall arise, until the earlier of:</p> <p>2.6.1 the Supplier's written acceptance of the Order; or</p> <p>2.6.2 the Supplier dispatching the Products or notifying the Customer that they are available for collection (as the case may be).</p> <p>2.7 Rejection by the Supplier of an Order, including any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by the Customer.</p> <p>2.8 The Supplier may issue quotations to the Customer from time to time. Quotations are invitations to treat only. They are not an offer to supply Products and are incapable of being accepted by the Customer.</p> <p>2.9 Marketing and other promotional material relating to the Products are illustrative only and do not form part of the Contract.</p> <p>3 Price</p> <p>3.1 The price for the Products shall be as set out in the Order or, in default of such provision, shall be calculated in accordance with the Supplier's scale of charges in force from time to time (Price).</p> <p>3.2 The Prices are exclusive of VAT (or equivalent sales taxes and packaging, delivery, and insurance which shall be charged in addition to the Supplier's standard rates.</p> <p>3.3 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.</p> <p>3.4 The Supplier may increase the Prices at any time by giving the Customer not less than 15 Business Days' notice in writing provided that the increase does not exceed 10% of the Prices in effect immediately prior to the increase.</p> <p>3.5 Notwithstanding clause 3.4, the Supplier may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of supplying the relevant Products which exceeds 10% and which is due to any factor beyond the control of the Supplier.</p> <p>4 Payment</p> <p>4.1 The Supplier shall invoice the Customer for the Products at any time before or after Delivery. Each invoice shall quote the relevant Order numbers.</p> <p>4.2 The Customer shall pay all invoices:</p> <p>4.2.1 in full without deduction or set-off, in cleared funds within 30 days of the date of each invoice; and</p> <p>4.2.2 to the bank account nominated by the Supplier.</p> <p>4.3 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:</p> <p>4.3.1 the Supplier may, without limiting its other rights, charge interest on such sums at 4% a year above the base rate of the Bank of England's from time to time in force, and interest shall accrue on a daily basis and apply from the due date for payment until actual payment in full, whether before or after judgment.</p> <p>5 Credit limit</p> <p>The Supplier may set and vary credit limits from time to time and withhold all further supplies if the Customer exceeds such credit limit.</p> <p>6 Delivery</p> <p>6.1 An Order shall specify whether the Products are to be:</p> <p>6.1.1 delivered by the Supplier, or by a carrier appointed by the Supplier, to the Location on the date(s) specified in the Order; or</p> <p>6.1.2 made available for collection by the Customer at the Supplier's, or carrier's, premises set out in the Order (as the case may be). The Customer shall collect the Products within the period specified in the Order.</p> <p>6.2 The Products shall be deemed delivered:</p> <p>6.2.1 if delivered by the Supplier under clause 6.1.1, on arrival of the Products at the Location; or</p> <p>6.2.2 if delivered by a carrier under clause 6.1.2, on delivery of the Products by the Supplier to the carrier; or</p> <p>6.2.3 if collected by the Customer under clause 6.1.2, when the Supplier makes the Products available for collection at the Supplier's, or carrier's, premises (as the case may be).</p> <p>6.3 The Products may be delivered by instalments if specified in the Order. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.</p> <p>6.4 Delivery of the Products shall be accompanied by a delivery note stating:</p> <p>6.4.1 the date of the Order;</p> <p>6.4.2 the product numbers, type and quantity of Products in the consignment; and</p> <p>6.4.3 any special handling instructions.</p> <p>6.5 Time of delivery is not of the essence. The Supplier shall use its reasonable endeavours to meet delivery dates but such dates are approximate only.</p> <p>6.6 The Supplier shall not be liable for any delay in or failure of delivery caused by:</p> <p>6.6.1 the Customer's failure to: (i) make the Location available, (ii) prepare the Location in accordance with the Supplier's instructions or (iii) provide the Supplier with adequate instructions for delivery;</p> <p>6.6.2 the Customer's failure to collect the Products from the Supplier's premises; or</p> <p>6.6.3 Force Majeure.</p> <p>6.7 If the Customer fails to accept delivery of the Products the Supplier shall store and insure the Products pending delivery, and the Customer shall pay all costs and expenses incurred by the Supplier in doing so.</p> <p>6.8 If 10 Business Days following the due date for delivery or collection of the Products, the Customer has not taken delivery of or collected them, the Supplier may resell or otherwise dispose of the Products. The Supplier shall deduct reasonable storage charges and costs of resale.</p> <p>7 Risk</p> <p>Risk in the Products shall pass to the Customer on Delivery.</p>	<p>9</p> <p>9.1 The Supplier's warranty, if any, will be as notified to the Customer at the time of order.</p> <p>9.2 The Customer shall not (a) modify, adapt, translate or create derivative works of any Intellectual Property Rights belonging to the Supplier (b) sell, lease, rent, loan, distribute, assign, sublicense, convey or otherwise transfer, pledge as security or otherwise encumber the rights and licenses granted hereunder with respect to any Supplier Intellectual Property Rights; or (c) translate, copy, reverse engineer, re-engineer, decompile, reverse compile or disassemble any Supplier Intellectual Property Rights. The Customer will indemnify, defend and hold harmless the Supplier against any losses, costs, claims, demands, actions, proceedings and/or any other costs or charges incurred by the Supplier arising out of or related to the Customer's breach of this clause 9.2 or the Customer's use of the Supplier's Intellectual Property Rights.</p> <p>10 Anti-bribery</p> <p>10.1 For the purposes of this clause 10 the expressions 'adequate procedures' and 'associated with' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.</p> <p>10.2 Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and ensure that:</p> <p>10.2.1 all of that party's personnel;</p> <p>10.2.2 all others associated with that party; and</p> <p>10.2.3 all of that party's subcontractors;</p> <p>involved in performing the Contract so comply.</p> <p>10.3 Without limitation to clause 10.2, neither party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.</p> <p>10.4 Each party shall immediately notify the other as soon as it becomes aware of a breach of any of the requirements in this clause 10.</p> <p>11 Anti-slavery</p> <p>11.1 The Customer undertakes, warrants and represents that:</p> <p>11.1.1 neither the Customer nor any of its officers, employees, agents or subcontractors has: (a) committed an offence under the Modern Slavery Act 2015 (a MSA Offence); or (b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or</p> <p>11.1.2 it is aware if any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;</p> <p>11.1.2 it shall comply with the Modern Slavery Act 2015; and</p> <p>11.1.3 it shall notify the Supplier immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of Customer's obligations under clause 11.1. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Customer's obligations.</p> <p>11.2 Any breach of clause 11.1 by the Customer shall be deemed a material breach of the Contract and shall entitle the Supplier to terminate the Contract with immediate effect.</p> <p>12 Indemnity and insurance</p> <p>12.1 The Customer shall indemnify the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses which the Supplier may suffer or incur directly or indirectly from the Customer's breach of any of its obligations under the Contract.</p> <p>12.2 The Customer shall have in place contracts of insurance with reputable insurers to cover its obligations under the Contract. On request, the Customer shall supply so far as is reasonable evidence of the maintenance of the insurance and all of its terms from time to time applicable.</p> <p>13 Limitation of liability</p> <p>13.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in clause 13.</p> <p>13.2 Subject to clauses 13.5 and 13.6, the Supplier's total liability to the Customer under each Order shall not exceed the total Price paid by the Customer to the Supplier under that Order.</p> <p>13.3 Subject to clauses 13.5 and 13.6, the Supplier shall not be liable for consequential, indirect or special losses.</p> <p>13.4 The Supplier shall not be liable for any of the following (whether direct or indirect) (a) loss of profit; (b) loss of data; (c) loss of use; (d) loss of production; (e) loss of contract; (f) loss of opportunity; (g) loss of savings, discount or rebate (whether actual or anticipated); nor (h) harm to reputation or loss of goodwill.</p> <p>13.5 The limitations of liability set out in clauses 13.2 to 13.4 shall not apply in respect of any indemnities given by either party under the Contract.</p> <p>13.6 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:</p> <p>13.6.1 death or personal injury caused by negligence;</p> <p>13.6.2 fraud or other fraudulent misrepresentation; nor</p> <p>13.6.3 any other losses which cannot be excluded or limited by applicable law.</p> <p>14 Confidentiality and announcement</p> <p>14.1 The Customer shall keep confidential all Confidential Information of the Supplier and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:</p> <p>14.1.1 any information which was in the public domain at the date of the Contract;</p> <p>14.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;</p> <p>14.1.3 any information which is independently developed by the Customer without using information supplied by the Supplier; or</p> <p>14.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.</p> <p>14.2 This clause 14 shall remain in force for a period of five years from the date of the Contract and, if longer, three years from the termination of the Contract.</p> <p>14.3 The Customer shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.</p> <p>15 Force majeure</p> <p>15.1 A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:</p> <p>15.1.1 promptly notifies the other of the Force Majeure event and its expected duration; and</p> <p>15.1.2 uses best endeavours to minimise the effects of that event.</p> <p>16 Termination</p> <p>16.1 The Customer may terminate the Contract at any time by giving notice in writing to the Customer if:</p> <p>16.1.1 the Supplier commits a material breach of the Contract and such breach is not remediable;</p> <p>16.1.2 the Customer commits a material breach of the Contract which is not remedied within 14 days of receiving written notice of such breach;</p> <p>16.1.3 the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid within 30 days after the Supplier has given notification that the payment is overdue.</p> <p>16.2 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if 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.</p> <p>16.3 The Customer may terminate the Contract at any time by giving not less than four weeks' notice in writing to the Supplier if the Customer undergoes a change of Control.</p> <p>16.4 If the Customer becomes aware that any of the events specified in clause 16.1, it shall immediately notify the Supplier in writing.</p> <p>16.5 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Supplier at any time up to the date of termination.</p> <p>17 Dispute resolution</p> <p>17.1 Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 17.</p> <p>17.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.</p> <p>17.3 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:</p>	<p>17.3.1 within 7 days of service of the notice, the contract managers of the parties shall meet to discuss the dispute and attempt to resolve it;</p> <p>17.3.2 if the dispute has not been resolved within 7 days of the first meeting of the contract managers, then the matter shall be referred to the chief executives (or persons of equivalent seniority). The chief executives (or equivalent) shall meet within 7 days to discuss the dispute and attempt to resolve it.</p> <p>17.4 The specific format for the resolution of the dispute under clause 17.3.1 and, if necessary, clause 17.3.1 shall be left to the reasonable discretion of the parties, but may include the preparation and submission of statements of fact or of position.</p> <p>17.5 If the dispute has not been resolved within 14 days of the first meeting of the chief executives (or equivalent) under clause 17.3.1 then the matter shall be referred to mediation in accordance with the London Court of International Arbitration Mediation Rules.</p> <p>17.6 Either party may issue formal legal proceedings or commence arbitration at any time whether or not the steps referred to in clauses 17.3 and 17.5 have been completed.</p> <p>18 Notices</p> <p>18.1 Any notice or other communication given by a party under these Conditions shall:</p> <p>18.1.1 be in writing and in English;</p> <p>18.1.2 be signed by, or on behalf of, the party giving it (except for notices sent by email); and</p> <p>18.1.3 be sent to the relevant party at the address set out in the Contract</p> <p>18.2 Notices may be given, and are deemed received:</p> <p>18.2.1 by hand: on receipt of a signature at the time of delivery;</p> <p>18.2.2 by Royal Mail Recorded Signed For post: at 9:00 am on the second Business Day after posting;</p> <p>18.2.3 by Royal Mail International Tracked & Signed post: at 9:00 am on the fourth Business Day after posting; and</p> <p>18.2.4 by email provided confirmation is sent by first class post: on receipt of a delivery receipt email from the correct address.</p> <p>19 Cumulative remedies</p> <p>The rights and remedies provided in the Contract for the Supplier only are cumulative and not exclusive of any rights and remedies provided by law.</p> <p>20 Miscellaneous</p> <p>20.1 Further assurance</p> <p>The Customer shall, at the request of the Supplier, and at the Customer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.</p> <p>20.2 Entire agreement</p> <p>20.2.1 The parties agree that the Contract and any documents entered into pursuant to it constitute the entire agreement between them and supercedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.</p> <p>20.2.2 Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.</p> <p>20.2.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.</p> <p>20.3 Variation</p> <p>No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and is duly signed or executed by, or on behalf of, the Supplier.</p> <p>20.4 Assignment</p> <p>20.4.1 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's prior written consent.</p> <p>20.4.2 Notwithstanding clause 20.4.1, the Customer may perform any of its obligations and exercise any of its rights granted under the Contract through any Affiliate provided that it gives the Supplier prior written notice of such subcontracting or assignment including the identity of the relevant Affiliate. The Customer acknowledges and agrees that any act or omission of its Affiliate in relation to the Customer's rights or obligations under the Contract shall be deemed to be an act or omission of the Customer itself.</p> <p>20.5 Set off</p> <p>20.5.1 The Supplier shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract.</p> <p>20.5.2 The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.</p> <p>20.6 No partnership or agency</p> <p>The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.</p> <p>20.7 Equitable relief</p> <p>The Customer recognises that any breach or threatened breach of the Contract may cause the Supplier irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the Supplier, the Customer acknowledges and agrees that the Supplier is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.</p> <p>20.8 Severance</p> <p>20.8.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.</p> <p>20.8.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion</p>