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TERMS AND CONDITIONS

The Customer's attention is drawn in particular to the provisions of condition 11.

1. Definitions and 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;
Charges	the charges payable by the Customer for the supply of the Services in accordance with condition 9.2;
Commencement Date	has the meaning given in condition 2.3;
Conditions	the terms and conditions set out in this document as amended from time to time in accordance with condition 15.2;
Confidential Information	any and all know-how, documentation and information, whether commercial, financial, technical, operational or otherwise, relating to the business, affairs, customers, suppliers, employees, affiliates, products and/or methods of the Supplier and disclosed to or otherwise obtained by the Customer in connection with the Contract;
Contract	the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions, the Order, and the Order Acknowledgement (as applicable);
Customer	the person or firm who purchases Goods and/or Services from the Supplier;
Deliverables	all documents, products and materials developed by the Supplier or the Supplier's Personnel as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);
Force Majeure Event	has the meaning given in condition 14;
Goods	the goods (or any part of them) set out in the Order;
Goods Specification	the specification for the Goods that is set out in the Order Acknowledgement;
Insolvency Event	has the meaning given in conditions 13.1(b) and 13.1(c);

Intellectual Property Rights	patents, rights to inventions, copyright and related rights, moral 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 trade secrets and all other intellectual property rights), in each case whether registered or unregistered and including all applications and rights to apply for and be granted renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
Order	the Customer's order for the supply of the Goods and/or Services, as set out in the Customer's purchase order form or the Customer's written acceptance of the Supplier's quotation, as the case may be;
Order Acknowledgement	has the meaning given in condition 2.3;
Price	the price payable by the Customer for the supply of the Goods in accordance with condition 9.1;
Service Specification	the specification for the Services that is set out in the Order Acknowledgement;
Services	the services, including any Deliverables, to be provided by the Supplier under the Contract in accordance with the Service Specification;
Supplier	Flexiform Business Furniture Limited (registered in England and Wales with company number 02542123), which may include its trading division Asgard Secure Steel Storage from time to time;
Supplier Materials	all materials, equipment and tools, drawings, specifications and data supplied or made available by the Supplier to the Customer;
Supplier's Personnel	the personnel including subcontractors engaged by the Supplier in the performance of the Contract;
Warranty Period	unless otherwise stated by the Supplier (including on the Supplier's website) and subject to any terms stated in the Contract: (i) for chairs and seating, 5 years from the date of manufacture; (ii) for furniture manufactured by the Supplier, 10 years from the date of manufacture; (iii) for fabrics contained in materials, in accordance with the individual manufacturers' warranties; (iv) for power module and service parts, 1 year from the date of manufacture; (v) for all other furniture or parts thereof, 5 years from the date of manufacture; and (vi) for Asgard Secure Steel Storage rust resistant storage sheds, 10 years from the date of manufacture in relation to the anti-perforation warranty only.

- 1.2 **Interpretation** In these Conditions, the following rules apply:
- (a) a reference to a statute or statutory provision is a reference to such statute or provision as amended, re-enacted or superseded and includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
 - (b) 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
 - (c) a reference to **writing or written** includes email, but not fax.

2. **Basis of contract**

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Goods Specification and/or Service Specification are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when the Supplier issues a written confirmation of the Order (**Order Acknowledgement**), at which point the Contract shall come into existence (**Commencement Date**). Once the Contract comes into existence, the Customer shall not cancel or vary the Order without the Supplier's express written consent. The Supplier reserves the right to charge the Customer cancellation charges of:
- (a) 30% in relation to Goods which are standard products; and
 - (b) 100% in relation to Goods which are bespoke or specifically-tailored products which have been put into manufacture.
- 2.4 Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 Any quotation given by the Supplier shall not constitute an offer. Unless otherwise stated on the quotation, a quotation shall only be valid for a period of 20 Business Days from its date of issue.
- 2.6 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any document that is inconsistent with these Conditions.

3. **Goods**

- 3.1 Subject to condition 2.4, the Goods are described in the Supplier's quotation, on the Supplier's website and/or in the Supplier's catalogue (as the case may be), and as modified by any applicable Goods Specification.
- 3.2 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.

4. Delivery of the Goods

- 4.1 Where it deems it appropriate, the Supplier shall issue a delivery note with each delivery of the Goods which shows the date of the Order, relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 4.2 The Supplier may require the Customer to return any packaging materials to the Supplier. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.
- 4.3 The Goods shall be delivered as set out in the Order either by:
- (a) the Supplier delivering the Goods to the location set out in the Order or such other location as the parties may agree (**Customer's Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready; or
 - (b) the Customer collecting the Goods from the Supplier's premises at 1392 Leeds Road, Bradford, West Yorkshire, BD3 7AE or such other location as may be advised by the Supplier prior to delivery (**Supplier's Delivery Location**) within 5 Business Days of the Supplier notifying the Customer that the Goods are ready.
- 4.4 The Customer shall provide all necessary delivery instructions, documents, licences, authorisations, labour and equipment to enable the Goods to be safely unloaded at the Customer's Delivery Location or safely loaded at the Supplier's Delivery Location as applicable and shall ensure that each delivery of Goods is signed for by an authorised representative.
- 4.5 Delivery of the Goods shall be completed on the Goods' arrival at the Customer's Delivery Location or on the completion of loading of the Goods at the Supplier's Delivery Location as applicable.
- 4.6 The Supplier will take reasonable endeavours to meet any dates quoted for delivery, however the time of delivery is not of the essence.
- 4.7 The Supplier shall not be liable for any delay in delivery of the Goods or failure to deliver the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.8 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.
- 4.9 If the Customer fails to take or accept delivery of the Goods in accordance with condition 4.3 and the Supplier is unable to deliver the Goods and/or perform the Services due to the Customer's breach of condition 4.4 then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:
- (a) delivery of the Goods and performance of the Services shall be deemed to have been completed as required by condition 4.3, which shall entitle the Supplier to issue an invoice for them; and

- (b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance, storage and additional handling and transport costs).

4.10 Unless otherwise agreed between the parties, if 10 Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken or accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage, handling, insurance and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

4.11 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5. Quality of the Goods

5.1 Save where alternative warranty terms are set out on the Supplier's website, the Supplier warrants that on delivery and for the relevant Warranty Period, the Goods shall:

- (a) conform in all material respects with the Goods Specification;
- (b) be free from material defects in design, material and workmanship; and
- (c) be fit for any purpose held out by the Supplier.

5.2 Subject to condition 5.3, if:

- (a) the Customer gives notice in writing to the Supplier during the Warranty Period and within 30 days of discovery that some or all of the Goods do not comply with the warranty set out in condition 5.1 and provides sufficient information and details to allow the Supplier to assess the claim;
- (b) the Supplier is given a reasonable opportunity of examining such Goods; and
- (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.3 The Supplier shall not be liable for any Goods' failure to comply with the warranty set out in condition 5.1 if:

- (a) the Customer makes any further use of such Goods after giving notice in accordance with condition 5.2;
- (b) the defect arises because the Customer or a third party engaged by it failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Customer;

- (d) the Customer alters or repairs such Goods without the written consent of the Supplier;
- (e) any warranty label on the Goods is removed;
- (f) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions (including in relation to Goods which bear the weight of individuals (e.g. chairs and seating), the Goods being used for more than a normal 8 hour working day); or
- (g) the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

5.4 Except as provided in this condition 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in condition 5.1.

5.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

5.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

6. Title and risk

6.1 Risk in the Goods shall pass to the Customer on completion of delivery of such Goods or deemed delivery in accordance with condition 4.9(a).

6.2 Title to the Goods shall pass to the Customer at the earlier of:

- (a) the Supplier receiving payment in full (in cash or cleared funds) for:
 - (i) the Goods; and
 - (ii) any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and
- (b) the Customer reselling the Goods, in which case title to the Goods shall pass to the Customer at the time specified in condition 6.4.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) store the Goods for which it has not paid separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to an Insolvency Event; and
- (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.

- 6.4 Subject to condition 6.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:
- (a) it does so as principal and not as the Supplier's agent; and
 - (b) title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 6.5 If before title to the Goods passes to the Customer the Customer becomes subject to an Insolvency Event, then, without limiting any other right or remedy the Supplier may have:
- (a) the Customer must immediately notify the Supplier of the event;
 - (b) the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
 - (c) the Supplier may at any time:
 - (i) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
 - (ii) 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.

7. Performance of the Services

- 7.1 The Supplier shall from the Commencement Date and for the duration of the Contract provide the Services to the Customer in accordance with the Contract and all relevant standards governing the Supplier in the UK relating to the design, installation and layout of the Goods, in all material respects.
- 7.2 The Supplier shall use reasonable endeavours to perform the Services by the date(s) specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 7.3 The Supplier warrants that it shall provide the Services with reasonable care and skill. The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

8. Customer obligations

- 8.1 The Customer shall:
- (a) ensure that the terms of the Order and the Goods Specification and Services Specification are complete and accurate;
 - (b) co-operate with the Supplier in all matters relating to the Services;
 - (c) provide the Supplier and the Supplier's Personnel with access to the Customer's premises, office accommodation and other facilities reasonably required by the Supplier for the purpose of providing the Services;

- (d) provide such information to the Supplier as the Supplier may reasonably request for the purpose of providing the Services and ensure that such information is accurate in all material respects;
- (e) obtain and maintain all necessary licences, permissions and consents which may be required for the receipt and use of the Goods and/or Services before the Commencement Date;
- (f) prepare the Customer's premises for the supply of the Services, including communicating in a clear and timely manner to the Supplier any rules and regulations which the Supplier is obliged to abide by whilst accessing the Customer's premises;
- (g) keep and maintain all Supplier Materials at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation
- (h) comply with all applicable laws with respect to its activities under the Contract;
- (i) take responsibility for electrical installations from:
 - (i) completion of any installation carried out by the Supplier; or
 - (ii) delivery of the Goods where installation is not carried out by the Supplier, and the Supplier accepts no responsibility for such installation; and
- (j) carry out such training of the Customer's personnel as is required in relation to the use of the Goods.

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

- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend provision of the Goods and/or performance of the Services until the Customer remedies the Customer Default;
- (b) the Supplier shall not be liable for any losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this condition 8.2; and
- (c) the Customer shall reimburse the Supplier on demand for any losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

9. Charges and payment

9.1 The Price shall be the total amount for the Goods (including any stated packaging, insurance and transport costs) as set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force on the date of delivery.

9.2 The Charges shall be as set out in the Order. Where the Charges are not stated in the Order, they shall be calculated on the basis of the Supplier's normal charges for the relevant

Services and where such Charges are charged. The Supplier's daily fee rates for each individual are calculated on the basis:

- (a) of an eight-hour day from 08:00 to 17:00 worked on Business Days (**Working Hours**); and
- (b) that the Supplier shall be entitled to charge an enhanced overtime rate on top of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by any Supplier's Personnel outside Working Hours.

9.3 The Price and the Charges exclude amounts in respect of value added tax (**VAT**), which the Customer shall pay to the Supplier at the prevailing rate, subject to receipt of a valid VAT invoice.

9.4 The Supplier reserves the right to:

- (a) increase its daily fee rates once in any 12 month period. The Supplier shall give the Customer written notice of any such increase 2 months before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify the Supplier in writing within 2 weeks of the date of the Supplier's notice and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving 4 weeks' written notice to the Customer; and
- (b) increase the Price to reflect any increase in the cost of the Goods that is due to:
 - (i) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties and increases in labour, materials and other manufacturing costs);
 - (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
 - (iii) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

9.5 In respect of Goods, the Supplier shall invoice the Customer for such Goods plus VAT at the prevailing rate (if applicable) on or at any time after the Goods have left the Supplier's premises. In respect of Services, the Supplier shall invoice the Customer for such Services plus VAT at the prevailing rate (if applicable) on completion of the Services.

9.6 Where Goods are delivered in phases, the Supplier may invoice the Customer for that portion of the Goods that have left the Supplier's premises on or at any time after the Goods have left the Supplier's premises.

9.7 The Customer shall pay each invoice in full and in cleared funds within 30 days of the date of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier. Time of payment is of the essence.

9.8 Payment shall fall due in accordance with condition 9.7 and the Supplier shall accordingly be entitled to sue for the price once it is due, despite the fact that title to the Goods has not passed to the Customer.

9.9 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% above the Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or

after judgment. The Customer shall pay the interest together with the overdue amount. The Customer shall indemnify, keep indemnified and hold harmless the Supplier in respect of any loss, liability, damage, costs and expenses (including, without limitation, legal costs) suffered or incurred by the Supplier in recovering any unpaid and overdue sums.

- 9.10 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

10. Intellectual Property Rights

- 10.1 The Customer acknowledges that all Intellectual Property Rights used by or subsisting in the Goods and the Supplier Materials are and shall remain the sole property of the Supplier or (as the case may be) the third party rights owner.

- 10.2 Unless otherwise agreed in writing, all Intellectual Property Rights arising in the performance of the Services (including the Deliverables) shall be owned by the Supplier.

- 10.3 The Customer may use the Deliverables only for the purpose of receiving the Services. The Customer shall not supply the Deliverables to any third party or use the Services or the Deliverables to provide a service to any third party.

- 10.4 To the extent that the Goods are to be manufactured in accordance with a specification supplied by the Customer, the Customer shall indemnify, keep indemnified and hold harmless the Supplier from and against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit and loss of reputation whether arising in tort (including negligence), in contract or otherwise and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier as a result of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the Supplier's use of the specification supplied by the Customer. This condition 10.4 shall survive termination of the Contract.

- 10.5 The Supplier may inform third parties that it provides or has provided the Goods to the Customer. The Customer licenses the Supplier to use its name and logo(s) for this sole purpose.

11. Liability

- 11.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its Supplier's Personnel (as applicable);
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982;
 - (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
 - (e) defective products under the Consumer Protection Act 1987; or
 - (f) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

- 11.2 Subject to condition 11.1:
- (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty, or otherwise, for:
 - (i) any indirect, special, consequential or pure economic loss or damage;
 - (ii) any loss of profits, anticipated profits, revenue or business opportunities; or
 - (iii) damage to goodwill(in each case arising as a direct or indirect result of the relevant claim); and
 - (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the total value of the Contract.

12. Confidentiality

- 12.1 Except as permitted by condition 12.2, the Customer shall:
- (a) only use the Supplier's Confidential Information for the performance of the Contract; and
 - (b) keep the Supplier's Confidential Information strictly confidential and not, without the Supplier's prior written consent, disclose it to any other person.
- 12.2 The Customer may disclose the Supplier's Confidential Information:
- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the Customer's rights or carrying out its obligations under or in connection with the Contract and the Customer shall ensure that such persons comply with this condition 12; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 This condition 12 shall survive termination of the Contract.

13. Termination

- 13.1 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if the other party:
- (a) commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within thirty days of being notified in writing to do so;
 - (b) (being a body corporate) is declared or becomes insolvent, has a moratorium declared in respect of any of its indebtedness, enters into administration, receivership, administrative receivership or liquidation or threatens to do any of these things or takes or suffers any similar action in any jurisdiction (an **Insolvency Event**);

- (c) (being an individual) is declared bankrupt, enters into any composition or arrangement with his creditors, has a receiver appointed to any of his assets, or ceases to carry on business or takes or suffers any similar action in any jurisdiction (also an **Insolvency Event**) (or, the other party being a partnership, has a partner to whom any Insolvency Event applies);
- (d) (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; or
- (e) suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

13.2 Without limiting its other rights or remedies, the Supplier may:

- (a) terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment and fails to pay all outstanding amounts within seven Business Days after being given written notice to do so; or
- (b) suspend provision of the Goods and/or Services under the Contract or any other contract between the Supplier and the Customer if the Customer becomes subject to an Insolvency Event or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under the Contract on the due date for payment.

13.3 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which the Customer shall pay immediately on receipt;
- (b) the Customer shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose other than (receiving and using the Services);
- (c) the parties' rights and remedies that have accrued as at termination shall be unaffected; and
- (d) conditions that expressly or by implication survive termination of the Contract shall continue in full force and effect.

14. **Force majeure**

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event which hinders, delays or prevents performance of a party's obligations and which is either beyond that party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third

party's), failure or interruption of energy sources, other utility service or transport network, acts of God, war, threat of or preparation for war, armed conflict, terrorism, riot, civil commotion, interference by civil or military authorities, sanctions, embargo, export or import restriction, quota or prohibition, breaking off of diplomatic relations, national or international calamity, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosion, collapse of building structures, fire, flood, drought, storm, earthquake, volcanic eruption, loss at sea, epidemic, pandemic or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

15. General

15.1 **Entire agreement** The Contract (incorporating these Conditions) 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. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.

15.2 **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 Supplier.

15.3 **Waiver** Except as set out in condition 2.6, 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 or 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.

15.4 **Severance** If any 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 shall be deemed deleted. Any modification or deletion of a provision under this condition shall not affect the validity and enforceability of the rest of the Contract.

15.5 Notices

(a) Any notice given to a party under or in connection with the Contract 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 (if a company) or its principal place of business (in any other case).

(b) Any notice shall be deemed to have been received: (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the correct address; and (ii) if sent by pre-paid first class post or other next working day delivery service, at 09:00 on the second Business Day after posting.

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

(d) A notice given under the Contract is not valid if sent by fax or email.

- 15.6 **Third party rights** No one other than a party to the Contract and their permitted assignees shall have any right to enforce any of its terms.
- 15.7 **Relationship** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the Supplier and the Customer, constitute either party the agent of the other party or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 15.8 **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 governed by, and construed in accordance with, the law of England and Wales.
- 15.9 **Jurisdiction** Each party irrevocably agrees 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 or its subject matter or formation (including non-contractual disputes or claims).