

# THE CHARTERED INSTITUTE OF PROCUREMENT AND SUPPLY

## TERMS AND CONDITIONS FOR THE SUPPLY OF DELIVERABLES

### SECTION A - GENERAL TERMS - CONSUMER

#### 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions (including each Section) the following words and expressions have the following meanings unless inconsistent with the context:

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| <b>“Additional Charges”</b>       | any expenses, taxes, duties or other charges levied by any Governmental or authority in respect of or by reason of the sale, delivery, export or import of the Deliverables, courier and messenger costs, archiving and any other additional charges payable by the Customer in addition to the Price;   |
| <b>“Applicable Laws”</b>          | all applicable laws, statutes, regulations and other similar instruments from time to time in force in the United Kingdom;   |
| <b>“CIPS”</b>                     | The Chartered Institute of Procurement and Supply a charitable company incorporated by Royal Charter in England and Wales with company number RC000876 and charity number 1017938 whose public address is at Easton House, Church Street, Easton on the Hill, Stamford, Lincolnshire, PE9 3NZ;   |
| <b>“CIPS Group”</b>               | any Subsidiary or Holding Company of CIPS from time to time;   |
| <b>“Commencement Date”</b>        | the date on which the Contract comes into existence in accordance with Condition 4.5 of this Section A;  |
| <b>“Confidential Information”</b> | without limitation, business, commercial, economic, financial, operational, technical, administrative, marketing, planning and staff information and data relating to the Supplying Party or its interests disclosed including any Intellectual Property Rights to the Receiving Party whether before, during or after the provision of the Deliverables, whether in written, oral, pictorial or any other form, and all information, data, know-how, trade secrets, formulae, processes, designs, photographs, drawings, specifications, software programs, samples or other material attributable to or deriving its existence from the provision of the Deliverables. <b>“Supplying Party”</b> and <b>“Receiving Party”</b> shall have the meanings ascribed in Condition 15 of this Section A; |
| <b>“Conditions”</b>               | these General Terms and the Specific Terms stated to apply in the Contract Details;  |

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| <b>“Contract”</b>                    | any agreement for the supply of Deliverables from the Supplier to the Customer in accordance with Condition 4.5 of this Section A;  |
| <b>“Contract Details”</b>            | the specific details of the Contract confirmed by the Supplier in writing to the Customer prior to delivery of the Deliverables including any Proposal;   |
| <b>“Costs”</b>                       | all costs, (including but not limited to any legal fees (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier (either directly or by a third party) including disbursements, VAT and other expenses;  |
| <b>“Customer”</b>                    | the person to whom the Supplier provides Deliverables as set out in the Contract Details;   |
| <b>“Customer Equipment”</b>          | any apparatus and equipment required by the Supplier for the supply of the Deliverables, including the equipment detailed in the Contract Details;  |
| <b>“Data Protection Legislation”</b> | the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party; |
| <b>“Delegate”</b>                    | an individual who is to attend any training comprised in the Deliverables, as detailed in the Contract Details, or such replacement as the Customer may agree in writing;   |
| <b>“Deliverables”</b>                | Goods, Services, Materials, Training Materials and all products developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form, including, without limitation, computer programs, data, reports and specifications (including drafts);  |
| <b>“Delivery Location”</b>           | the location for delivery (including an e-mail address or other online location or portal where e-delivery is agreed) of the Deliverables as set out in the Contract Details;   |
| <b>“Dispute”</b>                     | has the meaning set out in Condition 23.1 of this Section A;  |
| <b>“Dispute Notice”</b>              | has the meaning set out in Condition 23.2 of this Section A;  |
| <b>“Due Date”</b>                    | the due date for payment of the Supplier’s invoices, as set out in Condition 6.1 of this Section A;   |

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| <b>“Escalation to Mediation Date”</b> | has the meaning set out in Condition 23.2 of this Section A;   |
| <b>“General Terms”</b>                | means the general terms and conditions set out in this Section A;  |
| <b>“Goods”</b>                        | all goods supplied by the Supplier to the Customer pursuant to the Contract as detailed in the Contract Details, including but not limited to digital products, eLearning, eBooks;   |
| <b>“Holding Company”</b>              | has the meaning set out in Condition 1.8 of this Section A;  |
| <b>“Implementation Services”</b>      | means any activities and actions reasonably required, or which are set out in the Contract Details to be required, in order for the Supplier to supply the Deliverables;   |
| <b>“Improvement”</b>                  | has the meaning set out in Condition 14.3 of this Section A;   |
| <b>“Input Materials”</b>              | all Materials, information and documents provided by the Customer, including computer programs, data, reports and specifications and any such requirements set out in the Contract Details;  |
| <b>“Insolvent”</b>                    | <p>a party is insolvent if:</p> <ul style="list-style-type: none"> <li>(a) it suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or</li> <li>(b) it commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or</li> <li>(c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with its winding up; or</li> <li>(d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed over it; or</li> <li>(e) a floating charge holder over its assets has become entitled to appoint or has appointed, an administrative receiver; or</li> </ul> |

- (f) a person becomes entitled to appoint a receiver over its assets or a receiver is appointed over its assets; or
- (g) being an individual, it is the subject of a bankruptcy application or petition or order; or
- (h) a creditor or encumbrancer of it attaches or takes possession of, or a distress, execution, sequestration or enforcement, taking of control pursuant to schedule 12 of the Tribunals, Courts and Enforcement Act 2007 or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 10 Working Days; or
- (i) a person serves a notice of enforcement under paragraph 7 of schedule 12 of the Tribunals, Courts and Enforcement Act 2007; or
- (j) any event occurs, or proceeding is taken, in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in paragraphs (a) to (i) above (inclusive); or
- (k) it suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;

**“Intellectual Property Rights”**

all patents, industrial designs, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, 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 and **“Intellectual Property Right”** means any one of the Intellectual Property Rights;

**“Materials”**

all documents, videos, guides, training materials, e-learning courses, technology, concepts, ideas, data, programmes or software (including source and object codes), specifications, plans, drawings, schedules, minutes, schemes, formulae, designs, systems, processes, logos, marks, literature, styles, reports, designs, artwork, models, prototypes, photographs, films, sound recordings or any other documents, works or materials (in whatever form and

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|   | on whatever media held) embodying information in any form;   |
| <b>“Normal Working Hours”</b>           | 09:00 to 17:00 during Working Days;  |
| <b>“Payment Schedule”</b>               | the payment schedule (if any) set out in the Contract Details;   |
| <b>“Price”</b>                          | the price due from the Customer for the supply of the Deliverables as detailed in the Contract Details;  |
| <b>“Proposal”</b>                       | any proposal, tender, estimate, scope of works or quotation submitted to the Customer by the Supplier prior to the Contract being made, including but not limited to the proposal set out in the Contract Details;   |
| <b>“Services”</b>                       | the services to be provided by the Supplier to the Customer pursuant to the Contract and detailed in the Contract Details;   |
| <b>“Specific Terms”</b>                 | the terms and conditions relevant to the Deliverables to be supplied by the Supplier, as set out in Section B through to Section H as agreed in the Contract Details;  |
| <b>“Subsidiary”</b>                     | has the meaning set out in Condition 1.8 of this Section A;  |
| <b>“Supplier”</b>                       | the member of the CIPS Group stated in the Contract Details;   |
| <b>“Term”</b>                           | as set out in the Contract Details;  |
| <b>“Territory”</b>                      | means the single geographical area set out in the Contract Details;  |
| <b>“UK Data Protection Legislation”</b> | all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; |
| <b>“User”</b>                           | a single email address which has been authenticated for use through a User Authentication Email and made available to a single eligible individual identified by the Customer;   |
| <b>“Unpaid Amount”</b>                  | any sum due to the Supplier under the Contract which has not been paid by the Customer to the Supplier by the Due Date;  |
| <b>“VAT”</b>                            | value added tax or any equivalent tax chargeable in the UK or elsewhere; and   |

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| <b>“Virus”</b>         | any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices; |
| <b>“Vulnerability”</b> | a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact on the confidentiality, integrity, or availability;  |
| <b>“Working Day”</b>   | any day from Monday to Friday other than a statutory holiday or public holiday in England.   |

- 1.2 References to any statute or statutory provision include, unless the context otherwise requires, a reference to the statute or statutory provision as modified or re-enacted and in force from time to time, and any subordinate legislation made from time to time under the relevant statute or statutory provision.
- 1.3 References to **“persons”** include natural persons, firms, partnerships, companies, corporations, associations and organisations, (in each case whether or not having separate legal personality).
- 1.4 Use of any gender includes the other genders.
- 1.5 Words in the singular include the plural and words in the plural include the singular.
- 1.6 Any reference to **“writing”** or any cognate expression includes communications by post and email but excludes facsimile and text messages.
- 1.7 The headings to Conditions do not affect the interpretation of these Conditions.
- 1.8 Any phrase introduced by the term **“include”**, **“including”**, **“in particular”** or any similar expression will be construed as illustrative and will not limit the sense of the words preceding that term.
- 1.9 A reference to a **“Holding Company”** or a **“Subsidiary”** means a holding company or a subsidiary as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee) by way of security or in connection with the taking of security, or (b) its nominee.

## **2. THESE CONDITIONS**

- 2.1 In some areas the Customer will have different rights under these Conditions depending on whether the Customer is a consumer or not a consumer. The Customer is a consumer if the Customer is:

- an individual; or
- buying Deliverables from the Supplier wholly or mainly for the Customer's personal use (not for use in connection with the Customer's trade, business, craft or profession).

### 3. INFORMATION ABOUT THE SUPPLIER AND HOW TO CONTACT THE SUPPLIER

- 3.1 The Supplier is the Chartered Institute of Procurement and Supply a company registered in England and Wales. The Supplier's company registration number is RC000876 and address is Church Street, Easton On The Hill, Stamford PE9 3NZ. The Supplier's registered VAT number is 342648942 .
- 3.2 The Customer can contact the Supplier by telephoning the customer service team on +44(0)345 880 1188 or by writing to the Supplier at [member.services@cips.org](mailto:member.services@cips.org) .
- 3.3 If the Supplier has to contact the Customer, the Supplier will do so by telephone or by writing to the Customer at the email address provided in the Contract Details or provided to the Supplier via the Supplier's website.
- 3.4 In these Conditions, the words "writing" or "written" includes emails.

### 4. BASIS OF CONTRACT

- 4.1 These Conditions shall apply to the sale and supply by the Supplier of all Deliverables purchased by the Customer and any Implementation Services. These Conditions shall govern the Contract to the exclusion of any other terms and conditions introduced or submitted by the Customer.
- 4.2 No variation of these Conditions shall be binding unless agreed in writing by an authorised representative of the Supplier and no collateral or supplemental contract may be made or construed unless confirmed in writing by an authorised representative of the Supplier.
- 4.3 Any Proposal submitted to the Customer will not constitute an offer and shall remain valid for the period stated therein, but if no period is specified such Proposal shall be valid for 30 days from the date of issue. Notwithstanding this Condition 4.3 of this Section A, any Proposal shall no longer be valid where a sub-contractor or supplier has changed its charges.
- 4.4 Each order or acceptance of a Proposal for the supply of Deliverables by the Customer shall be deemed to be an offer by the Customer to purchase the Deliverables subject to these Conditions.
- 4.5 These Conditions shall become binding on the Customer when the Contract Details are signed by the Customer, or if they are not signed, when the Supplier:
- acknowledges the order placed by the Customer in writing;
  - commences processing of the order and/or provision of the Implementation Services or Deliverables, whichever is earlier; or
  - notifies the Customer that the Deliverables are ready;

whichever is the earlier, at which point a "**Contract**" shall come into existence between the Supplier and the Customer and such date shall be the "**Commencement Date**." As from the Commencement Date, the Customer will be bound to pay the Price and any Additional Charges.

- 4.6 Each Contract shall consist of and incorporate the following, in order of priority:
- (a) the Contract Details to the extent that they expressly amend these Conditions;
  - (b) the Specific Terms;
  - (c) the General Terms; and
  - (d) the Contract Details to the extent that they do not expressly amend these Conditions.
- 4.7 The Supplier is under no obligation to accept any order, and no order shall be regarded as having been accepted by the Supplier, unless or until the circumstances set out in Condition 4.5 of this Section A apply.
- 4.8 The Supplier may cancel an order on the provision of written notice to the Customer at any point before commencing work on the Deliverables. The Supplier shall not be liable to the Customer in relation to any loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Customer as a result of cancellation.
- 4.9 NOT USED
- 4.10 The Supplier only issues invoices by exception as per the Fees & Invoicing policy. In the event that the Customer's procedures require an invoice to be submitted against a purchase order for payment, the Customer may apply to the Supplier under the Fees & Invoicing policy, which the Supplier may accept in its sole discretion, and the Customer shall be responsible for issuing the purchase order before the Contract comes into existence.
- 4.11 The Supplier's employees or agents are not authorised to make any representations concerning the Deliverables unless confirmed by the Supplier in writing. In entering into the Contract, the Customer acknowledges that it does not rely on any such representations which are not so confirmed save that nothing in this Condition excludes the Supplier's liability for fraudulent misrepresentation.
- 4.12 NOT USED
- 4.13 Any typographical, clerical or other omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.

## **5. PRICE**

- 5.1 The Price (which includes VAT) and any Additional Charges (where known at the Commencement Date) are as stated in the Contract Details.
- 5.2 The Supplier will pass on changes in the rate of VAT. If the rate of VAT changes between when the Customer receives their Contract Details or completes their order on the Supplier's website and the date the Deliverables are supplied, the Supplier will adjust the rate of VAT that the Customer is to pay, unless the Customer has already paid for the Deliverables in full before the change in the rate of VAT takes effect.
- 5.3 Unless otherwise agreed by the Supplier in writing, the Supplier may increase the Price and/or Additional Charges by giving written notice at any time to take account of any increase howsoever arising in the Price and/or Additional Charges including but without being limited to any increase in the costs of materials, labour or delivery or to take account of any



fluctuations in exchange rates, or alteration of duties as shall be reasonable in the circumstances.

- 5.4 Notwithstanding the generality of Condition 5.3 of this Section A, the Supplier may increase its charges (including, but not limited to the Price and Additional Charges) on an annual basis with effect from 1<sup>st</sup> November of each year in line with the percentage increase in the Retail Prices Index in the preceding 12-month period and shall be based on the latest available figure for the percentage increase in the Retail Prices Index.
- 5.5 The Supplier reserves the right to charge the Customer, as an Additional Charge, for any additional work undertaken over and above that which would have been otherwise required, (including any expenses or financial penalties incurred by the Customer) as a result of any instructions supplied by the Customer being incomplete, incorrect, inaccurate, illegible, out of sequence, in the wrong form, or provided to the Supplier too late to enable it to meet a deadline.

## **6. PAYMENT TERMS**

6.1 Unless otherwise stated in the Payment Schedule:

- (a) the Supplier shall be entitled to invoice the Customer for the Price and where applicable any Additional Charges on or at any time after despatch of the Deliverables or any instalment thereof. In the event that any Additional Charges arise following the issue by the Supplier of the invoice, the Supplier will invoice the Customer as and when the Additional Charges arise;
- (b) NOT USED
- (c) when the Customer must pay depends on what Deliverables the Customer is buying:
- (i) for Goods, the Customer must pay for the Deliverables before the Supplier dispatches them. The Supplier will not charge the Customer's credit or debit card until the Supplier dispatches the Goods to the Customer; and
- (ii) for Services, the Customer must pay for the Deliverables before the Supplier begins providing them. Where this is by invoice, the Customer must pay each invoice within 30 calendar days after the date of the invoice.<sup>1</sup>

6.2 The Supplier can charge interest if payment of the Price by the Customer is late. If the Customer does not make any payment to the Supplier by the due date the Supplier may charge interest to the Customer on the overdue amount at the rate of 4% a year above the base lending rate of the Bank of England from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer must pay the Supplier interest together with any overdue amount.

6.3 The Customer shall make payment for the Price and, where applicable, any Additional Charges in sterling by cheque or telegraphic transfer into such bank account as notified by the Supplier in writing from time to time. Unless agreed otherwise in writing any payment received by the Supplier in any other currency or by any other method will not be deemed to be payment for the Deliverables in question. Payment will not be deemed payment for the Deliverables in question unless and until it is received in full and in cleared funds.

- 6.4 The Supplier may (at its sole discretion) accept payment of the Price and any Additional Charges by debit or credit card. If the Supplier accepts payment by debit or credit card, the Customer shall provide up-to-date and complete contact and billing details, and hereby authorises the Supplier to bill such payment card for the Price and any Additional Charges on or after the date that such charges become payable to the Supplier.
- 6.5 The time of payment of the Supplier's invoices shall be of the essence of the Contract.
- 6.6 If the Customer fails to pay in full any invoice from the Supplier by the Due Date or in any other way breaches the terms of the Contract without prejudice to any other right or remedy the Supplier may have:
- (a) all invoices issued by the Supplier in respect of any Deliverables sold or supplied and any Additional Charges pursuant to the Contract and any sums due for goods and/or services under any other contract which may exist between the parties shall immediately fall due for payment;
  - (b) the Supplier shall be entitled to:
    - (i) cancel or suspend any further deliveries of Deliverables to the Customer under the Contract;
    - (ii) sell or otherwise dispose of the Deliverables and/or any goods which are the subject of any order by the Customer, whether or not appropriated thereto, and, where applicable, apply the proceeds of sale to the Unpaid Amount;
    - (iii) where applicable, charge the Customer interest (both before and after any judgment) on the Unpaid Amount, at the rate in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 as amended from time to time, which is currently 8% above the Bank of England's basic rate, such interest shall accrue on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgement;
    - (iv) appropriate any payment made by the Customer to such of the Deliverables (or goods and/or services supplied under any other order) as the Supplier may think fit; and
    - (v) by notice to the Customer unilaterally vary payment terms for future contracts
- 6.7 If the Customer thinks that an invoice is wrong, the Customer should contact the Supplier promptly to inform the Supplier. The Customer will not have to pay any interest until the dispute is resolved. Once the dispute is resolved the Supplier will charge the Customer interest on correctly invoiced sums from the original due date.
- 6.8 Unless otherwise agreed in writing by the Supplier, all queries from the Customer regarding any invoice must be received prior to the Due Date.

## **7. DELIVERABLES**

- 7.1 The Deliverables are as described in the Contract Details and/or on the Supplier's website.
- 7.2 Where any design is applied to the Deliverables either at the Customer's request or to the Customer's specification, the Customer shall indemnify the Supplier against all loss, damages, costs and expenses awarded against or incurred by the Supplier in connection with or paid or agreed to be paid by the Supplier in settlement of any claim for infringement of any Intellectual

Property Rights of any person which results from the Supplier's use of the Customer's specification.

- 7.3 The Deliverables are licenced to the Customer, not sold, and no title to any Deliverables shall pass to the Customer under any circumstances.
- 7.4 The Deliverables may not be relied upon for legal interpretation. Neither the Supplier nor its employees, consultants or Tutors can accept responsibility for the Customer's or any of its Delegates' actions, or those of other people consuming the Deliverables or interpreting the Deliverables in litigation, or responsibility for any loss incurred as a result of relying on the Deliverables.
- 7.5 Acceptance of the Deliverables shall take place upon delivery of the Deliverables or upon the use of the Deliverables by the Customer, whichever is the soonest to occur.

## **8. USE OF THE DELIVERABLES**

8.1 The Customer may:

- (a) access the Deliverables, and allow Delegates to access the Deliverables, from a location other than their principal place of work provided that this is during the Term and such Delegates are permanent employees of the Customer at that time;
- (b) copy any part of the Deliverables where such copying is an incidental result of accessing the Deliverables;
- (c) copy any part of the Deliverables which is identified as available for download, provided that such copies are deleted on expiry of the Term; and
- (d) print any part of the Deliverables which is made available in a PDF or otherwise print-ready format, provided that the Customer prints only the minimum number of copies reasonably necessary and that such copies are destroyed on expiry of the Term.

8.2 The Customer shall:

- (a) keep a secure username and password for their use of the Deliverables and prevent any other individual from accessing the Deliverables using their log-in details;
- (b) not use the Deliverables for anything other than their intended purpose, as determined by the Supplier and including, but not limited to the requirements of this Condition 8 of this Section A;
- (c) not use the Deliverables for their own commercial gain; and
- (d) not use the Deliverables for any purpose which the Supplier, acting in its sole discretion, believes to be offensive, defamatory, discriminatory, intended to deceive others, promoting or constituting any illegal activity, likely to damage, disable, impair or compromise the Deliverables or the Supplier's systems or otherwise not an intended use.

8.3 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Deliverables and shall promptly notify the Supplier in the event of any such unauthorised access or use.

## **9. CHANGES TO THE DELIVERABLES**

9.1 The Supplier may, from time to time and without notice, change the Deliverables in order to:

- (a) comply with any relevant laws, applicable safety, statutory or regulatory requirements; and
- (b) implement minor technical adjustments and improvements, for example to address a security threat,

provided that such changes do not materially affect the nature, scope of, or the Price for the Deliverables.

9.2 If either party requests a change to the scope or execution of the Deliverables, the Supplier shall, within a reasonable time, and where reasonably practicable, provide a written estimate to the Customer of:

- (a) the likely time required to implement the change;
- (b) any variations to the Price arising from the change;
- (c) the likely effect of the change on the Contract Details; and
- (d) any other impact of the change on the Conditions.

9.3 The Supplier shall not implement any changes for which a written estimate has been given under Condition 9.2 unless and until the Customer confirms that they wish to proceed with the change.

9.4 NOT USED

9.5 Notwithstanding the generality of Conditions 9.1 through to 9.4 of this Section A, the Supplier may make changes to the Deliverables or these Conditions:

- (a) to reflect good industry practice and guidance;
- (b) to correct errors; or
- (c) if a third party such as a government body, an awarding body or professional institute which governs any part of the Deliverables imposes such changes on the Supplier, such as amending a policy or procedure, changing the syllabus or method of assessment,

and shall notify the Customer of such changes within a reasonable period, but always prior to the implementation of such changes.

9.6 The Customer may contact the Supplier following receipt of notice under Condition 9.5 and terminate the Contract before the change takes effect and receive a voucher for any Deliverables paid for but not received. For any material changes to the Deliverables, the Customer may request a refund.

## **10. CUSTOMER OBLIGATIONS**

10.1 The Customer will:

- (a) co-operate with the Supplier in all matters relating to the Deliverables and in particular promptly and fully respond to all communications of the Supplier relating to the supply of the Deliverables;
- (b) provide, for the Supplier, its employees, agents and sub-contractors, in a timely manner and at no charge, access to the Delivery Location as requested by the Supplier and as necessary to enable the Supplier to perform its obligations under the Contract;
- (c) provide, in a timely manner, such Input Materials and Customer Equipment as the Supplier may request; and
- (d) set up the Customer Equipment in accordance with the Supplier's instructions.

10.2 NOT USED

10.3 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, sub-contractors or employees:

- (a) the Supplier shall not be liable for any costs, expenses, losses or charges sustained or incurred by the Customer arising directly or indirectly from such prevention or delay; and
- (b) without prejudice to any other right or remedy the Supplier may have, the Supplier shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.

10.4 Where, as a result of the Customer's instructions, failure to provide instructions or failure to comply with Condition 10.1 of this Section A, the Supplier anticipates incurring additional reasonable costs and expenses, the Supplier shall notify the Customer in accordance with Condition 9.2 and, in accordance with Condition 9.3 shall not proceed unless and until the Customer confirms that they wish to proceed with the change.

**11. NOT USED**

## **12. SUPPLY OF THE DELIVERABLES**

12.1 The Deliverables shall be performed at such times as the Supplier shall in its sole discretion decide and during Normal Working Hours.

12.2 Subject to the Conditions set out below the Supplier warrants that it shall:

- (a) insofar as is reasonably practicable supply the Deliverables to the Customer in accordance with the description in the Contract Details in all material respects;
- (b) provide the Deliverables using reasonable skill and care;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them;
- (d) obtain and maintain during the Term, all necessary licences and consents that it needs to carry out its obligations under the Contract in respect of the Deliverables; and

- (e) use reasonable endeavours to meet any Anticipated Delivery Dates specified in the Contract Details, but any such dates shall be estimates only and time shall not be of the essence for performance of the Deliverables.

12.3 The Supplier provides no guarantee or warranty that any result or objective can or will be achieved or attained at all or by a given completion date or any other date, whether stated in the Contract Details or elsewhere.

12.4 NOT USED

12.5 The Supplier shall not be liable for a breach of any of the warranties in Condition 12.2 of this Section A unless:

- (a) the Customer gives written notice of the defect to the person identified in the Contract Details. In the event of a defect which is not apparent on delivery the Customer shall inform the Supplier of such defect immediately on discovery of the defect but in any event within 7 Working Days of delivery; and
- (b) the Supplier is given a reasonable opportunity after receiving the notice of examining the Deliverables and the Customer complies with any request from the Supplier to return Deliverables to the Supplier's place of business at the Customer's cost for examination to take place there.

12.6 The Supplier shall not be liable for breach of warranty under Condition 12.2 of this Section A if:

- (a) the Customer makes any further use of such Deliverables after giving notice under Condition 12.5 of this Section A; or
- (b) the Customer alters the Deliverables without the written consent of the Supplier.

12.7 Where any valid claim in respect of the Deliverables is made by the Customer the Supplier shall be entitled at its option to:

- (a) re-perform, replace, repair or correct the Deliverables (or the part in question) found not to conform to warranty at the Supplier's cost; and/or
- (b) at the Supplier's sole discretion, provide a voucher or refund to the Customer the Price (or a proportionate part of the Price) of the relevant part of the Deliverables found not to conform to warranty,

and subject to Condition 18.1 of this Section A, the Supplier shall have no further liability to the Customer.

12.8 Any claim by the Customer under this Condition 12 of this Section A in respect of any Deliverables shall not entitle the Customer to withhold or delay payment in respect of any other Deliverables in respect of which no such claim has been made whether or not those Deliverables form part of the same consignment.

### **13. USE OF ELECTRONIC COMMUNICATIONS MEDIA**

13.1 The Customer acknowledges that it may be required to use electronic communications media to make use of the whole or any part of the Deliverables.

13.2 In relation to any Deliverables supplied by electronic means:

- (a) the Supplier does not provide the software to which Deliverables relate to and the Customer is responsible for ensuring its own access to such software;
- (b) the Customer is responsible for configuring their own information technology, computer programmes and hardware in order to access the Deliverables and should use their own virus protection software. The Supplier is not responsible for any failure to access the Deliverables as a result of the incompatibility of the Customer's computer programmes or hardware;
- (c) access to the Deliverables may be suspended temporarily and without notice in the case of bandwidth shortage, system failure, maintenance or repair or for reasons beyond the Supplier's control;
- (d) the Supplier does not warrant that the use of the Deliverables will be uninterrupted or error-free and the Supplier is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Deliverables may be subject to limitations, delays and other problems inherent in the use of such communications facilities; and
- (e) if, for any reason, the Deliverables are defective or not accessible, the Supplier shall commence remedial work as soon as reasonably practicable in the circumstances, and shall use its reasonable endeavours to remedy any such problem, save that nothing shall require the Supplier to carry out such work outside Normal Working Hours.

13.3 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Deliverables that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property;

and the Supplier reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this Condition 13.3 of this Section A.

## **14. INTELLECTUAL PROPERTY RIGHTS**

14.1 The Customer acknowledges that the Supplier is the owner or the licensee of all Intellectual Property Rights in the Deliverables. Under no circumstances shall any of the Intellectual Property Rights transfer to the Customer other than as expressly stated within these Conditions and/or the Contract Details.

- 14.2 The Supplier grants to the Customer a non-exclusive licence (without the right to sub-licence) to use any Intellectual Property Rights in the Deliverables during the Term for the purpose of making reasonable use of the Deliverables in the Territory.
- 14.3 Except as expressly stated in this clause 14 or clause 8 above, the Customer has no right (and shall not permit any third party) to copy, adapt or modify the Deliverables in whole or in part.
- 14.4 If the Customer makes, devises, discovers, or otherwise acquires rights in any improvement, enhancement or modification to the whole or any part of the Deliverables or their method by which they are provided ("**Improvement**") the Customer shall promptly notify the Supplier in writing, giving details of the Improvement and shall, if the Supplier so requests, provide any further information as would be reasonably required to enable the Supplier to evaluate the Improvement effectively.
- 14.5 The Customer shall grant to the Supplier a non-exclusive royalty-free worldwide irrevocable licence (together with the right to grant sub-licences) to use in any manner any Improvement made, devised or discovered by the Customer.
- 14.6 The Customer shall provide the Input Materials to the Supplier for the purpose of the provision of Deliverables and shall grant to the Supplier a non-exclusive licence to use any Input Materials for the purpose of providing the Deliverables.
- 14.7 The Customer shall indemnify and hold the Supplier harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by, the Supplier as a result of or in connection with any alleged or actual infringement, whether or not under English law, of any third party's Intellectual Property Rights or other rights arising out of the use of the Input Materials.

## **15. PROTECTION OF CONFIDENTIAL INFORMATION**

- 15.1 Each party ("**Receiving Party**") shall keep the Confidential Information of the other party ("**Supplying Party**") confidential and secret. The Receiving Party shall only use the Confidential Information of the Supplying Party as necessary in relation to the supply of the Deliverables (in the case of the Supplier) or as necessary for the purpose of making reasonable use of the Deliverables (in the case of the Customer) and for performing the Receiving Party's obligations under the Contract. The Receiving Party shall inform its officers, employees and agents of the Receiving Party's obligations under the provisions of this Condition 15 of this Section A, and ensure that they meet such obligations.
- 15.2 The obligations of Condition 15.1 of this Section A shall not apply to any information which:
- (a) was known or in the possession of the Receiving Party before it was provided to the Receiving Party by the Supplying Party;
  - (b) is, or becomes, publicly available through no fault of the Receiving Party;
  - (c) is provided to the Receiving Party without restriction or disclosure by a third party, who did not breach any confidentiality obligations by making such a disclosure;
  - (d) was developed by the Receiving Party (or on its behalf) without direct access to, or use or knowledge of the Confidential Information supplied by the Supplying Party; or



(e) is required to be disclosed by order of a court of competent jurisdiction.

15.3 This Condition 15 of this Section A shall survive termination of the Contract.

## **16. DATA PROTECTION**

16.1 Both parties will comply with all applicable requirements of the Data Protection Legislation.

16.2 The Supplier warrants that, to the extent it processes any personal data belonging to the Customer it shall only use such personal data as set out in its general external privacy notice in place from time to time, which is accessible at <https://www.cips.org/en-gb/who-we-are/general-terms--conditions/privacy-statement/>

## **17. INSURANCE**

17.1 The Supplier shall maintain the following insurances:

- (a) employers liability insurance in an amount not less than £5,000,000 in respect of any one occurrence;
- (b) public and products liability insurance in an amount not less than £5,000,000 in respect of any one occurrence (for public liability) and any one period of insurance (for products liability); and
- (c) professional indemnity insurance in an amount not less than £1,000,000 in respect of any one period of insurance,

provided that such insurances are available in the UK insurance market to members of the Supplier's profession at commercially reasonable rates.

## **18. LIMITATION OF LIABILITY**

18.1 The Supplier has obtained insurance cover in respect of its own legal liability as set out in Condition 17 of this Section A. The limits and exclusions in this Condition 18 of this Section A reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

18.2 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 employees, agents or subcontractors (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 (title and quiet possession); or
- (d) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

18.3 Subject to Condition 15 of this Section A and except as expressly and specifically provided in these Conditions:

- (a) the Customer assumes sole responsibility for results obtained from the use of the Deliverables by the Customer, and for conclusions drawn from such use. The

Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Customer in connection with the Deliverables, or any actions taken by the Supplier at the Customer's direction; and

- (b) the Deliverables are provided the Customer on an "as is" basis.

18.4 NOT USED

18.5 Subject to Condition 18.2 of this Section A, the Supplier shall have no liability in respect of any:

- (a) special, indirect consequential or pure economic loss, costs, damages, charges or expenses;
- (b) loss of profits;
- (c) loss of sales or business;
- (d) loss of agreements or contracts;
- (e) loss of anticipated savings;
- (f) loss of use or corruption of software, data or information;
- (g) loss of or damage to goodwill.

18.6 Subject to Condition 18.2 of this Section A, the Supplier shall have no liability under these Conditions or otherwise if the Deliverables have not been paid for by the Due Date.

18.7 Subject to this Condition 18 of this Section A, the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Price paid by the Customer for the specific Deliverable or in the case of subscription the Price paid in the 12 months prior to the liability arising.

**19. THE CUSTOMER'S RIGHTS TO END THE CONTRACT WHERE THE CUSTOMER IS A CONSUMER**

19.1 The entire of this Condition 19 is applicable to Customers that are consumers only.

19.2 The Customers' rights upon ending the contract will depend on what Deliverables the Customer has bought, whether there is anything wrong with the Deliverables, the performance of the Supplier, and when the Customer decides to end the Contract:

- (a) if the Deliverables purchased by the Customer are faulty or misdescribed the Customer may have a legal right to end the Contract (or to get the Goods repaired or replaced or a Service re-performed or to get some or all of the Price back), see Condition 20 below;
- (b) if the Customer wishes to end the Contract because of something the Supplier has done or has told the Customer that the Supplier will do, see Condition 19.3 below; and
- (c) if the Customer has changed their mind about the Deliverables, see Condition 19.4. The Customer may be entitled to a voucher or refund if the Customer is within the cooling-off period, but this may be subject to deductions.

- 19.3 If the Customer is ending the Contract for a reason set out at (a) to (e) below the Contract will end immediately and the Supplier will refund the Customer in full for any Deliverables which have not been provided and the Customer may also be entitled to compensation. The reasons are:
- (a) the Supplier has told the Customer about an upcoming change to the Deliverables or these Conditions which the Customer does not agree to;
  - (b) the Supplier has told the Customer about an error in the Price or description of the Deliverables the Customer has ordered and the Customer does not wish to proceed;
  - (c) there is a risk that supply of the Deliverables may be significantly delayed because of events outside of the Supplier's control;
  - (d) the Supplier has suspended supply of the Deliverables for technical reasons, or the Supplier has notified the Customer that the Supplier will suspend them for technical reasons, in each case for a period of more than 14 days; or
  - (e) the Customer has a legal right to end the Contract because of something the Supplier has done wrong.
- 19.4 For most products bought online, the Customer has a legal right to change their mind within 14 days and receive a refund. These rights, under the Consumer Contracts Regulations 2013, are explained in more detail in these Conditions.
- 19.5 The Customers' right as a consumer to change their mind does not apply in respect of any Deliverables that are Services, once these have been completed, even if the cancellation period is still running.
- 19.6 Where the Deliverables are Services, the Customer has 14 days after the day the Supplier emails the Customer to confirm acceptance of the Services or notifies the Customer via their online account. However, once the Supplier has completed the Services the Customer cannot change their mind, even if the period is still running. If the Customer cancels after the Supplier has started the Services, the Customer must pay the Supplier for the Services provided up until the time the Customer tells the Supplier that they have changed their mind.
- 19.7 Upon termination of the Contract for any reason:
- (a) each party shall be relieved of and released from all of its duties and obligations under the Contract except those set out in Conditions 1, 4, 15, 16 and Conditions 18 to 24 (inclusive) of this Section A; and
  - (b) the accrued rights and remedies of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

## **20. HOW TO END THE CONTRACT WHERE THE CUSTOMER IS A CONSUMER**

- 20.1 The entire of this Condition 20 is applicable to Customers that are consumers only.
- 20.2 To end the contract, the Customer shall inform the Supplier either by phone or email. Call customer services on +44 (0) 345 880 1188 or email us at [member.services@cips.org](mailto:member.services@cips.org). The Customer shall provide their name, home address, details of the Deliverables and, where available, the Customers' phone number and email address.

- 20.3 If the Customer is entitled to a voucher or refund under these Conditions the Supplier will provide the voucher or refund the Customer the Price, or proportion of the Price, paid for the Deliverables including delivery costs, by the method the Customer used for payment. However, the Supplier may make deductions from the Price, as described below.
- 20.4 If the Customer is exercising their right to change their mind:
- (a) the Supplier may reduce the Customers' voucher, refund of the Price, or relevant proportion of the Price, to reflect any reduction in the value of the Goods, if this has been caused by the Customers' handling of them in a way which would not be permitted in a shop, which in the case of Hard Copy Books will be determined by the Supplier once items have been returned to the Supplier. For the avoidance of doubt, it is the Customer's responsibility to ensure the items reach the Supplier in saleable condition and all costs associated with such returns are fully covered by the Customer. If the Supplier provides a voucher or refunds the Customer the Price paid before the Supplier is able to inspect the Goods and later discover that the Customer has handled them in an unacceptable way, the Customer must pay the Supplier an appropriate amount; and
  - (b) where the Deliverables are a Service, the Supplier may deduct from any voucher or refund an amount for the supply of the Service for the period for which it was supplied, ending with the time when the Customer informed the Supplier that the Customer had changed their mind. The amount will be in proportion to what has been supplied, in comparison with the full coverage of the Contract.
- 20.5 The Supplier will provide a voucher or make any refunds due to the Customer as soon as possible. If the Customer is exercising their right to change their mind then:
- (a) if the Deliverables are Goods the Customers' refund will be made within 14 days from the day on which the Supplier receives the Goods back from the Customer or, if earlier, the day on which the Customer provides the Supplier with evidence that the Customer has sent the Goods back to the Supplier; and
  - (b) in all other cases, the Customers' voucher or refund will be made within 14 days of the Customer informing the Supplier that the Customer has changed their mind.

## **21. NOT USED**

## **22. THE SUPPLIER'S RIGHTS TO END THE CONTRACT**

- 22.1 Without prejudice to any other remedies or rights whether under the Contract or otherwise, the Supplier may terminate the Contract at any time by written notice to the Customer and the notice taking effect as specified in the notice if:
- (a) the Customer commits a material or persistent breach of any of these Conditions, and (if such a breach is remediable), fails to remedy that breach within 30 days, or such other time period deemed appropriate by the Supplier at the time, of being notified in writing (acting reasonably);
  - (b) the Customer fails to pay any sum due by the Due Date, including any interest accrued, in full cleared funds within 60 days of the Due Date, or such other time period deemed appropriate by the Supplier at the time, of being notified in writing (acting reasonably);
  - (c) the Customer becomes Insolvent; or

- (d) the Supplier reasonably apprehends that any of the events mentioned above is about to occur and notifies the Customer accordingly.

22.2 For the purposes of Condition 22.1(a) of this Section A, a breach shall be considered capable of remedy if the Customer can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).

## 23. DISPUTE RESOLUTION

23.1 **Exclusive dispute resolution mechanism.** The parties shall resolve any dispute, controversy, or claim arising out of or relating to the Contract, or the breach, termination or invalidity hereof (each, a "**Dispute**"), in accordance with the provisions of Conditions 23.2 through to 23.4 of this Section A. The procedures set forth in Conditions 23.2 through to 23.4 of this Section A shall be the exclusive mechanism for resolving any Dispute that may arise from time to time and Conditions 23.2 through to 23.4 of this Section A are express conditions precedent to litigation of the Dispute.

23.2 **Negotiation.** A party shall send written notice to the other party of any Dispute ("**Dispute Notice**"). The parties shall first attempt in good faith to resolve any Dispute set forth in the Dispute Notice by negotiation and consultation between senior executives of their respective organisations. In the event that the Dispute is not resolved on an informal basis during the time period ending 30 days after the Dispute Notice (the last day of such time period, the "**Escalation to Mediation Date**"), either party may initiate mediation under Condition 23.3 of this Section A.

### 23.3 Mediation.

- (a) Subject to Condition 23.2 of this Section A, the parties may, at any time after the Escalation to Mediation Date, submit the Dispute to any mutually agreed to mediation service for mediation by providing to the mediation service a joint, written request for mediation, setting forth the subject of the Dispute and the relief requested. The parties shall cooperate with one another in selecting a mediation service, and shall cooperate with the mediation service and with one another in selecting a neutral mediator and in scheduling the mediation proceedings. The parties covenant that they will use commercially reasonable efforts in participating in the mediation. The parties agree that the mediator's fees and expenses and the costs incidental to the mediation will be shared equally between the parties.

- (b) The parties further agree that all offers, promises, conduct, and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts, and attorneys, and by the mediator and any employees of the mediation service, are confidential, privileged, and inadmissible for any purpose, including impeachment, in any litigation, arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

23.4 **Litigation or arbitration as a final resort.** If the parties cannot resolve any Dispute for any reason, including, but not limited to, the failure of either party to agree to enter into mediation or agree to any settlement proposed by the mediator, within 60 days after the Escalation to Mediation Date, either party may file suit in accordance with Condition 24.11 of this Section A.

## 24. GENERAL PROVISIONS

### 24.1 Force majeure.

- (a) The Supplier shall have no liability to the Customer under the Contract if it is prevented from or delayed in performing its obligations under the Contract, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, 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 or telecommunications 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, storm, or the default or illness of any tutor, consultant, supplier or sub-contractor, epidemic or pandemic.
- (b) The Supplier shall promptly notify the Customer in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 7 days, the Supplier may terminate the Contract by written notice to the Customer.

#### 24.2 Notices.

- (a) Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Any notice:
  - (i) sent by post shall be deemed served on the next Working Day following posting where the notice is sent and received within the United Kingdom, or 7 Working Days following posting where the notice is sent and/or received outside of the United Kingdom;
  - (ii) delivered personally shall be deemed served at the time of personal delivery, provided the same occurs on a Working Day; and
  - (iii) sent by email shall be deemed served at the time of transmission provided that the transmission occurs on a Working Day and a confirmatory copy of the email is sent by post within 24 hours of transmission of the email.
- (b) To prove service it shall be sufficient to show that the email was transmitted to the email address of the other party or that the envelope containing the notice was properly addressed and posted.

24.3 **Entire agreement.** Each Contract constitutes the entire agreement between the parties in relation to its subject matter, supersedes any previous agreement or understanding and may not be varied except in writing between the parties. All other terms and conditions express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.

24.4 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for or to bind another party in any way.

24.5 **Further assurance.** Each party to the Contract shall at the request and expense of the other execute and do any deeds and other things reasonably necessary to carry out the provisions of the Contract or to make it easier to enforce.

24.6 **Assignment and other dealings.**

- (a) The Supplier may transfer this agreement to someone else. The Supplier may transfer their rights and obligations under these terms to another organisation. The Supplier will always tell the Customer in writing if this happens and the Supplier will ensure that the transfer will not affect the Customer's rights under the contract.
- (b) The Customer needs the Supplier's consent to transfer their rights to someone else (except that the Customer can always transfer our guarantee). The Customer may only transfer their rights or their obligations under these terms to another person if the Supplier agrees to this in writing. The Supplier may not agree if in its reasonable opinion the business of the proposed transferee competes with the Supplier's business.

24.7 **Severance.** If a court finds part of this Contract illegal the rest will continue in force. Each of the Conditions in this Contract operates separately. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions shall remain in full force and effect.

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

24.9 **Cumulative remedies.** All rights and remedies available to either of the parties under the terms of the Contract or under the general law are to be cumulative, and no exercise by either of the parties of any such right or remedy is to restrict or prejudice the exercise of any other right or remedy granted by the Contract or otherwise available to that party.

24.10 **Third party rights.** A person who is not a party to the Contract will not have any rights under any term of the Contract.

24.11 **Governing law and jurisdiction.** 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, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England.

