



Schedule 1

TERMS AND CONDITIONS WHERE THE AGREEMENT IS STATED AS A PURCHASE OF EQUIPMENT AND SERVICES FROM THE SUPPLIER AND/OR HIRE EQUIPMENT WHICH IS SELF FUNDED BY THE SUPPLIER (SELF FUNDED EQUIPMENT) AND/OR RECEIVE SERVICES FROM THE SUPPLIER

The Customer's attention is particularly drawn to the provisions of clause 19 (Limitation of liability) and clause 16 (Software)

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

Additional Order: such additional or further order for Goods or Services as may be requested by the Customer in writing from time to time which are supplemental to the Customer's initial Order.

Affected Party: have the meaning given in clause 24.2.

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Carriage Charge: the sum set out in clause 15 for the delivery of the Hardware whether pursuant to sale of the Goods or hire of Self-Funded Equipment, as the case may be. If the Customer requires timed or premium delivery services (if the service is available) this will be an additional cost for the Customer.

Commencement Date: has the meaning given in clause 2.1.

Conditions: these terms and conditions as amended from time to time in accordance with clause 25.9.

Contract: the contract between the Supplier and the Customer for the supply of Goods and/or Services or hire of Self-Funded Equipment in accordance with these Conditions.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.

Customer: the person or business who purchases the Goods and/or Services and/or hires Self-Funded Equipment (as applicable) from the Supplier.

Customer Default: has the meaning given in clause 14.2.

Day Rates: means the Supplier's daily rates for Professional Services as set out in clause 15.4 or as varied from time to time.

Deliverables: the deliverables set out in the Order and/or Additional Order produced by the Supplier for the Customer.

Delivery: the transfer of physical possession of the Goods to the Customer at the site/ Delivery Location.

Delivery Date: the provisional date agreed between the parties.

Delivery Location: has the meaning given in clause 5.1.

Disconnection: means the procedure by which we stop your access to the Services and/or hire of Self-Funded Equipment as the case may be and 'Disconnect', 'Disconnected' and 'Disconnecting' have corresponding meanings.



Force Majeure Event: has the meaning given to it in clause 24.1.

Goods: the goods (or any part of them) set out in the Order or Additional Order all substitutions, replacements or renewals of such Goods and all related accessories, manuals and instructions provided for it.

Goods Specification: any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Customer and the Supplier.

Hardware: any hardware loaned by the Supplier to the Customer which is specified in the Order and/or Additional Order and is required to fulfil the Contract.

Hardware Specification: any specification for the Hardware that is agreed in writing by the Customer and the Supplier.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Minimum Term: means the minimum term of the hire of any Self-Funded Equipment and/or the provisions of the Services as detailed in the Order, Additional Order or Contract, as the case may be.

Order: the Customer's order for the supply of Goods and/or Services and/or hire of Self-Funded Equipment (as applicable), as set out in the Customer's purchase order form, or the Customer's written acceptance of the Supplier's quotation, or overleaf, or as requested by the Customer in writing.

Professional Services: means the provision of services in the nature of personal attendances by or on behalf of the Supplier at a Customer's property/place of business by an IT engineer or any persons in connection with any installation, connection or cabling.

Rental Payments: the payments made by or on behalf of Customer for hire of the of Self-Funded Equipment.

Rental Period: the period of hire of Self-Funded Equipment as set out in clause 8.

Risk Period: the period during which the Goods is at the sole of the risk of the Customer as set out in clause 11.2.

RPI: Retail Price Index.

Self-Funded Equipment: equipment hired by the Customer from the Supplier in accordance with the terms of this Contract

Services: the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Service Specification.

Service Default: has the meaning given in clause 15.8.

Service Specification: the description or specification for the Services provided in writing by the Supplier to the Customer.

Service Termination: has the meaning given in clause 15.9.



Software: means the software set out in the relevant Order and/or otherwise included in one or more of the Goods

Supplier: Database for Business Ltd registered in England and Wales with company number 03639825.

Supplier Materials: has the meaning given in clause 14.1(f).

Total Loss: due to the Customer's default, the Goods is, in the Supplier's reasonable opinion or the opinion of its insurer(s), damaged beyond repair, lost, stolen, seized or confiscated.

VAT: value added tax chargeable in the UK.

1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms including, include, in particular, for example, or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) A reference to writing or written includes email,

2. Basis of contract and Minimum Term

2.1 The Order or Additional Order constitutes an offer by the Customer to purchase Goods or Services or to hire Self-Funded Equipment (with or without Professional Services as the case may be) in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and/or Additional Order are complete and accurate. The Contract shall come into existence on the date the Supplier issues written acceptance of the Order and/or Additional Order.

2.2 The Minimum Term shall commence on the first day of the following month in which the hire of Self-Funded Equipment or provision of Services provided to the Customer under the Contract become operational.

2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or Self-Funded Equipment or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods and/or Self-Funded Equipment described in them. They shall not form part of the Contract nor have any contractual force.

2.4 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 law, trade custom, practice or course of dealing.

2.5 Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of one calendar month from and including its date of issue.



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

2.7 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

3. Additional Order

3.1 The Supplier and the Customer may enter into an Additional Order from time to time.

3.2 Each Additional Order shall constitute a separate and independent contract for the Customer to purchase Goods or Services or hire Self-Funded Equipment in accordance with these Conditions.

3.3 Where there is a conflict between the terms of these Conditions and the terms of any Additional Order then the terms of the Additional Order shall prevail. For the avoidance of any doubt, any Additional Order will be subject to the Conditions.

3.4 If in the event there is an incomplete term in the Additional Order, the Supplier can inform the Customer of the term(s) which shall henceforth be incorporated into the Additional Order.

SALE OF GOODS (WHERE APPLICABLE)

4. Goods

4.1 The Goods are described in the Goods Specification.

4.2 The Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out 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 Goods Specification. This clause 4.2 shall survive termination of the Contract.

4.3 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

5. Delivery of Goods

5.1 The Supplier shall deliver the Goods to the location set out in the Order or Additional Order or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.

5.2 Delivery of the Goods shall be completed on the completion of loading of the Goods at the Delivery Location.



5.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of 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.

5.4 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. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure 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.

5.5 If the Customer fails to accept delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and
- (b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

5.6 If ten Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not accepted actual delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage 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.

6. Title and risk

6.1 The risk in the Goods shall pass to the Customer on completion of delivery.

6.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods and 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.

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

- (a) store the Goods 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 on the Supplier's behalf from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 22.3(b) to clause 22.3(e); and



- (e) give the Supplier such information as the Supplier may reasonably require from time to time relating to:
 - (i) the Goods; and
 - (ii) the ongoing financial position of the Customer.

6.4 At any time before title to the Goods passes to the Customer, the Supplier may require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and 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.

SELF FUNDED EQUIPMENT HIRE (WHERE APPLICABLE)

7. Self-Funded Equipment hire

7.1 The Supplier shall hire the Self-Funded Equipment to the Customer subject to the terms and conditions of this agreement.

7.2 The Supplier shall not, other than in the exercise of its rights under this agreement or applicable law, interfere with the Customer's quiet possession of the Self-Funded Equipment.

8. Rental Period

The Rental Period for Self-Funded Equipment starts on the Commencement Date and shall continue in accordance with the Contract unless this agreement is terminated earlier in accordance with its terms.

9. Rental Payments and Deposit

9.1 The Customer shall pay the Rental Payments for Self-Funded Equipment to the Supplier in accordance with the Contract. The Rental Payments shall be paid in Great British Pound (GBP) and shall be made by direct debit as per the Contract.

9.2 The Rental Payments for Self-Funded Equipment are exclusive of VAT and any other applicable taxes and duties or similar charges which shall be payable by the Customer at the rate and in the manner from time to time prescribed by law.

9.3 All amounts due under this agreement for the hire of Self-Funded Equipment shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9.4 If the Customer fails to make a payment due to the Supplier under this agreement for the hire of Self-Funded Equipment by the due date, then, without limiting the Supplier's remedies under clause 23, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment.

9.5 Interest under this clause will accrue each day at 8% a year above the Bank of England's base rate from time to time, but at 8% a year for any period when that base rate is below 0%.



10. Delivery

Delivery of the Self-Funded Equipment shall be made by the Supplier. The Supplier shall use all reasonable endeavours to effect Delivery by the Delivery Date.

11. Title, risk and insurance

11.1 The Self-Funded Equipment shall at all times remain the property of the Supplier, and the Customer shall have no right, title or interest in or to the Self-Funded Equipment (save the right to possession and use of the Self-Funded Equipment subject to the terms and conditions of this agreement).

11.2 The risk of loss, theft, damage or destruction of the Self-Funded Equipment shall pass to the Customer on Delivery. The Self-Funded Equipment shall remain at the sole risk of the Customer during the Rental Period and any further term during which the Self-Funded Equipment is in the possession, custody or control of the Customer (**Risk Period**) until such time as the Self-Funded Equipment is redelivered to the Supplier. During the Rental Period and the Risk Period, the Customer shall, at its own expense, obtain and maintain the following insurances:

- (a) insurance of the Self-Funded Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as the Supplier may from time to time nominate in writing;
- (b) insurance for such amounts as a prudent owner or operator of the Self-Funded Equipment would insure for, or such amount as the Supplier may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Self-Funded Equipment; and
- (c) insurance against such other or further risks relating to the Self-Funded Equipment as may be required by law, together with such other insurance as the Supplier may from time to time consider reasonably necessary and advise to the Customer.

11.3 All insurance policies procured by the Customer shall be endorsed to provide the Supplier with at least twenty Business Days' prior written notice of cancellation or material change (including any reduction in coverage or policy amount) and shall on the Supplier's request name the Supplier on the policies as a loss payee in relation to any claim relating to the Self-Funded Equipment. The Customer shall be responsible for paying any deductibles due on any claims under such insurance policies.

11.4 The Customer shall give immediate written notice to the Supplier in the event of any loss, accident or damage to the Self-Funded Equipment arising out of or in connection with the Customer's possession or use of the Self-Funded Equipment.

11.5 If the Customer fails to effect or maintain any of the insurances required under this agreement, the Supplier shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Customer.

11.6 The Customer shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to the Supplier and proof of premium payment to the Supplier to confirm the insurance arrangements.



12. Customer's responsibilities

12.1 The Customer shall during the term of this agreement:

- (a) ensure that the Self-Funded Equipment is kept and operated in a suitable environment used only for the purposes for which it is designed, and operated in a proper manner by trained competent staff in accordance with any operating instructions;
- (b) maintain at its own expense the Self-Funded Equipment in good and substantial repair in order to keep it in as good an operating condition as it was on the Commencement Date (fair wear and tear only excepted) including replacement of worn, damaged and lost parts, and shall make good any damage to the Self-Funded Equipment ;
- (c) make no alteration to the Self-Funded Equipment and shall not remove any existing component (or components) from the Self-Funded Equipment without the prior written consent of the Supplier unless the component (or components) is (or are) replaced immediately (or if removed in the ordinary course of repair and maintenance as soon as practicable) by the same component or by one of a similar make and model or an improved or advanced version of it. Title and property in all substitutions, replacements, renewals made in or to the Self-Funded Equipment shall vest in the Supplier immediately on installation;
- (d) keep the Supplier fully informed of all material matters relating to the Self-Funded Equipment ;
- (e) not, without the prior written consent of the Supplier, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Self-Funded Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
- (f) not do or permit to be done any act or thing which will or may jeopardise the right, title or interest of the Supplier in the Self-Funded Equipment and, where the Self-Funded Equipment has become affixed to any land or building, the Customer must take all necessary steps to ensure that the Supplier may enter such land or building and recover the Self-Funded Equipment both during the term of this agreement and for a reasonable period thereafter, including by procuring from any person having an interest in such land or building, a waiver in writing and in favour of the Supplier of any rights such person may have or acquire in the Self-Funded Equipment and a right for the Supplier to enter onto such land or building to remove the Self-Funded Equipment;
- (g) not suffer or permit the Self-Funded Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Self-Funded Equipment is so confiscated, seized or taken, the Customer shall notify the Supplier and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Self-Funded Equipment and shall indemnify the Supplier on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- (h) not use the Self-Funded Equipment for any unlawful purpose;
- (i) ensure that at all times the Self-Funded Equipment remains identifiable as being the Supplier's property and wherever possible shall ensure that a visible sign to that effect is attached to the Self-Funded Equipment;



- (j) deliver up the Self-Funded Equipment at the end of the Rental Period or on earlier termination of this agreement at such address as the Supplier requires, or if necessary, allow the Supplier or its representatives access to the site/ Delivery Location (as the case be) or any premises where the Self-Funded Equipment is located for the purpose of removing the Self-Funded Equipment; and
- (k) not do or permit to be done anything which could invalidate the insurances referred to in clause 11.

12.2 The Customer acknowledges that the Supplier shall not be responsible for any loss of or damage to the Self-Funded Equipment arising out of or in connection with any negligence, misuse, mishandling of the Self-Funded Equipment or otherwise caused by the Customer or its officers, employees, agents and contractors, and the Customer shall indemnify the Supplier in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of, or in connection with any failure by the Customer to comply with the terms of this agreement.

SERVICES SUPPLIED (WHERE APPLICABLE)

13. Supply of Services

13.1 The Supplier shall supply the Services to the Customer in accordance with the Service Specification in all material respects.

13.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

13.3 The Supplier reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

GENERAL

14. Customer's obligations

14.1 The Customer shall:

- (a) ensure that the terms of the Order and/or Additional Order and any information it provides in the Service Specification are complete and accurate;
- (b) co-operate with the Supplier in all matters relating to the Services;
- (c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
- (d) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;



- (e) prepare the Customer's premises where applicable for the supply of the Services;
- (f) keep all materials, equipment (including any Hardware), documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good working 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; and
- (g) comply with any additional obligations as set out in the Service Specification and the Goods Specification where applicable.

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

- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- (b) the Supplier shall not be liable for any costs or 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 clause 14.2; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

15. Charges and dates for payment

- (a) The date(s) when Customer shall be liable to pay for the Goods and/or Services and/or any hired Self-Funded Equipment (as the case may be Professional Services) shall be as set out below:
- (b) In the event that the Customer has use of the hired Self-Funded Equipment or the provided Services prior to the commencement of the Minimum Term the Customer shall pay to Supplier an interim charge for such use calculated at a daily rate proportional to the annual rate for such hire or Services under the Contract (or as may be otherwise agreed between the parties) until the commencement of the Minimum Term;
- (c) Payments under the Contract during the Minimum Term each payment shall be due on the 1st of each calendar month (commencing at the start of the Minimum Term) in accordance with the Order and/or Additional Order. For the avoidance of doubt, each payment shall be for a period of one calendar month.

15.2 The price for Goods and/or Self-Funded Equipment:

- (a) shall be the price set out in the Order and/or Additional Order; and
- (b) shall be exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be invoiced to the Customer.

15.3 The charges for Services shall be calculated in accordance with the Order and/or Additional Order.



15.4 The charges for Professional Services shall (unless expressly set out in the Order and/or Additional Order, which in such case prevail) be in accordance with the Day Rates which are set out below:

	Day Rate		
	Monday – Friday (8am-5pm)	Monday to Friday (after 5pm) and Saturday	Sunday
IT Engineer	£500.00	£750.00	£1,000.00
Installations and Cabling Engineering and any other persons	£350.00	£525.00	£700.00
	Hourly Rate		
Ad-Hoc Remote Support	£50.00		
On-Site Support	£125 (this is two hours minimum charge. Any more will be charged at half day rate i.e. £175.00 for standard engineer and £250.00 for IT engineer)		
	Mileage		
IT Engineer, Installations and Cabling Engineering and any other persons	If the Customer is located more than 50 miles away from the Supplier's registered office the Customer shall be charged £0.40 per mile for each mile exceeding a 100 miles round trip with a minimum charge of £5.		

15.5 The Customer shall be responsible for the Carriage Charge. The Carriage Charge shall be calculated as follows for each item:

(a) For delivery only:

Mailpack (for parcels up to 1KG)	£9.00
Courier pack (for parcels up to 5KG)	£11.00
Parcels (for parcels up to 10KG)	£13.20
Additional weight over 10KG	£0.62 per KG over 10KG plus the Parcel fee of £13.20 above

(b) For delivery and in the event that the Customer requires collection of any other items which are to be returned to the Supplier under any agreement:

Mailpack (for parcels up to 1KG)	£18.70
Courier pack (for parcels up to 5KG)	£22.00
Parcels (for parcels up to 10KG)	£26.40
Additional weight over 10KG	£1.10 per KG over 10KG plus the Parcel fee of £26.40 above.



15.6 If the Customer requires its Order/Additional Order to be delivered to and/or any collection of any other items which are to be returned to the Supplier from various locations, the Carriage Charge will be agreed by the parties in advance of delivery and/or collection and the Customer shall be liable for all costs incurred.

15.7 The Customer must promptly pay the Supplier the Payments set out in each Order or Additional Order and all other sums payable and to become payable under these Conditions and/or any Order or Additional Order. Punctual payment of all monies due to us shall be of the essence of these Conditions and each Order or Additional Order. If the Customer is compelled by law to make any deduction in respect of the Payments or any other sums due under this Agreement and/or any Order or Additional Order the Customer will ensure that such deduction does not exceed the minimum liability thereof and will promptly pay to the Supplier such further amounts as are necessary in order that the net amounts received by the Supplier are equal to the original amounts agreed to be paid by the Customer under these Conditions and/or the relevant Order or Additional Order.

15.8 If the Supplier fails to provide the Services in accordance with the terms of the Contract, these Conditions and/or any Order or Additional Order (each a **"Service Default"**), then the Customer will be entitled to give 30 days' written notice requiring the Supplier to remedy the Service Default and to perform any Services which the Supplier has failed to perform. If the Supplier fails to do so, then the Customer may request the Supplier to stop providing the relevant Services under the Order or Additional Order. In such event, the relevant Services will be cancelled, the Supplier will reduce each remaining Payment due under the Order or Additional Order by the amount which the Supplier certifies is attributable to the provision of the Services (**"Service Charge"**) and the Customer may appoint a replacement service provider to provide the Services. The amount of the Service Charge will be notified by the Supplier to the Customer at the relevant time.

15.9 The Customer acknowledges and agrees that clause 15.7 sets out the Customer's sole rights and remedies if a Service Default occurs or if the provision of the Services under an Order or an Additional Order is terminated under clause 22 (**"Service Termination"**). The Customer will not be entitled to treat a Service Default or a Service Termination as a repudiation of the Contract, these Conditions, and/or any Order or Additional Order, or to terminate the Contract and/or any Order or Additional Order if a Service Default or Service Termination occurs. The Customer must continue to pay each payment excluding the Service Charge element to the Supplier in accordance with clause 15 notwithstanding the occurrence of any Service Default or Service Termination.

15.10 The Supplier reserves the right to:

- (a) increase the charges for the Services in line with RPI or network/industry increases (as the case may be) on an annual basis with effect from each anniversary of the Commencement Date or alternatively as agreed in writing by the Supplier;
- (b) increase the price of the Goods or the Rental Payments for Self-Funded Equipment in line with RPI or network/industry increases (as the case may be), by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods or Self-Funded Equipment to the Supplier that is due to:
 - (i) any factor beyond the control of the Supplier (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 in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods.

15.11 In respect of the Goods and/or Services (as applicable), the Supplier shall invoice the Customer on the dates set out this Contract or in the Order or Additional Order, as the case may be.

15.12 The Customer shall pay each invoice submitted by the Supplier forthwith on demand and in full and in cleared funds to the bank account nominated in writing by the Supplier and time for payment shall be of the essence of the Contract. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

15.13 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 22, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 15.13 will accrue each day at 8% a year above the Bank of England's base rate from time to time, but at 8% a year for any period when that base rate is below 0%.

15.14 All amounts due under the Contract shall be paid in full on the due dates for payment without prior demand without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

16. Software

In respect of the Software the Customer agrees and acknowledges that:

16.1 although the purchase price paid to the relevant supplier in respect of the relevant Software includes the right to use the software the Supplier does not acquire any legal title in it and accordingly is not hiring it to the Customer (irrespective of anything else in the Contract which may indicate otherwise);

16.2 the Customer shall obtain any licences which may be required for the use and operation of the Software; the Customer acknowledges that the Supplier does not licence the Software and the Supplier is not liable for any failure of the Software; where the Supplier has paid for the provision of the Software to the Customer, the Payments and the Minimum Charges are calculated taking into account that fact but this does not mean that the Supplier licences the Software to the Customer or have any right to do so

16.3 it is a condition of the Contract that the Customer will comply with all of the terms of any licence or sub-licence for the use of the Software; it is the Suppliers obligation to pay the software supplier and the Customer is responsible for all other obligations in respect of the Software including but not limited to any obligations under any applicable software licence.



16.4 maintenance of the Software is not included in the Contract and no defect in the software or any event which prevents the Customer using the software will affect the Customers obligation to pay the Payments under the Contract

16.5 the Customer will obtain any representations, warranties conditions or guarantees required for the Software including its fitness for purpose directly from the supplier of the relevant Software and the Supplier gives no express warranties and hereby exclude all representations, warranties, conditions or guarantees that may otherwise be implied in relation to any Software

17. Intellectual property rights

17.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.

17.2 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.

18. Data protection

18.1 The following definitions apply in this clause 18:

- (a) **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.
- (b) **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR)); the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.
- (c) **Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.

18.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 18 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

18.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor.

18.4 Without prejudice to the generality of clause 18.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier and/or lawful collection of the Personal Data by the Supplier on behalf of the Customer for the duration and purposes of the Contract.

18.5 Without prejudice to the generality of clause 18.2, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:



- (a) process that Personal Data only on the documented written instructions of the Customer unless the Supplier is required by Domestic Law to otherwise process that Personal Data. Where the Supplier is relying on Domestic Law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits the Supplier from so notifying the Customer;
- (b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- (d) not transfer any Personal Data outside of the UK unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Customer without undue delay on becoming aware of a Personal Data Breach;
- (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Contract unless required by Domestic Law to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 18.



18.6 The Customer consents to the Supplier sharing your data with third parties (a list of which are available upon request from the Supplier's Data Protection Officer) as third-party processors of Personal Data under the Contract. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processors into a written agreement substantially on that third party's standard terms of business which the Supplier confirms reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 18.6.

19. Confidentiality

19.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 19.2.

19.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 19; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

19.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

20. Limitation of liability

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

20.1 The Customer is responsible for choosing the Goods and/or the Self-Funded Equipment and making sure that they are fit and suitable for the Customers purposes. We are not the manufacturer of the Goods or the Self-Funded Equipment and give the Customer no assurances about the Goods or Self-Funded Equipment or their quality. Where the Contract is for the hire of Self-Funded Equipment, the equipment is acquired by us at the Customers request solely for the purpose of hiring the Self-Funded Equipment to the Customer

20.2 The Goods are supplied and the Self-Funded Equipment is not hired (as applicable) to the Customer with any representation, warranty, condition or undertaking (whether express or implied) concerning the condition, performance, quality, description, hiring, possession, state, transportation, suitability, use or fitness for purpose of the Goods or subject to any term, representation, warranty, condition or undertaking expressed to be implied by statute, common law or otherwise, and all such terms, representations, warranties, conditions and undertakings are excluded to the full extent permitted by law.

20.3 The Supplier agrees upon the Customers request and at the Customers cost and expense to assign to the Customer the benefit of all express warranties granted in our favour by the supplier of the Goods or Self-Funded Equipment, the manufacturer of them or any third party to the extent that the Supplier is entitled to do so.



20.4 All replacement goods that are supplied to the Customer under the manufacturer's warranty will become Goods or Self-Funded Equipment for the purpose of the Contract. Timeframes for the replacement of any Goods or Self-Funded Equipment are subject to the terms of warranties provided by the manufacturer. Where the Contract is a Hire Agreement, the Customer shall ensure that title to any such replacement goods immediately vests in us and not the Customer.

20.5 The limits and exclusions in this clause 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.

20.6 References to liability in this clause 20 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

20.7 Neither party may benefit from the limitations and exclusions set out in this clause 20 in respect of any liability arising from its deliberate default.

20.8 Nothing in this clause 20 shall limit the Customer's payment obligations under the Contract.

20.9 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

20.10 Subject to clause 20.7 (No limitation in respect of deliberate default), and clause 20.9 (Liabilities which cannot legally be limited), the Supplier's total liability to the Customer:

- (a) for loss arising from the Supplier's failure to comply with its data processing obligations under clause 18 shall not exceed £10,000,000; and
- (b) for all other loss or damage shall not exceed £10,000,000.

20.11 Subject to clause 20.7 (No limitation in respect of deliberate default), clause 20.8 (No limitation of customer's payment obligations) and clause 20.9 (Liabilities which cannot legally be limited), this clause 20.11 sets out the types of loss that are wholly excluded namely:

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



20.12 The Supplier has given commitments as to compliance of the Services with relevant specifications in clause 13. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

20.13 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 3 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

20.14 The Customer acknowledges that the Supplier shall not be responsible for any loss of or damage to the Goods arising out of or in connection with any negligence, misuse, mishandling of the Goods or otherwise caused by the Customer or their officers, employees, agents and contractors, and the Customer shall indemnify us in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by us arising out of, or in connection with any failure by the Customer to comply with the Customers obligations under the Contract.

20.15 References to liability in this clause 20 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise

20.16 This clause 20 shall survive termination of the Contract.

21. Indemnities

21.1 The Customer shall indemnify the Supplier and keep the Supplier indemnified on demand against all liabilities, costs, expenses, charges, damages, proceedings, judgments, liabilities and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis and all other reasonable professional costs and expenses):

- (a) by reason of any failure or alleged failure by the Customer to comply with any of the Customers obligations under the Contract
- (b) by reason of any loss, injury or damage suffered by any person in connection with the design, manufacture, testing, delivery, possession, hiring, transportation, maintenance, ownership, condition, insurance, use, operation, removal, return, sale or disposal of the Goods and/or the Self-Funded Equipment or any defect of the Goods and/or Self Funded Equipment

22. Termination

22.1 The Customer can end the provision of the Services or hire of the Self-Funded Equipment as the case may be during the Minimum Term by giving the Supplier at least 90 days written notice. Upon the expiry of such notice the Supplier shall proceed with a Disconnection and the Customer shall immediately pay to the Supplier:

- (a) all arrears of Service Charges and/or Rental Payments (as applicable); and



- (b) a sum equal to 90% of all the Service Charges and/or hire charges (as applicable) which, but for termination of the Services, would have become due and payable during the remainder of the Minimum Term.

22.2 The term shall automatically renew for a subsequent period of 12 months from the date specified in the Minimum Term unless the Customer complies with clause 22.1 above.

22.3 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the Customer commits a breach of its obligations under the Contract (which includes for the avoidance of doubt the Conditions) and (if such breach is remediable) fails to remedy that breach within 7 days after receipt of notice in writing to do so;
- (b) The Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
- (c) the Customer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
- (d) there is a change of Control of the Customer; or
- (e) the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

22.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 22.3(b) to clause 22.3(e), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

23. Consequences of termination

23.1 On termination of the Contract:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) all arrears of Rental Payments and other monies accrued due under the terms of the Contract up to the date of termination
- (c) the Customer shall return all of the Supplier Materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then 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 not connected with this Contract.



- (d) where the Contract provides any Self-Funded Equipment, a sum equal to all the Rental Payments up to the end of the Minimum Term which, but for termination of the Contract would have become due during the remainder of the Minimum Term with each Rental Payment being discounted by 2% per annum from its due date for payment to the date of termination to reflect early receipt
- (e) any costs and expenses the Supplier incurs in having to recover the Goods or Self-Funded Equipment in accordance with the Contract; and
- (f) all costs, expenses and losses incurred by us in liquidating, or redeploying the proceeds of any funding or other financial arrangement the Supplier has entered into for the purposes of funding our investment in the Goods, any Self-Funded Equipment and/or any Software;

23.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

23.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

24. Force Majeure

24.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without *limitation*:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- (f) collapse of buildings, fire, explosion or accident;
- (g) any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party);
- (h) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and
- (i) interruption or failure of utility service.

24.2 Provided it has complied with clause 24.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.



24.3 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

24.4 The Affected Party shall:

- (a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than 14 days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under this Contract; and
- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

24.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 30 days the party not affected by the Force Majeure Event may terminate this agreement by giving 30 days written notice to the Affected Party.

25. General

25.1 Contact Information

The service desk can be contacted:

- (a) By phone – 01604 673320
- (b) By email – delight@dbfb.co.uk

25.2 Assignment and other dealings

- (a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

25.3 Notices

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) 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); or
 - (ii) sent by email to the address specified in the Order or Additional Order.
- (b) Any notice or communication shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or



- (iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 25.3(b)(iii), business hours mean 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- (c) This clause 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.

25.4 Severance

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 25.4, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

25.5 Waiver

No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

25.6 No partnership or agency

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

25.7 Entire agreement.

- (a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.
- (c) Nothing in this clause shall limit or exclude any liability for fraud.

25.8 Third party rights

- (a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

25.9 Variation



Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

25.10 **Governing law**

The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

25.11 **Jurisdiction**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.