

## SUPPLIER STANDARD TERMS AND CONDITIONS 2021 ISSUE 1

### 1. INTERPRETATION

- 1.1 Definitions. In these Conditions, the following definitions apply:
- Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
- Commencement Date:** has the meaning set out in clause 2.2.
- Conditions:** these terms and conditions as amended from time to time in accordance with clause 21.7.
- Contract:** the contract between the Customer and the Supplier for the supply of Supplies in accordance with these Conditions.
- Counterfeit Supplies:** (1) supplies which have been identified, marked and/or altered by a source other than the supplies' legally authorised source and which have been misrepresented to be an authorised item of the legally authorised source and/or (2) previously used supplies provided as new.
- Customer:** 3T Additive Manufacturing Polymers Limited registered in England and Wales with company number 12685978 trading as Protototal UK.
- Customer Materials:** has the meaning set out in clause 3.6(I).
- Deliverables:** all documents, products, parts, components and materials developed, modified, or treated by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
- Goods:** the goods (or any part of them) set out in the Order.
- 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, 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

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- rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- Order:** the Customer's order for Supplies, as set out in the Customer's purchase order form
- Services:** the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Specification.
- Specification:** the description or specification for Supplies agreed in writing by the Customer and the Supplier, including any related plans and drawings that are agreed in writing by the Customer and the Supplier.
- Special Conditions:** additional conditions, specific to the requirement and which are stated and/or referenced on the face of the Order.
- Supplier:** the person or firm from whom the Customer purchases the Supplies.
- Supplies:** any Goods, materials, work, technical data, technology, software, technical assistance and/or Services which are to be provided by the Supplier to the Customer pursuant to the Order.
- Construction.** In these Conditions, the following rules apply:
- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
  - (b) a references to a party includes its successors or permitted assigns;
  - (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
  - (d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
  - (e) a reference to **writing** or **written** includes faxes and e-mails.

### 2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Customer to purchase Supplies from the Supplier in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted on the earlier of:
- (a) the Supplier issuing written acceptance of the Order; or
  - (b) any act by the Supplier consistent with fulfilling the Order,
- at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 The Supplier shall from the Commencement Date **OR** the date set out in the Order and for the duration of this Contract provide the Supplies to the Customer in accordance with the terms of the Contract.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.5 In the event the Customer is required or deems it necessary to flow down any Special Conditions, then these will be identified on the face of the Order. In the event of any conflict between these Conditions and any other document referenced within the Order, then the order of precedence is as follows:
- (a) any Special Conditions (including the Specification)
  - (b) these standard Conditions
  - (c) any other document agreed in writing by the parties.

### 3. PROVISION OF SUPPLIES

- 3.1 Quality
- The Supplier shall ensure that the Supplies:
- (a) correspond with their description and conform with the applicable Specification;
  - (b) are of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or

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- by implication, and in this respect the Customer relies on the Supplier's skill and judgment;
- (c) are free from defects in design (where applicable), materials and workmanship and remain so for 12 months after delivery; and
- (d) are performed or produced with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (e) are performed or produced using personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;
- (f) are performed or produced using the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Supplies or transferred to the Customer, will be free from defects in workmanship, installation and (if applicable) design; and
- (g) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Supplies.
- 3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Supplies.
- 3.3 The Customer shall have the right to inspect and test the Supplies at any time before delivery.
- 3.4 If following such inspection or testing the Customer considers that the Supplies do not conform or are unlikely to comply with the Contract, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Supplies and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Customer shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 3.6 The Supplier shall:
- (a) Notify the Customer of non-conforming Supplies;
  - (b) Obtain Customer approval for non-conforming Supplies disposition;
  - (c) Comply with any specific requirements of the Customer's customers;
  - (d) Comply with any additional requirements specified in the Order, including requirements regarding inspection/verification, investigation or auditing, the use of Customer designated or approved external providers, the use of special processes, and the tracking and identification of revised specifications, drawings, or process requirements.
  - (e) Where it affects the specification or quality of the Supplies ordered, notify the Customer of changes in product and/or process, services, change of suppliers, change of manufacturing facility location and, obtain Customer approval for these changes to be applied to the Order. Note: The Customer must be notified and approval is required in every case if the change relates to an Order including safety critical parts, whether or not the specification or quality is affected;
  - (f) Flow down to its supply chain the applicable requirements from these Conditions and the Order Specification;
  - (g) If required by the Customer, obtain the Customer's prior approval of the following before commencing work on an Order:
    - (i) products and services, procedures, methods, processes and equipment; and
    - (ii) qualification and competence of personnel.
  - (h) Notify, in advance, if the Supplier plans to subcontract any part of the Order;
  - (i) Provide right of access by the Customer and its Customer and regulatory authorities to the applicable areas of all facilities, at any level of the supply chain, involved in the Order and to all applicable records and data for the purpose of verification and validation of the Supplier's activities;
  - (j) Retain all Quality records (including, where applicable, design and production data) for a minimum of seven (7) years, the life of the product (if longer) or as specified on the Order and seek the Customer's approval before disposition;
  - (k) Provide all equipment, tools and vehicles and such other items as are required to provide the Supplies;
  - (l) Hold all materials, equipment and tools, drawings, specifications, components, customer parts and data supplied by the Customer to the Supplier (**Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
  - (m) Observe all health and safety rules and regulations and any other security requirements that apply to the Order and/or at any of the Customer's premises;
  - (n) Not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Supplies;
- #### 4. DELIVERY OF SUPPLIES
- 4.1 On delivery of each consignment of the Supplies, the Supplier shall deliver to the Customer such documents as are required by the Order, including without limitation, customs export documents, advice notes, certificates of conformity and civil approved certificates and, if the Supplier is not the original manufacturer of the Supplies, copies of the original manufacturer's certificate of conformity or civil approved certificate together with test figures, heat treatment particulars etc, where applicable. The certificate of conformity shall detail, as a minimum: Order number, quantity, relevant batch number, date, and authorised signature.

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4.2	The Supplier shall ensure that:		sole discretion reject the Supplies or the excess Supplies,		6.2	prevention of counterfeit or suspect counterfeit part use and their inclusion in Supplies delivered to the customer. The Supplier shall ensure that Counterfeit Supplies are not delivered to the Customer. In the event that Supplies delivered under the Order constitute or include Counterfeit Supplies, the Supplier shall, at its expense promptly replace such Counterfeit Supplies with genuine Supplies conforming to the requirements of the Order.
	(a) the Supplies are properly packed and secured in such manner as to enable them to reach their destination in good condition and delivery personnel are instructed to treat fragile items with care;		and any rejected Supplies shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Supplies ordered, and the Customer accepts the delivery, a pro rata adjustment shall be made to the invoice for the Supplies.			
	(b) the packaging used complies with any applicable environmental requirements;	4.6	The Supplier shall not deliver the Supplies in instalments without the Customer's prior written consent. Where it is agreed that the Supplies are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 11.1.		6.3	Should the Supplier become aware of or suspect that it has acquired Counterfeit Supplies, the Supplier shall as soon as practicable notify the Customer. The Supplier shall provide documentation that authenticates the affected Supplies and, where applicable, provide traceability of the sourcing route. The Supplier shall support the Customer in any investigation to support resolution of any suspect or affected Counterfeit Supplies.
	(c) each delivery of the Supplies is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Supplies (including the code number of the Supplies (where applicable)), special storage instructions (if any) and, if the Supplies are being delivered by instalments, the outstanding balance of Supplies remaining to be delivered; and	4.7	Title and risk in the Supplies shall pass to the Customer on completion of delivery.		6.4	The Supplier shall be liable for all costs relating to the removal and replacement of Counterfeit Supplies, including without limitation the Customer's costs of removing Counterfeit Supplies, of reinserting replacement supplies and of any testing necessitated by the reinstallation of supplies after Counterfeit Supplies have been exchanged.
	(d) if the Supplier requires the Customer to return any packaging material for the Supplies to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.	5.	<b>ACCEPTANCE AND TESTING</b>			
		5.1	Where acceptance tests are set out as a Special Condition and/or in the Specification, acceptance of Supplies delivered shall be subject to completion of the acceptance tests to the satisfaction of the Customer.			
4.3	Time is of the essence in all respects of this Contract. The Supplier shall deliver the Supplies:	5.2	Where no acceptance tests are set out as a Special Condition or in the Specification, the Customer shall have the right to inspect the Supplies after delivery and acceptance shall take place if the Supplies are satisfactory to the Customer on inspection or, if no inspection is made, the Supplies shall be accepted on the earlier of (a) when they have been taken into final and beneficial use by the Customer or (b) twenty-eight (28) days after delivery in accordance with clause 4.		7.	<b>SUPPLIER CONDUCT.</b>
	(a) on the date specified in the Order or, if no such date is specified, then within 7 calendar days of the date of the Order;				7.1	The Supplier shall conduct its business in a responsible and ethical manner and comply with the Protototal UK Code of Conduct accessible on Protototal UK's website <a href="http://www.protototaluk.com">www.protototaluk.com</a> .
	(b) to the Customer's premises at <b>Fulton Court, Wofford Way, Greenham Business Park, Newbury, Berkshire, RG19 6HD</b> or such other location as is set out in the Order or as instructed by the Customer before delivery ( <b>Delivery Location</b> );	5.3	Notwithstanding acceptance or any such inspection or testing, the Supplier shall remain fully responsible for the Supplies and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.		8.	<b>QUALITY MANAGEMENT.</b>
	(c) during the Customer's normal hours of business on a Business Day, or as instructed by the Customer.				8.1	The Supplier shall have in place a quality management system that is fit for purpose. The Customer shall have reasonable access to the Supplier's premises in order to perform an audit of the Supplier's quality management system.
4.4	Delivery shall be completed on the completion of unloading of the Supplies at the Delivery Location.	5.4	The Customer may request the provision of test specimens for design approval, inspection/verification, investigation or auditing.		8.2	The Supplier acknowledges the importance of product safety and their contribution to overall product or service conformity. The Supplier shall plan, implement, and control the processes needed to assure product safety during the entire product life cycle, as appropriate to the Supplier and the Supplies, including, for example, assessment of hazards and management of associated risks, management of safety
4.5	If the Supplier:					
	(a) delivers less than 95 per cent of the quantity of Supplies ordered, the Customer may reject the Supplies; or	6.	<b>COUNTERFEIT SUPPLIES</b>			
	(b) delivers more than 105 per cent of the quantity of Supplies ordered, the Customer may at its	6.1	The Supplier shall plan, implement, and control processes, appropriate to its organization and the Supplies, for the			

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critical items, analysis and reporting of occurred events affecting safety, and communication of these events and training of persons.

### 9. PERFORMANCE MANAGEMENT.

The Customer has in place a Supplier performance management system which principally monitors on-time delivery and right-first time performance. If the Supplier fails to meet the performance criteria, then the Customer will issue a SCAR report or other notification to the Supplier regarding its poor performance. The Supplier must respond within 7 days.

### 10. DATA PROTECTION.

The Supplier will comply with all applicable requirements of data protection legislation including the General Data Protection Regulation ((EU) 2016/679) (GDPR) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and any successor legislation to the GDPR or the Data Protection Act 1998.

### 11. CUSTOMER REMEDIES

11.1 If the Supplier fails to deliver the Supplies by the applicable date, the Customer shall, without limiting its other rights or remedies, have one or more of the following rights:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to refuse to accept any subsequent performance and/or delivery of the Supplies which the Supplier attempts to make;
- (c) to recover from the Supplier any costs incurred by the Customer in obtaining substitute Supplies from a third party;
- (d) where the Customer has paid in advance for Supplies which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and
- (e) to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

11.2 If the Supplier has delivered and/or performed Supplies that do not comply with the Contract then, without limiting its other rights or remedies, the Customer shall have one or more of the following rights, whether or not it has accepted the Supplies:

- (a) to reject the Supplies (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- (b) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (c) to require the Supplier to repair or replace and/or re-perform the rejected Supplies, or to provide a full refund of the price of the rejected Supplies (if paid);
- (d) to refuse to accept any subsequent delivery of the Supplies which the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute Supplies from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Supplies in accordance with the Contract.

11.3 These Conditions shall extend to any substituted, remedial, repaired or replacement Supplies supplied by the Supplier.

11.4 The Customer's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

### 12. CUSTOMER'S OBLIGATIONS

The Customer shall:

- (a) provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Supplies;
- (b) provide such information as the Supplier may reasonably request for the provision of the Supplies and the Customer considers reasonably necessary for the purpose of providing the Supplies; and
- (c) Any other obligations stated on the face of the Order.

### 13. CHARGES AND PAYMENT

13.1 The price for the Supplies:

- (a) shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date; and
- (b) shall be inclusive of the costs of packaging, insurance and carriage of the Supplies, unless otherwise agreed in writing by the Customer.

13.2 The charges for the Supplies shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Supplies. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance and/or provision of the Supplies.

13.3 The Supplier shall invoice the Customer on or at any time after completion of delivery or completion of the Supplies. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

13.4 In consideration of the provision of Supplies by the Supplier, the Customer shall pay the invoiced amounts within 30 days (end of month) from the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.

13.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued 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 Supplies at the same time as payment is due for the supply.

13.6 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank PLC's base rate from time to time. 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 judgment. The

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- defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments that the defaulting party disputes in good faith.
- 13.7 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Supplies, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.
- 13.8 The Customer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.
- 14. INTELLECTUAL PROPERTY RIGHTS**
- 14.1 In respect of the Supplies, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Customer, it will have full and unrestricted rights to sell and transfer all such items to the Customer.
- 14.2 The Supplier assigns to the Customer, with full title guarantee and free from all third-party rights, all Intellectual Property Rights in the products of the Supplies, including, for the avoidance of doubt, the Deliverables.
- 14.3 The Supplier shall obtain waivers of all moral rights in the Supplies, including for the avoidance of doubt the Deliverables, to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 14.4 The Supplier shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with clause 14.2.
- 14.5 All Customer Materials are the exclusive property of the Customer.

### 15. INDEMNITY

- 15.1 The Supplier shall keep the Customer indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to 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 professional costs and expenses) suffered or incurred by the Customer as a result of or in connection with:
- (a) any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, receipt, supply or use of the Supplies, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
  - (b) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Supplies, to the extent that the defects in the Supplies are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
  - (c) any claim made against the Customer by a third party arising out of or in connection with the supply of the Supplies, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.
- 15.2 This clause 15 shall survive termination of the Contract.

### 16. INSURANCE

During the term of the Contract and for reasonable period of time thereafter, proportionate to the context of the scope of supply or as may be required by the Customer, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract,

and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

### 17. CONFIDENTIALITY

- 17.1 A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes, initiatives or customer information, parts and components which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- 17.2 This clause 17 shall survive termination of the Contract.

### 18. TERMINATION

- 18.1 Without limiting its other rights or remedies, the Customer may terminate the Contract:
- (a) in respect of the supply of Services, by giving the Supplier seven (7) calendar days written notice; and
  - (b) in respect of the supply of Goods, in whole or in part at any time before delivery with immediate effect by giving written notice to the Supplier, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation



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	for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.						or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
18.2	In any of the circumstances in these Conditions in which a party may terminate the Contract, where both Goods and Services are supplied, that party may terminate the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.	(e)	Supplier with one or more other companies or the solvent reconstruction of the Supplier; a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;	18.4	Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.		
18.3	Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:	(f)	the Supplier (being an individual) is the subject of a bankruptcy petition or order;	18.5	Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.		
	(a) the Supplier commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within seven (7) calendar days of receipt of notice in writing to do so;	(g)	a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration 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 14 days;	19.	<b>CONSEQUENCES OF TERMINATION</b>		On termination of the Contract for any reason, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
	(b) the Supplier repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;	(h)	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 the Supplier (being a company);	20.	<b>FORCE MAJEURE</b>		
	(c) the Supplier 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 or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;	(i)	the holder of a floating charge over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;	20.1	Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from events, circumstances or causes beyond its reasonable control.		
	(d) the Supplier 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 other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the	(j)	a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;	20.2	The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.		
		(k)	any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 18.3(c) to clause 18.3(j) (inclusive);	20.3	If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than five (5) Business Days, the Customer may terminate the Contract immediately by giving written notice to the Supplier.		
		(l)	the Supplier suspends or ceases, or threatens to suspend, or cease, to carry on all or a substantial part of its business;				
		(m)	the other party's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or				
		(n)	the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental				

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### 21. GENERAL

#### 21.1 Assignment and other dealings.

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

#### 21.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 21.2(a); 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

- 21.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a

provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

- 21.4 **Waiver.** A waiver of any right or remedy under the Contract or law 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 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.

- 21.5 **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, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

- 21.6 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

- 21.7 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Customer.

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

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