

ALTLAW TERMS AND CONDITIONS

1 INTERPRETATION

1.1 The following definitions and rules of interpretation apply in these terms and conditions (**conditions**):

1.2 **Contract** the Customer's purchase order and the Supplier's acceptance of it or the Customer's acceptance of a quotation for Services (including, but not limited to, the provision of a Summary Cost Estimate) by the Supplier under condition 2.2 and includes, for the purposes of the provision of E-Services, an E-Services Agreement;

1.3 **Customer** the person, firm or company who purchases Services from the Supplier;

1.4 **Document** includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk, computer file, DVD, CD, flash drive or other device or record embodying information in any form;

1.5 **E-Services** the provision of on-line services, hosted applications, electronic early case assessment, AltLaw Managed Review services, electronic forensic services or such other services as may be specified pursuant to the terms of an E-Services Agreement;

1.6 **E-Services Agreement** any written agreement entered into by the Supplier and the Customer in connection with the provision of E-Services;

1.7 **Goods** all Documents (save to the extent relating solely to the provision of E-Services), products and materials developed by the Supplier or its agents, subcontractors, consultants and employees in relation to the provision of Services in any form;

1.8 **Intellectual Property Rights** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

1.9 **Services** (i) printing, blowbacks, copying, scanning, coding, file conversion, and/or shredding to be provided by the Supplier under the Contract or (ii) E-Services to be provided by the Supplier under the Contract, in each case together with any other services which the Supplier provides, or agrees to provide, to the Customer;

1.10 **Software** the Supplier's proprietary software used to provide the Services;

1.11 **Summary Cost Estimate** the summary cost estimate, if any, provided by the Supplier to the Customer in connection with the provision of E-Services;

1.12 **Supplier** ALTLAW LIMITED (Company No. 05155538), or, in connection with the provision of E-Services, ALTLAW LITIGATION SUPPORT LIMITED (Company No. 07108843), in each case whose registered office is at 205-207 City Road, London EC1V 1JN;

1.13 **System Management Regulations** regulations produced by the Supplier from time to time for the better management of the E-Services which may include (but are not limited to) regulations to ensure that (a) the network through which the Services are provided is not overloaded and that the security and integrity of the network is maintained and/or to ensure compliance with regulations of any data centre facility engaged by the Supplier in connection with the Services; and (b) any database or other applications which form part of the E-Services are used to the best effect and within their capacities;

1.14 Headings in these conditions shall not affect their interpretation.

1.15 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.16 A reference to **writing** or **written** includes faxes and e-mail.

1.17 Any obligation in the Contract on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done.

1.18 References to conditions and schedules are to the conditions and schedules of the Contract.

1.19 If the Customer makes use of any E-Services of the Supplier, the E-Services Agreement, if any, shall apply to that use and are incorporated herein. To the extent of any inconsistency between the E-Services Agreement and these conditions the E-Services Agreement shall apply.

2 APPLICATION OF CONDITIONS

2.1 Subject to condition 1.19, these conditions shall apply to and be incorporated into the Contract and shall prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation, or specification or other document supplied by the Customer, or implied by law, trade custom, practice or course of dealing.

2.2 The Customer's purchase order, or the Customer's acceptance of a quotation for Services (including, but not limited to, a Summary Cost Estimate, if any) by the Supplier, constitutes an offer by the Customer to purchase the Services on these conditions. No offer placed by the Customer shall be accepted by the Supplier other than: (a) by a written acknowledgement issued and executed by the Supplier; or (b) (if earlier) by the Supplier starting to provide the Services, when a contract for the supply and purchase of the Services on these conditions will be established. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other document shall not govern the Contract.

2.3 Quotations are given by the Supplier on the basis that no Contract shall come into existence except in accordance with condition 2.2. Any quotation is valid for a period of 30 days from its date, provided that the Supplier has not previously withdrawn it.

3 COMMENCEMENT AND DURATION

3.1 The Services supplied under the Contract shall be provided by the Supplier to the Customer from the date of acceptance by the Supplier of the Customer's offer in accordance with condition 2.2 and shall continue to be so provided until (a) the delivery of the Goods or (b) the completion and/or delivery (as applicable) of the E-Services.

4 SUPPLIER'S OBLIGATIONS

4.1 The Supplier shall use reasonable endeavours to provide the Services, and to (a) deliver the Goods to the Customer in accordance in all material respects with the Customer's instructions and (b) exercise reasonable skill and care to provide the Services in accordance with the Contract.

4.2 The Supplier shall use reasonable endeavours to meet any performance dates or times specified in any written acknowledgement, the Contract or otherwise, but any such dates or times shall be estimates only and time shall not be of the essence of the Contract nor shall the Supplier be liable for any failure to meet such dates or times provided always that the Supplier shall have used reasonable endeavours to

do so. It is accepted that failure to meet any such dates and times shall not of itself imply that the Supplier has not used reasonable endeavours.

4.3 Delivery of the Goods shall take place at the address or addresses specified by the Customer and all Goods shall remain the property of the Supplier until all indebtedness from the Customer to the Supplier has been discharged, but the risk in the Goods shall be borne by the Customer from the date of the delivery by the Supplier or its agents to the Customer and the Customer shall be under a duty to properly store and insure the Goods and identify them as the Supplier's property.

4.4 The Supplier reserves the right to sub-contract the fulfilment of the Contract or supply Services or any part thereof.

4.5 Films, plates, drawings, designs, specifications and other materials manufactured and used by the Supplier in the production of typesetting, electronic data, negatives, positives, plates and the like shall remain its exclusive property.

4.6 Typesetting may be distributed and lithographic, photogravure or other work effaced immediately after the Contract is executed unless written arrangements are made to the contrary and rent may be charged.

4.7 In connection with the provision of E-Services, the Supplier does not and cannot control the flow of data to or from its network and other portions of the internet. Such flow depends in large part on the performance of internet services provided or controlled by third parties. At times, actions or omissions of such third parties can impair or disrupt connections to the internet (or portions thereof). Although the Supplier will use commercially reasonable efforts to take all actions it deems appropriate to remedy and avoid such events, the Supplier cannot guarantee that such events will not occur. According, the Supplier disclaims any and all liability resulting from or related to such events.

4.8 The Customer warrants that any agent or employee of the Customer who requests any Services is duly authorised to make such request and to bind the Customer and the Supplier shall be entitled to rely on and act in accordance with the instructions of any such employee or agent.

5 CUSTOMER'S OBLIGATIONS

5.1 The Customer shall:

5.1.1 co-operate promptly and fully with the Supplier in all matters relating to the Services;

5.1.2 provide to the Supplier, in a timely manner, such Documents and other information as the Supplier may require and ensure that it is accurate in all material respects;

5.1.3 obtain and maintain all necessary licences, permissions and consents and comply with all relevant legislation in relation to the Services, in all cases before the date on which the Services are to start;

5.1.4 ensure that any Documents or other materials that are required to be subjected to the Services are delivered into the custody and control of the Supplier in good time for the Supplier (a) to be able to meet any performance dates or times by using reasonable endeavours so to do and (b) in such quantity and such condition as have been represented by the Customer, its agents or employees.

5.2 The Customer's correction of any proof including alterations in style and the cost of additional proofs necessitated by such corrections will be charged extra. Proofs of all work may be submitted for the Customer's approval and in that event no responsibility will be accepted by the Supplier for any errors not corrected by the Customer.

5.3 In connection with the provision of E-Services, the Customer represents, warrants and undertakes that:

5.3.1 it will comply at all times during the term of the Contract with all current System Management Regulations *provided that* the Supplier shall give not less than 30 days' written notice to the Customer of additions and changes to the System Management Regulations;

5.3.2 it will use the Services only for lawful purposes and in accordance with the Contract;

5.3.3 that any media tendered or made available to the Supplier for examination or duplication and any access granted to any information, system or network was obtained lawfully, in full compliance with all applicable statutes and regulations or orders or policies of any court or agency of competent jurisdiction, and with due regard for and deference to the property or privacy rights of third parties. The Customer agrees to indemnify and hold the Supplier harmless from any claim or suit alleging unauthorised or unlawful access to any information, media, system or network, including all damages, expenses, liability, fines and legal fees;

5.3.4 any software, data, equipment or other materials provided by (or in relation to which access is granted by) the Customer to the Supplier or employed by the Customer in its use of or receipt of the Services shall not infringe any Intellectual Property Rights of any third party and shall not be obscene or defamatory of any person and shall not violate the laws or regulations of any applicable authority which may have jurisdiction over such activity; and

5.3.5 the Customer shall provide all such assistance, facilities and information to the Supplier as the Supplier may reasonably require in order to enable it to carry out its obligations under the Contract.

5.4 In connection with the provision of E-Services, in the event of any breach of condition 5.3, in addition to any other remedies available at law or in equity, the Supplier will have the right to suspend immediately any related Services if deemed reasonably necessary by the Supplier to protect the proper interests of the Supplier or its other clients. If practicable and depending on the nature of the breach, the Supplier may (in its absolute discretion) give the Customer an opportunity to cure such breach. In such case, once the Customer has cured the breach, the Supplier will promptly restore the Services within 24 hours.

5.5 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay and, if applicable, the timetable for the Services will be modified accordingly.

5.6 The Customer shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Supplier confirming such costs, charges and losses to the Customer in writing.

6 CHARGES AND PAYMENT

6.1 In consideration of the provision of the Services by the Supplier, the Customer shall pay the charges as set out in the Supplier's Contract and/or invoice or as may otherwise be agreed by the parties.

6.2 All prices quoted to the Customer are exclusive of value added tax or any tax replacing it, for which the Customer shall be additionally liable at the applicable rate from time to time.

- 6.3 The price shall be at the Supplier's standard rates shown on the Suppliers price list from time to time or as otherwise agreed between the parties.
- 6.4 Payment of the price shall be due within 14 days of the date of the Supplier's invoice. Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 5% per annum above the National Westminster Bank Plc base rate from time to time in force and shall accrue at such a rate after as well as before any judgment.
- 6.5 The Customer undertakes to pay to the Supplier (on the full indemnity basis) all costs, charges and expenses incurred by the Supplier in collecting or attempting to collect any indebtedness of the Customer to the Supplier.
- 6.6 The Customer agrees that the Supplier has the right at any time before delivery of the Services to withdraw any discount or to revise any price quoted if, after the Supplier's acceptance of any order, there is an increase or decrease in the cost to Supplier of supplying the Services whether by reason of exchange rate fluctuations, taxes and duties, increase in labour or material costs, third party charges or otherwise
- 6.7 The Customer may not withhold payment of any invoice or other amount due to the Supplier by reason of any right of set-off or counterclaim which the Customer may have or allege to have or for any reason whatever.
- 6.8 Time for payment shall be of the essence of the Contract.
- 6.9 All sums payable to the Supplier under the Contract shall become due immediately on its termination, despite any other provision. This condition 6.9 is without prejudice to any right to claim for interest under the law or any such right under the Contract.
- 6.10 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.
- 6.11 Any prices stated or agreed in relation to any Contract and any other terms are conditional upon compliance by the Customer, its agents or employees with its obligations under the Contract and further but without limitation ensuring that any Documents or materials delivered for photocopying or scanning are delivered in one batch, are properly ordered, not stapled, bound or otherwise in a condition that requires the application of any prior process of modification by the Supplier before the Services can be applied.
- 6.12 The time spent in the application of any prior process described in condition 6.11 shall be charged to the Customer in addition to the prices stated or agreed at the Supplier's rates applicable from time to time and the Customer agrees to meet such further charges. The Customer by delivery of any Documents or materials to the Supplier authorises the Supplier to undertake any such prior process as the Supplier in its sole discretion considers necessary or appropriate.
- 6.13 If any payment is due and outstanding by the Customer to the Supplier at any time in relation to any Contract or if the Supplier, in its sole discretion, considers that any payment on account of current work is necessary or appropriate having regard to the nature of the work to be undertaken, the financial resources of the Customer or any client of the Customer or any other factor the Supplier may at any time and from time to time require any such payment to be made by the Customer as a condition precedent to the acceptance or continuance of any Services and may withhold or suspend performance of the Services or the completion of any Contract until any such payment has been made in cleared funds by the Customer to the Supplier without thereby incurring any liability.

7 INTELLECTUAL PROPERTY RIGHTS

- 7.1 The property and any Intellectual Property Rights in any Documents provided to the Supplier in respect of providing Services shall belong to the Customer and the Customer grants to the Supplier a non-exclusive, irrevocable world-wide licence to (a) use, execute, reproduce, display, perform, and distribute a copy of the Documents for the purpose of providing the Services only; (b) in connection with the provision of E-Services, to copy, reproduce and manipulate data provided by the Customer or resulting from the Services for the purposes of using the data for the provision of the Services; and (c) in connection with the provision of E-Services, to reproduce and display the Customer's trade marks for the purposes of using the data for the provision of the Services (and, subject to any contrary provision in the Contract, the Supplier undertakes only to use the Customer's trade marks for the purpose of providing the Services or, if approved pursuant to condition 18, in any publicity materials produced by the Supplier).
- 7.2 The Customer warrants that any Documents or other materials supplied by the Customer and its use by the Supplier for the purpose of providing the Services will not infringe the copyright or other rights of any third party and shall not be in any way illegal scandalous or libellous, and the Customer shall indemnify the Supplier against any loss, damages, costs, expenses or other claims arising from such infringement.
- 7.3 All drawings specifications and proofs supplied by the Supplier are copyright and may not be reproduced or disclosed to third parties without the Supplier's consent in writing.
- 7.4 Without prejudice to the Customer's rights in its own materials, the parties hereby agree that the Customer shall not acquire any Intellectual Property Rights whatsoever in respect of the Software, documentation and all other materials used by the Supplier in connection with or related to the provision of the Services hereunder.
- 7.5 The Supplier warrants that it has all necessary right, title and interest in respect of the Intellectual Property Rights relating to the Software necessary to enable the Customer to benefit from the Services in accordance with the Contract.

8 CONFIDENTIALITY AND SECURITY

- 8.1 The Supplier hereby undertakes to the Customer to: (a) keep confidential all information concerning the business and affairs of the Customer that it shall have obtained or received as a result of the discussions leading up to or the entering into or performance of the Contract or the provision of Services (the **Information**), (b) not without the Customer's consent disclose the Information in whole or in part to any other person save those of its employees agents and sub-contractors involved in the provision or receipt of the Services and who have a need to know the same or to the extent that disclosure of the Information is required by any court, governmental agency or regulatory body of competent jurisdiction (in which case the Supplier will give prompt notice of such requirement to the Customer save to the extent it may be prohibited from doing so by any applicable law, regulation or other legally binding requirement) and (c) use the Information solely in connection with the provision or delivery of the Services and not for its own benefit or the benefit of any third party.
- 8.2 The provisions of this condition 8 shall not apply to the whole or any part of the Information to the extent that it is: (a) trivial or obvious or (b) in the public domain other than as a result of a breach of this condition 8.
- 8.3 Each party recognises that it is impossible to maintain flawless security but in connection with the provision of E-Services the Supplier shall take all commercially reasonable steps to prevent security breaches in its servers' interaction with the Customer and security breaches in the Supplier's interaction with resources or users outside of such firewall(s) that the Supplier maintains in connection with its servers.

- 8.4 In connection with the provision of E-Services, the Customer is responsible for maintaining the confidentiality of any passwords which are required to access the Supplier's Software and the Services and is solely responsible for any damage caused by any unauthorised access occurring as a result of a failure to maintain such confidentiality or permitting other security breaches which may occur through the Customer's own servers and related resources.

9 LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION

- 9.1 This condition 9 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) to the Customer in respect of: (a) any breach of the Contract, (b) any use made by the Customer of the Services, the Goods or any part of them, and (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 9.2 The Supplier warrants that the Goods and Services provided to the Customer will be of reasonably satisfactory quality and all other warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 9.3 Nothing in these conditions limits or excludes the liability of the Supplier: (a) for death or personal injury resulting from negligence or (b) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Supplier.
- 9.4 Subject to conditions 9.2 and 9.3, the Supplier shall not be liable to the Customer under any circumstances for any losses, damages or third party claims of an indirect, consequential, special or incidental nature, including, without limitation, loss of business or profit, regardless of whether such was reasonably foreseeable or that the Supplier had been made aware of the possibility of the Customer incurring such loss
- 9.5 Subject to conditions 9.2 and 9.3 (and without prejudice to the generality of condition 9.4) the Supplier shall not be liable to the Customer for any losses, damages or third party claims or losses arising from the loss or destruction of Goods printing plates or other working materials whilst on the Supplier's premises or otherwise.
- 9.6 All Documents supplied by the Customer shall remain the Customer's property and any such items which are left in the custody of the Supplier by the Customer shall be so left at the sole risk of the Customer and the Supplier shall not be responsible for any loss or damage to them whilst in such custody.
- 9.7 The provision of scanning services by the Supplier consists of the recordal of documents, images and data (**Data**) on a digital medium in a manner that can be accessed and retrieved electronically and such other services as shall be agreed in the Contract. The Supplier will if required by the Customer use reasonable efforts to assist the Customer in considering issues which may be relevant to the manner in which such Data will be stored and accessed but the Customer is solely responsible for designing and specifying any required database structure, indexing parameters, retrieval criteria, instructions for the use and manipulation of data and identifying any other issue relevant thereto (**Operational Criteria**). The Supplier gives no recommendation or advice and excludes all liability in respect of the design, specification or functionality of any Operational Criteria or the suitability of any Operational Criteria for any particular purpose.
- 9.8 The Customer accepts that the Operational Criteria are dependent on third party software, which the Customer licenses at its discretion from third-party software providers. The identification of such software and its suitability for the purposes of the Customer is the sole responsibility of the Customer. The Supplier grants no express or implied license to use nor makes any recommendation in respect of such software. The Supplier excludes all liability in respect of the use of any such software by the Customer or any other party. The Customer is solely responsible for (i) taking and retaining copies of all Data submitted to the Supplier during the provision of Services (ii) maintaining backup copies of all media supplied by the Supplier (iii) implementing disaster recovery procedures appropriate to the Customer's requirement (iv) clearly identifying any Data submitted to the Supplier, which is of a confidential nature and should not be scanned copy or destroyed and (v) upon receipt from the Supplier of any Goods and prior to use or dispatch thoroughly checking the same to ensure that it is accurate, complete and does not contain any Data of a confidential nature which should not be disclosed. The Supplier accepts no obligation to maintain any copies of any such Data or media or to maintain disaster recovery procedures on behalf of the Customer.
- 9.9 Any claim by the Customer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Customer) be notified to the Supplier within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) forthwith on discovery of the defect or failure and if delivery is not refused and the Customer does not notify the Supplier accordingly the Customer shall not be entitled to reject the Goods and the Supplier shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 9.10 Where any valid claim is made against the Supplier under or in relation to any Contract the Supplier shall be entitled to replace the Goods (or part in question) free of charge or at the Supplier's sole discretion refund the price of the Goods or Services (or a proportionate part of the price thereof) and the Supplier shall have no further liability to the Customer.
- 9.11 The Customer accepts that the Supplier is in no way liable for any virus or other contaminants which enter the Customer's email system or computer network.
- 9.12 In connection with the provision of E-Services, the Supplier shall not be liable for any interruptions to the Services arising directly or indirectly from (a) interruptions to the flow of data to or from the internet; (b) changes, updates or repairs to the network or software which it uses as a platform to provide the Services subject to the Supplier striving to minimise the interruptions/outages that may be caused by such change; (c) the effects of the failure or interruption of services provided by third parties; (d) factors outside of the Supplier's reasonable control (including without limitation, the loss of the Customer's data required in relation to the provision of E-Services, provided always that such loss is outside of the Supplier's reasonable control); (e) any actions or omissions of the Customer (including, without limitation, breach of the Customer's obligations set out in the Contract) or any third parties; (f) problems with the Customer's equipment and/or third party equipment; and (g) interruptions to the Services requested by the Customer.
- 9.13 The Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Contract shall be limited to the price paid for the Services.

10 TERMINATION

- 10.1 Without prejudice to any other rights or remedies which the parties may have, the Supplier may terminate the Contract without liability to the Customer immediately on giving notice to the other if:

- 10.1.1 the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than fourteen days after being notified in writing to make such payment; or
- 10.1.2 the Customer commits a breach of any of the terms of the Contract (save to the extent covered by condition 10.1.1) and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- 10.1.3 the Customer 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
- 10.1.4 the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or
- 10.1.5 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 Customer;
- 10.1.6 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 Customer; or
- 10.1.7 the Customer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- 10.2 On termination of the Contract for any reason:
- 10.2.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt; and
- 10.2.2 the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.
- 10.3 On termination of the Contract (however arising), conditions 7, 8, 9, 10, 21 and 22 shall survive and continue in full force and effect.

11 FORCE MAJEURE

The Supplier shall have no liability to the Customer under the Contract if it is prevented from, or delayed in performing, its obligations including but not limited to the provision of the Services and/or the delivery of the Goods under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

12 VARIATION

- 12.1 The Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. The Supplier may, from time to time change the Services, provided that such changes do not materially affect the nature or quality of the Services and, where practicable, it will give the Customer notice of any change.
- 12.2 Subject to condition 12.1, no variation of the Contract or these conditions shall be valid unless it is in writing and signed by or on behalf of each of the parties.

13 WAIVER

- 13.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or arising under or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.
- 13.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

14 SEVERANCE

If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part thereof shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.

15 ENTIRE AGREEMENT

- 15.1 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.
- 15.2 Each party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than for breach of contract.
- 15.3 Nothing in this condition shall limit or exclude any liability for fraud.

16 ASSIGNMENT

- 16.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontract or deal in any manner with all or any of its rights or obligations under the Contract.
- 16.2 The Supplier may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent. Any such delegation or sub-contracting shall not relieve the Supplier of its obligations under the Contract.
- 16.3 Each party that has rights under the Contract is acting on its own behalf and not for the benefit of another person.

17 NO PARTNERSHIP OR AGENCY

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

18 PUBLICITY

No announcement or information concerning this Agreement or any ancillary matter shall be made or released or authorised to be made or released in any advertising, publicity, promotional or other marketing activities by either of the Supplier or the Customer without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).

19 RIGHTS OF THIRD PARTIES

A person who is not a party to the Contract shall not have any rights under or in connection with it.

20 NOTICES

Any notice required or permitted pursuant to any Contract or under these conditions to either party shall be deemed to have been duly given if in writing and delivered personally, sent by first class post to the party's registered office or usual business address or sent to the e-mail or facsimile number as may be specified in the Contract (or, in each case, to such other addresses or facsimile

numbers as such party may have from time to time communicate to the other in writing).

21 DISPUTES

- 21.1 All disputes or differences which shall at any time hereafter arise between the Supplier and the Customer in respect of the construction or effect of the Contract or the rights, duties and liabilities of the parties hereunder or any matter or event connected with or arising out of this Agreement (a **Relevant Event**) shall be referred to such independent third party (the **Third Party**) as the Supplier and the Customer shall jointly nominate.
- 21.2 If the Supplier and the Customer shall fail to nominate a Third Party within 14 days of the date of the notification of the occurrence of the Relevant Event by one party to the other, then the Third Party shall be nominated at the written request of either the Supplier or the Customer (with a copy of such written request to be provided by the requesting party to the counterparty) by the President for the time being of the British Computer Society.
- 21.3 The Third Party shall act as an expert and not as an arbitrator whose decision (including as to costs) shall, except in the case of manifest error, be final and binding upon the Supplier and the Customer.

22 GOVERNING LAW AND JURISDICTION

All Contracts incorporating these conditions (and any non-contractual dispute arising in relation thereto or otherwise in connection therewith) shall be governed by and construed exclusively in accordance with the laws of England and (subject to condition 21) the Customer agrees to submit to the non-exclusive jurisdiction of the English courts.