



MGF (TRENCH CONSTRUCTIONS SYSTEMS) LIMITED - TERMS AND CONDITIONS FOR THE SALE, HIRE AND SUPPLY OF PROP LOAD MONITORING EQUIPMENT AND ASSOCIATED SERVICES

1. Interpretation

1.1. In these Conditions:

'ANTI-BRIBERY LAWS' means any and all statutes, statutory instruments, bye-laws, orders, directives, treaties, decrees and laws (including any common law, judgment, demand, order or decision of any court, regulator or tribunal) which relate to anti-bribery and/or anti-corruption, including (without limitation) the Bribery Act 2010.

'CLIENT' the person(s) business or company for whom the Supplier has agreed to provide the Specified Service, Goods and/or Hire Equipment in accordance with these Conditions, including their successors and/or personal representatives.

'CLIENT'S EQUIPMENT' means the materials, instruments, equipment, (including computer programs and hardware) access to utilities and/or services to be provided to the Supplier by the Client in order to facilitate the provision of the Specified Service as agreed and set out in the Quotation. **'CONDITIONS'** means the terms and conditions set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Client and the Supplier.

'CONFIDENTIAL INFORMATION' means any information (whether written, oral, in electronic form or in any other media) that is disclosed by or on behalf of a party to or otherwise accessed by the other party or its employees, agents and/or subcontractors in connection with the Contract and/or the provision of the services and that relates (in whole or in part) to the disclosing party or its business, including (without limitation) all tangible and intangible information designated as confidential by any party in writing and all other information which may, by its nature, be reasonably regarded as confidential including, but not limited to, procedures, network configuration and topology, passwords and details of the parties' methodologies.

'CONTRACT' means the contract for the provision of the Specified Service, sale of the Goods or supply of the Hire Equipment or any combination thereof incorporating these Conditions.

'DATA PROTECTION LEGISLATION' means the Data Protection Act 1998 and Privacy and Electronic Communications (EC Directive) Regulations 2003, together with any related or ancillary legislation, (each as modified, amended, extended, consolidated, re-enacted and/or replaced from time to time). **'DOCUMENT'** includes, in addition to a document in writing, any map, plan, graph, diagram drawing or photograph, any film, negative, tape, disc or other device embodying visual images and any disc, tape or other device embodying any other data.

'FEES' means the Supplier's fees for the Specified Services as detailed in the Quotation, and all reasonable expenses incurred by the Supplier in carrying out the Specified Service.

'GOODS' means the Prop Load Monitoring equipment (including any instalment of the Goods, or any parts for them) which the Supplier is to supply in accordance with these Conditions. For the avoidance of doubt, this is the sensory and monitoring equipment only and not any other product, apparatus or otherwise that it is affixed to or otherwise monitoring.

'GROUP COMPANY' shall include the Supplier, its subsidiaries or holding companies from time to time and any subsidiary of any holding Company from time to time.

'HOLDING COMPANY' a reference to a holding Company or a subsidiary means a holding Company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.

'HIRE EQUIPMENT' means the Prop Load Monitoring equipment, plant, machinery, tools, parts and accessories, including any instalment, part or combination of the same, which the Supplier is to hire to the Client in accordance with these Conditions.

'HIRE PERIOD' means the period from the time the Hire Equipment is dispatched by the Supplier to the Client or collected by the Client or its agents or representatives from the Supplier's address until the time the Hire Equipment is received back at the Supplier's address or such other address as may be agreed in Writing.

'INPUT MATERIAL' means any Document or other material, and any data or other information provided by the Client relating to the Specified Service.

'INTELLECTUAL PROPERTY RIGHTS' means all intellectual and industrial property rights of any kind whatsoever including but not so as to be limited to patents, supplementary protection certificates, registered trademarks, registered designs, models, unregistered design rights, unregistered trade marks, rights to prevent passing off or unfair competition and copyright (whether in drawings, plans, specifications, designs



and computer software or otherwise), database rights, topography rights, any rights in any invention, discovery or process, rights in formulae, methods, plans, inventions, discoveries, improvements, processes, performance methodologies, techniques, specifications, technical information, tests, results, reports, component lists, manuals and instructions, and applications for and rights to apply for any of the foregoing, in each case in the United Kingdom and all other countries in the world and together with all renewals, extensions, continuations, divisions, reissues, re-examinations and substitutions.

'MGF (TRENCH CONSTRUCTION SYSTEMS) LIMITED'S CONDITIONS OF HIRE'

means the usual terms and conditions of hire employed by the Supplier, which are available for inspection at the Supplier's depot.

'MGF (TRENCH CONSTRUCTION SYSTEMS) LIMITED'S CONDITIONS OF SALE'

Means the usual terms and conditions of sale employed by the Supplier, which are available for inspection at the Supplier's depot.

'OUTPUT MATERIAL' means any Document or other material, and any data or other information provided by the Supplier relating to the Specified Service.

'PERSONAL DATA' means personal data (as defined in the Data Protection Act 1998, as modified, amended, extended, consolidated, re-enacted and/or replaced from time to time) to which the Supplier may (by or on behalf of the Client) be granted access, during the course of the provision of the Specified Service.

'QUOTATION' means the quotation, scope of works or other such proposal to which these Conditions are appended.

'SITE' means the location at which the Specified Service is to be provided as set out in the Quotation.

'RESULTS REPORTS, PORTALS AND PRESENTATIONS' means the results of the Services produced by the Supplier in various formats Including, but not so as to be limited to computer programs, data, diagrams, reports and specifications.

'SPECIFIED SERVICE' means the Prop Load Monitoring and other similar services to be provided by the Supplier for the Client and referred to in the Quotation, which may include, but is not limited to, access to and production of Results Reports, Portals and Presentations.

'SUPPLIER' means MGF (Trench Construction Systems) Limited and includes its successors and assigns, and the Supplier shall be entitled to sub-contract all or any of it rights and/or obligations hereunder.

'SUPPLIER'S STANDARD CHARGES' means the charges shown in the Quotation relating to the Specified Service

'WRITING' includes telex, cable, facsimile transmission and comparable means of communication

1.2 The headings in the Conditions set out below are for convenience only and shall not affect their interpretation.

1.3 Any reference to a statutory provision shall include any subordinate legislation made from time to time under that provision.

1.4 Any reference in these Conditions to any statute or statutory provision shall be construed as a reference to that statute or statutory provision as amended, re-enacted or extended at the relevant time. 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.

1.6 A reference to a company shall include any company, corporate or any other body corporate, wherever and however incorporated or established.

1.7 A person includes a natural person, corporate or other incorporated body (whether or not having separate legal personality).

PROVISIONS APPLICABLE TO THE SPECIFIED SERVICE

2. Supply of the Specified Service

2.1. The Supplier shall provide the Specified Service to the Client subject to these Conditions which shall apply to the Contract to the exclusion of any other terms or conditions that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Any changes or additions to the Specified Service must be agreed in writing by the Supplier and the Client.

2.2. The Specified Service shall be provided in accordance with the Quotation and otherwise in accordance with



the Supplier's current brochure or other published literature relating to the Specified Service from time to time, subject to these Conditions.

- 2.3. Further details about the Specified Service, and advice or recommendations about its provision or utilisation, which are not given in the Supplier's brochure or other promotional literature, may be made available on written request.
- 2.4. The Supplier may correct any typographical or other errors or omissions in any brochure, promotional literature, quotation or other document relating to the provision of the Specified Service without any liability to the Client provided that such correction is brought to the Client's attention within a reasonable timeframe.
- 2.5. The Supplier may at any time without notifying the Client make any changes to the Specified Service which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Specified Service.
- 2.6. Where Results Reports, Portals and Presentations are required they shall be produced by the Supplier and sent to the Client as soon as reasonably practicable.
- 2.7. The Supplier shall, where any of its employees are present on the Client's premises or site, use all reasonable endeavours to ensure that such employees comply with such reasonable site rules and procedures as are notified to the Supplier from time to time.
- 2.8. The Supplier will use reasonable endeavours to ensure that, where applicable, the Specified Services are available during the normal business hours of 9.00am to 5pm Monday to Friday, excluding United Kingdom statutory Bank Holidays, without interruptions and that the information provided is accurate and up to date. However, from time to time the Client may experience disruptions or receive inaccurate information due to circumstances or events beyond the control of the Supplier (including, but not limited to, a lack of availability of the backbone internet infrastructure in the United Kingdom or elsewhere) for which the Supplier excludes all liability. The Supplier may also need to perform maintenance of its hardware and/or software, which may interrupt the provision of the Specified Services.

3. Obligations of the Client

- 3.1 The Client shall at its own expense supply the Supplier with all necessary Documents or other materials, and all necessary data or other information relating to the Specified Service, within sufficient time to enable the Supplier to provide the Specified Service in accordance with the Contract. The Client shall ensure the accuracy of all Input Material.
- 3.2 The Client shall at its own expense retain duplicate copies of all Input Material and insure against its accidental loss or damage. The Supplier shall have no liability for any such loss or damage, however caused. All Output Material shall be at the sole risk of the Client from the time of delivery to the Client.
- 3.3 The Client shall comply in all respects with all applicable laws and regulations (whether of the United Kingdom or elsewhere) at the Site. Without prejudice to the generality of the foregoing, the Client shall provide a safe environment in which the Supplier's personnel may provide the Specified Service and shall establish procedures under, and comply with, all requirements from time to time in force under the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1992 and the Workplaces (Health, Safety and Welfare) Regulations 1992.
- 3.4 The Client shall afford the Supplier's personnel such access to the Site as may be required to provide the Specified Service. Further, the Client shall:
 - 3.4.1 advise the Supplier and its personnel of any rules and regulations which are then in force at the Site (including without limitation, any Site operating code or policies from time to time in force);
 - 3.4.2 make available such working space and facilities at the Site as the Supplier's personnel may reasonably require, including but not limited to a safe means of access to the Client's Equipment.;
 - 3.4.3 make available appropriate personnel to liaise with the Supplier's personnel; and
 - 3.4.4 secure and otherwise keep safe all and any property of the Supplier and/or its personnel.
- 3.5 The Client shall provide the Client's Equipment free of charge at such times and locations as may be reasonably requested by the Supplier or its personnel.
- 3.6 The Client shall be responsible for all activities which occur under its passwords or account and shall maintain the secrecy of those passwords. The Client may at any time change its passwords by logging in to the relevant portal, or contacting the Supplier.
- 3.7 The Client shall not disclose to any Third Party its user names and passwords so that they may log in to the portal. This is entirely at the Client's risk and the Supplier has no liability for any use or misuse of any information to which they may gain access to or for any activities they may carry out.



- 3.8 The Client shall at all times to co-operate with the Supplier and provide it promptly with such information and access to the Client's Equipment and systems as is reasonably required by the Supplier in the performance of the Specified Service.
- 3.9 The Client shall pay the Fees by the due date for payment. Failure to do so shall entitle the Supplier to suspend or terminate the Specified Service without further notice.
- 3.10 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Client or the Client's agents, sub-contractors or employees, the Client shall in all circumstances be liable to pay to the Supplier on demand all reasonable costs, charges or losses sustained or incurred by it (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property, injury to or death of any person and loss of opportunity to deploy resources elsewhere), subject to the Supplier confirming such costs, charges and losses to the Client in writing.
- 3.11 The Client shall not, without the prior written consent of the Supplier, at anytime from the date of the Contract to the expiry of 6 months after the completion of the Contract, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee or subcontractor of the Supplier.

4. Rights in Input Material and Output Material

- 4.1. The property and any copyright or other Intellectual Property Rights in:
 - 4.1.1. any Input Material shall belong to the Client
 - 4.1.2. any Output Material shall, unless otherwise agreed in writing between the Client and the Supplier, belong to the Supplier, subject only to the right of the Client to use the Output Material for the purposes of utilising the Specified Service.
- 4.2. Any Input Material or other information provided by the Client which is so designated by the Client shall be kept confidential by the Supplier, and all Output Material or other information provided by the Supplier which is so designated by the Supplier shall be kept confidential by the Client; but the foregoing shall not apply to any Documents or other materials, data or other information which are public knowledge at the time when they are so provided by either party, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.
- 4.3. The Client warrants that any Input Material and its use by the Supplier for the purpose of providing the Specified Service will not infringe the copyright or other Intellectual Property Rights of any third party, and the Client shall indemnify the Supplier against any loss, damages, costs, expenses or other claims arising from any such infringement.
- 4.4. Subject to paragraph 4.3, the Supplier warrants that any Output Material and its use by the Client for the purposes of utilising the Specified Service will not infringe the copyright or other Intellectual Property Rights of any third party, and the Supplier shall indemnify the Client against any loss, damages, costs, expenses or other claims arising from any such infringement.
- 4.5. Each party will be entitled to disclose Confidential Information to its employees, agents and sub-contractors, provided that the same are under a duty of confidentiality no less onerous than as set out in these Conditions. Save as provided in the preceding sentence, neither party will disclose or permit its employees, agents and sub-contractors to disclose any Confidential Information entrusted to it by the other party provided always that this restriction shall not apply to information already in the receiving party's possession, or which comes into the public domain other than by breach of this obligation by the receiving party or its employees, agents and sub-contractors, or which is disclosed to the receiving party by a third party lawfully entitled to disclose the same or which is required to be disclosed pursuant to any law or regulation or by the rules of any stock exchange or by a court of competent jurisdiction.
- 4.6. The Client warrants to the Supplier that the Client (a) has all requisite authority and has obtained and will maintain (including, without limitation, by way of incorporating into all materials and processes through which Personal Data is captured) all necessary consents required under the Data Protection Legislation, and (b) has otherwise fully complied with all of its obligations under the Data Protection Legislation, in order to:
 - 4.6.1. disclose to the Supplier any Personal Data;
 - 4.6.2. allow the Supplier to carry out its obligations under and incidental to the Contract, which may include processing (as defined in the Data Protection Act 1998, as modified, amended, extended, consolidated, re-enacted and/or replaced from time to time) of Personal Data, and such consents shall apply notwithstanding termination or expiry of the Contract for any reason. The Client shall



immediately notify the Supplier if any of the consents are revoked or changed in any way which impacts on the Supplier's rights or obligations under or in connection with the Contract. The Client shall, at all times during and after the termination or expiry of the Contract, indemnify, keep indemnified and hold harmless the Supplier, its officers, employees, agents, contractors and sub-contractors in full and on demand from and against any and all claims, fines, losses, damages, demands, costs, expenses, fees (including, but not limited to, court and legal fees) and liabilities (in each case whether direct, indirect or consequential) of whatever nature suffered, incurred or sustained by the Supplier directly or indirectly as a result of any breach of the Client's obligations under this clause 4.6

5. Intellectual Property Rights

- 5.1. For the avoidance of doubt, all Intellectual Property Rights in the Documents and materials used by the Supplier to carry out the Specified Service and/or in any registered or unregistered trade mark, service mark, logo, design, database content or format, copyrighted material, software or data owned by the Supplier or any relevant third party owners remain vested in the Supplier or the relevant third party owners and cannot be used except with prior written permission. Copyright in any Results Reports, Portals and Presentations shall also remain with the Supplier, but the Client is hereby granted a non-exclusive, non-transferable licence to copy and use the results for its own internal purposes only.
- 5.2. Any Intellectual Property Rights which come into existence as a result of the performance by the Supplier of the Specified Service will be the property of the Supplier.

PROVISIONS APPLICABLE TO THE GOODS

6. Basis of the sale

- 6.1. The Supplier shall sell and the Client shall purchase the Goods in accordance with any written quotation of the Supplier which is accepted by the Client, or any written order of the Client which is accepted by the Supplier, subject in either case to these Conditions and MGF (Trench Construction Systems) Limited's Conditions of Sale which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Client. In the event of any discrepancy between MGF (Trench Construction Systems) Limited's Conditions of Sale and these Conditions then these Conditions shall prevail.
- 6.2. The Supplier's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Supplier in Writing. In entering into the Contract the Client acknowledges that it does not rely on any such representations which are not so confirmed.
- 6.3. Any advice or recommendation given by the Supplier or its employees or agents to the Client or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Supplier is followed or acted upon entirely at the Client's own risk, and accordingly the Supplier shall not be liable for any such advice or recommendation which is not so confirmed.
- 6.4. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier relating to the Goods shall be subject to correction without any liability on the part of the Supplier.
- 6.5. The Client shall contact the Supplier for suitable storage and maintenance instructions if Goods remain in, or are expected to remain in storage for a period exceeding four (4) weeks from the delivery date.
- 6.6. If the Client fails to request storage instructions from Supplier within seven (7) days of the end of this four (4) week period and the Goods have yet to be commissioned regardless of reason; or fails to follow the Supplier's instructions wholly or in part for the Goods in storage or installed and for the period prior to commissioning, then the warranty (described in Section 13 below) shall immediately become void. In the event the Client requires the Supplier to visit Site on matters relating to storage or maintenance of the Goods, the Supplier shall provide authorised personnel at its published day rates.

7. Indemnity

- 7.1. If any claim is made against the Client that the Goods infringe or that their use or resale infringes the patent, copyright, design, trademark or other industrial or Intellectual Property Rights of any other person, then unless the claim arises from the use of any information, drawing, design, instruction, Input Material or specification supplied by the Client, the Supplier shall indemnify the Client against all loss, damages, costs and expenses awarded against or incurred by the Client in connection with the claim, or paid or agreed to be paid by the Client in settlement of the claim, provided that:



- 7.1.1. the Supplier is given full control of any proceedings or negotiations in connection with any such claim;
- 7.1.2. the Client shall give the Supplier all reasonable assistance for the purposes of any such proceedings or negotiations;
- 7.1.3. except pursuant to a final award, the Client shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Supplier (which shall not be unreasonably withheld);
- 7.1.4. the Client shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Client may have in relation to such infringement, and this indemnity shall not apply to the extent that the Client recovers any sums under any such policy or cover (which the Client shall use its best endeavours to do);
- 7.1.5. the Supplier shall be entitled to the benefit of, and the Client shall accordingly account to the Supplier for, all damages and costs (if any) awarded in favour of the Client which are payable by, or agreed with the consent of the Client (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and
- 7.1.6. without prejudice to any duty of the Client at common law, the Supplier shall be entitled to require the Client to take such steps as the Supplier may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Supplier is liable to indemnify the Client under this clause.

PROVISIONS APPLICABLE TO THE HIRE EQUIPMENT

8. Basis of the hire

- 8.1. The Supplier shall provide and the Client shall hire the Hire Equipment in accordance with any written quotation of the Supplier which is accepted by the Client, or any written order of the Client which is accepted by the Supplier, subject in either case to these Conditions and MGF (Trench Construction Systems) Limited's Conditions of Hire which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Client. In the event of any discrepancy between MGF (Trench Construction Systems) Limited's Conditions of Hire and these Conditions then these Conditions shall prevail.

9. Delivery of the Hire Equipment

- 9.1. Unless otherwise agreed in Writing, delivery of the Hire Equipment shall take place at the Supplier's address.
- 9.2. The Supplier will use its reasonable efforts to ensure delivery of the Hire Equipment on or around the date of delivery. However, any dates specified by the Supplier for delivery of the Hire Equipment are intended to be an estimate only and subject to availability of Hire Equipment. Time for delivery shall not be made of the essence of the Contract, and if no dates are so specified, delivery will be within a reasonable time.
- 9.3. The Client shall at its expense provide free and suitable access to the intended place of operation, including removal and reinstatement of local obstructions, for the delivery, servicing and collection of the Hire Equipment.
- 9.4. The Client shall ensure that the intended place of operation is suitable for the positioning and operating of the Hire Equipment and shall protect, cover or reinforce as necessary any surface or other parts of the intended place of operation liable to be damaged in the course of moving or operating the Hire Equipment. The Client shall be solely responsible for and shall indemnify the Supplier in full against all claims for damage to the place of operation or surrounding area.

10. Operators

- 10.1. When a qualified operator is supplied by the Supplier with the Hire Equipment:
 - 10.1.1. the Supplier shall supply a person who it considers to be competent in operating the Hire Equipment;
 - 10.1.2. the Client shall not permit any other person to operate the Hire Equipment without obtaining prior consent in Writing from the Supplier.
- 10.2. Any operator of the Hire Equipment supplied by the Supplier shall be under the exclusive control of the Client and the Client shall not be entitled to make any claim against and shall indemnify and hold the Supplier harmless against all claims arising out of any such operator's act, accident, negligence, default or omission whilst under the Client's exclusive control.



- 10.3. The Supplier's costs, charges and expenses relevant to the provision of a qualified operator shall be specified separately for each Contract.

PROVISIONS APPLICABLE TO THE SPECIFIED SERVICES, THE GOODS AND THE HIRE EQUIPMENT

11. Price

- 11.1. Unless otherwise agreed between the parties in Writing the Client shall pay the aggregate of:
- (i) (if the Specified Service is being provided under the Contract) the Supplier's Standard Charges and any additional sums which are agreed between the Supplier and the Client for the provision of the Specified Service or which, in the Supplier's sole discretion are required as a result of the Client's instructions or lack of instructions, the inaccuracy of any Input Material or any other cause attributable to the Client; and
 - (ii) (if Goods are being supplied under the Contract) the price of the Goods which shall be the Supplier's quoted price or, where no price has been quoted (or a quoted price is no longer valid) the price listed in the Supplier's published price list current at the date of acceptance of the order.
 - (iii) (if Hire Equipment is being supplied under the Contract) the price being the hire charges shall be calculated on a daily basis using five (5) days to the week throughout the Hire Period. The full contracted hire rate will be charged for the full Hire Period irrespective of the actual time during which the Hire Equipment was in operation.
- The Supplier's Standard Charges and quoted prices are valid for 30 days only (or until earlier acceptance by the Client or earlier withdrawal by the Supplier before the Client's acceptance), after which time they may be altered by the Supplier without giving notice to the Client.
- 11.2. The Supplier reserves the right, by giving notice to the Client at any time before delivery, to increase the price of any Goods supplied under this Contract to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Client, or any delay caused by any instructions of the Client or failure of the Client to give the Supplier adequate information or instructions.
- 11.3. Except as otherwise stated under the terms of any quotation or in any price list of the Supplier, and unless otherwise agreed in Writing between the Client and the Supplier, all prices for Goods are given by the Supplier on an ex works basis, and where the Supplier agrees to deliver the Goods otherwise than at the Supplier's premises, the Client shall be liable to pay the Supplier's charges for transport, packaging and insurance.
- 11.4. All charges quoted to the Client for the provision of the Specified Service, the price of the Goods or the supply of Hire Equipment are exclusive of any applicable value added tax for which the Client shall be additionally liable to pay the Supplier at the applicable rate from time to time.

12. Terms of payment

- 12.1. The Supplier shall be entitled to invoice the Client on or at any time after completion of the Specified Service, or part thereof, following the end of each month in which the Specified Service is to be provided or at other times agreed with the Client. The Supplier's Standard Charges and any additional sums payable shall be paid by the Client (together with any applicable Value Added Tax, and without any set-off, counterclaim or other deduction) within 30 days of the date of the Supplier's invoice.
- 12.2. Time for payment shall be of the essence of the Contract.

13. Warranties and liability

- 13.1. Subject to the Client's compliance with the provisions of clause 3 herein the Supplier warrants to the Client that the Specified Service will be provided using reasonable care and skill in a professional manner and, as far as reasonably possible, in accordance with the Specification and at the intervals and within the times referred to in the Quotation.
- 13.2. Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.



Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Client are not affected by these Conditions.

- 1.. For the avoidance of doubt the Supplier shall have no liability to the Client for any loss, damage, costs, expenses or other claims for compensation arising from any Input Material or instructions supplied by the Client which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Client.
- 2.. Nothing in these terms shall be taken as excluding the Supplier's liability for death or personal injury arising as a result of its negligence. In no circumstances shall the Supplier be liable to the Client or third party by reason of any representation (unless fraudulent). Save as set out above all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract. The Supplier shall not in any circumstances be liable whether in tort (including without limitation for negligence or breach of statutory duty) howsoever arising, contract, misrepresentation (whether innocent or negligent) or otherwise for;
 - 13.2.1. any increased costs or expenses
 - 13.2.2. any loss of profit (whether of the Client or any other party);
 - 13.2.3. for any loss of business, contracts, opportunity, revenues or savings of the Client or any other party;
 - 13.2.4. for any anticipated loss of business, contracts, opportunity, revenues or savings;
 - 13.2.5. losses, claims, liabilities, expenses, costs or damages which were not reasonably foreseeable by the parties or either of them at the date of this Contract; or
 - 13.2.6. any special, indirect or consequential damage of any nature whatsoever.
 - 13.2.7. liability of the Client to any third parties (whether direct or indirect).
Without prejudice to clause 13.5 the Supplier's liability to the Client with respect to any claims losses or damages arising from or in connection with the Contract (whether in contract, tort or otherwise) is limited to and shall not exceed for all such claims losses or damages 100% of the price of the Contract.
 - 13.5.8 any loss or corruption of data or information,
- 3.. The Supplier shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations in relation to the Specified Service, Hire Equipment and/or the Goods, if the delay or failure was due to any cause beyond the Supplier's reasonable control and such failure or delay shall entitle either party to terminate the Contract if it persists for more than three months but the Client shall remain liable to pay for Goods delivered, Hire Equipment delivered and/or any provision of the Specified Service prior to the date of such cancellation. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Supplier's reasonable control:
 - 13.2.8. Act of God, explosion, flood, tempest, fire or accident;
 - 13.2.9. war or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - 13.2.10. treaties, directives, acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority or other body or competent authority;
 - 13.2.11. import or export regulations or embargoes;
 - 13.2.12. strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Supplier or of a third party);
 - 13.2.13. difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - 13.2.14. power failure or breakdown in machinery and/or the backbone internet infrastructure as aforesaid.

14. Insolvency of client

- 14.1. This clause applies if:
 - 14.1.1. the Client makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
 - 14.1.2. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Client; or
 - 14.1.3. the Client ceases, or threatens to cease, to carry on business; or
 - 14.1.4. the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client and notifies the Client accordingly.
- 14.2. If this clause applies then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to cancel the Contract or suspend any further deliveries or performance under the Contract without any liability to the Client, and if the Goods or Hire Equipment have been delivered or



the Specified Service provided (either in whole or in part) but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

15. Bribery

- 15.1. Each party will comply with all applicable Anti-Bribery Laws and neither party will offer, promise, give, request, agree to receive, receive or accept a bribe or financial or other advantage or commit any corrupt act.

16. Exclusion of Third Party Rights:

- 16.1. A person who is not a party to the Contract shall not have any rights under the Contract (Rights of Third Parties) Act 1999 to enforce any term of the Contract save for in the case of the Supplier any Group Company.

17. General

- 17.1. The Supplier may perform any of its obligations or exercise any of its rights hereunder by itself or through any other Group Company, provided that any act or omission of any such Group Company shall be deemed to be the act or omission of the Supplier.
- 17.2. Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 17.3. No waiver by the Supplier of any breach of the Contract by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 17.4. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 17.5. The Contract shall be governed by and construed in accordance with the laws of England and the Client agrees to submit to the exclusive jurisdiction of the English courts.
- 17.6. No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Client and the Supplier.