

**TERMS AND CONDITIONS**

The customer's attention is drawn in particular to the provisions of clause 12.

**1. INTERPRETATION**

**1.1 Definitions.** In these Conditions, the following definitions apply:

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in Edinburgh are open for business.

**Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 15.6.

**Contract:** the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

**Customer:** the person or firm who purchases the Goods from the Supplier.

**Event Beyond the Supplier's Control:** has the meaning given in clause 13.

**Goods:** the goods (or any part of them) set out in the Order.

**Order:** the Customer's order for the Goods, as set out overleaf.

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

**Supplier:** Cobra Simulations Limited (registered in Scotland with company number SC420574).

**1.2 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 reference to a party includes its personal representatives, successors or permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to such statute or 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.
- (e) A reference to **writing** or **written** includes e-mail, except where a signature is required on a document. In a case where a signature is required, an e-mail including a printed, signed, and scanned copy of the document as an attachment to the e-mail will be acceptable, unless otherwise required for legal or regulatory reasons.

**2. BASIS OF CONTRACT**

**2.1** These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

**2.2** If you are a consumer, please ensure that you read these Terms carefully, and check that the details on the Order and in these Terms are complete and accurate before you sign and submit the Order. If you think that there is a mistake, please contact the Supplier to discuss, and please make sure that you ask the Supplier to confirm any changes in writing to avoid any confusion between you and the Supplier.

**2.3** The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate.

**2.4** The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order or dispatches the Goods, at which point the Contract shall come into existence.

**2.5** The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.

**2.6** Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.

**2.7** The Supplier's website, catalogue and brochure are solely for the promotion of the Supplier's Goods in the UK. If you live outside the UK, please check whether we deliver to your country before placing an order. If you order Goods from our site for delivery outside the UK, your Order may be subject to import duties and taxes which are applied when the delivery reaches that destination. Please note that we have no control over these charges and we cannot predict their amount. You will be responsible for payment of any such import duties and taxes. Please

contact your local customs office for further information before placing your order. You must comply with all applicable laws and regulations of the country for which the Goods are destined. The Supplier will not be liable or responsible if you break any such law.

**2.8** A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 14 Days from its date of issue, unless the quotation states otherwise.

**3. CHANGES TO ORDERS BY CONSUMERS**

**3.1** This Clause shall only apply if the Customer is purchasing the goods as a consumer.

**3.2** The Supplier may revise these Terms and Conditions from time to time in the following circumstances:

- (a) changes in how the Supplier accepts payment from you; and
- (b) changes in relevant laws and regulatory requirements.

**3.3** If the Supplier has to revise these Terms and Conditions under clause 3.2, the Supplier will give you at least one month's written notice of any changes to these Terms and Conditions before they take effect. You can choose to cancel the contract in accordance with clause 14.

**3.4** You may make a change to the Order for Goods within 14 calendar days of placing an Order by contacting the Supplier. Where this means a change in the total price of the Goods, the Supplier will notify you of the amended price in writing. You can choose to cancel the Order in accordance with clause 14.2 in these circumstances.

**3.5** If you wish to cancel an Order before it has been fulfilled, please see your right to do so in clause 14.

**4. GOODS**

**4.1** The Goods are described in the Supplier's catalogue as modified by any applicable Specification.

**4.2** Except where the Customer is purchasing the Goods as a consumer, to the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification. This clause 4.2 shall survive termination of the Contract.

**4.3** The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.

**5. DELIVERY**

**5.1** This Clause shall only apply when the Customer is purchasing the Goods in the course of a business. If you are purchasing the Goods as a consumer, Clause 6 shall apply.

**5.2** The Supplier shall ensure that:

- (a) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- (b) if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

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

**5.4** Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.

**5.5** Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by an Event Beyond the Supplier's Control or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

**5.6** If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods

to the extent that such failure is caused by an Event Beyond the Supplier's Control or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

5.7 If the Customer fails to take delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by an Event Beyond the Supplier's Control or the Supplier's failure to comply with its obligations under the Contract:

(a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Supplier notified the Customer that the Goods were ready; and

(b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

5.8 If 10 Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

5.9 The Customer shall not be entitled to reject the Goods if the Supplier delivers up to and including 5% more or less than the quantity of Goods ordered, but a pro rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.

5.10 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## 6. DELIVERY WHERE THE CUSTOMER IS A CONSUMER

6.1 This Clause 6 shall only apply if the Customer is purchasing the Goods as a consumer.

6.2 Please note that timescales for delivery and delivery charges will vary depending on the availability of the Goods and your address. Please allow for extra time for deliveries for any country or postcode outside the UK. The Supplier does not accept orders from addresses outside the UK.

6.3 The Supplier will contact you with an estimated delivery date. Occasionally delivery to you may be affected by an Event Beyond the Supplier's Control as defined in Clause 13. See *clause 13* for the Supplier's responsibilities when this happens. You may exercise your rights to cancel the contract under Clause 14 should an Event Beyond the Supplier's Control occur.

6.4 If you have asked to collect the Goods from the Supplier's premises, you can collect the Goods from the Supplier at any time during working hours of 9am to 5pm on weekdays only.

6.5 Delivery of an Order shall be completed when the Supplier delivers the Goods to the address you gave to the Supplier or you collect them from the Supplier.

6.6 If the Supplier is not able to deliver the whole of the Order at one time due to operational reasons or shortage of stock, the Supplier will deliver the Order in instalments. We will not charge you extra delivery costs for this. However, if you ask the Supplier to deliver the Order in instalments, the Supplier may charge you extra delivery costs. Each instalment shall constitute a separate contract governed by these Terms and Conditions. If the Supplier is late delivering an instalment or one instalment is faulty, that will not entitle you to cancel any other instalment.

6.7 The Goods will be your responsibility from the completion of delivery.

6.8 You own the Goods once the Supplier has received payment in full.

## 7. QUALITY

7.1 The provisions of this Clause 7 shall only apply if the Customer is purchasing the Goods in the course of a business. If you are a consumer, Clause 8 shall apply.

7.2 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (**warranty period**), the Goods shall:

(a) conform with their description and any applicable Specification;

(b) be free from material defects in design, material and workmanship; and

(c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and

(d) be fit for any purpose held out by the Supplier.

7.3 Subject to clause 7.4, if:

(a) the Customer gives notice in writing to the Supplier during the warranty period within a reasonable time of discovery that some

or all of the Goods do not comply with the warranty set out in clause 7.2;

(b) the Supplier is given a reasonable opportunity of examining such Goods; and

(c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

7.4 The Supplier shall not be liable for Goods' failure to comply with the warranty set out in clause 7.2 in any of the following events:

(a) the Customer makes any further use of such Goods after giving notice in accordance with clause 7.3;

(b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;

(c) the defect arises as a result of the Supplier following any drawing, design or Specification supplied by the Customer;

(d) the Customer alters or repairs such Goods without the written consent of the Supplier;

(e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or

(f) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

7.5 Except as provided in this clause 7, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 7.2.

7.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

7.7 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

## 8. QUALITY WHERE THE CUSTOMER IS A CONSUMER

8.1 If you are a consumer you have legal rights in relation to Goods that are faulty or not as described. This Clause 8 is in addition to your legal rights in relation to the Goods that are faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards Office. Nothing in these Terms and Conditions will affect these legal rights.

8.2 The Supplier guarantees that on delivery and for a period of 12 months from delivery, the Goods shall be free from material defects. However, this guarantee does not apply in the circumstances described in clause 8.3.

8.3 This guarantee does not apply to any defect in the Goods arising from:

(a) fair wear and tear;

(b) wilful damage, abnormal storage or working conditions, accident, negligence by you or by any third party;

(c) if you fail to operate or use the Goods in accordance with the user instructions;

(d) any alteration or repair by you or by a third party who is not one of the Supplier's authorised repairers; and

(e) any Specification provided by you.

## 9. TITLE AND RISK

9.1 If you are a consumer, this Clause shall not apply. Clauses 6.7 and 6.8 shall apply instead.

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

9.3 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for:

(a) the Goods; and

(b) any other goods or services that the Supplier has supplied to the Customer in respect of which payment has become due.

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

- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 11.2; and
- (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time,

but the Customer may resell or use the Goods in the ordinary course of its business.

9.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 11.2, or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## 10. PRICE AND PAYMENT

10.1 The price of the Goods 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 as at the date of delivery. If you are a consumer the price will be the price set out in the Supplier's price list at the time the Supplier confirms your Order, and Clauses 10.2, 10.5, 10.7 and 10.9 shall not apply.

10.2 The Supplier may, by giving notice to the Customer at any time up to 3 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- (a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- (c) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

10.3 The price of the Goods is exclusive of the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

10.4 The price of the Goods is exclusive of amounts in respect of value added tax (VAT). 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 Goods.

10.5 The Supplier may invoice the Customer for the Goods prior to, on or at any time after the completion of delivery.

10.6 If you are a consumer you must make payment for Goods in advance by bank transfer. We will also accept payment with any major debit or credit card. A 1.55% charge is added to the total value of all goods, services and VAT when paying using a credit card. We will not despatch Goods to you until we have received full payment. This does not affect your right to cancel the Order and claim a refund under the terms of Clause 14.

10.7 The Customer shall pay the invoice in full and in cleared funds within 14 Days of the date of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier. Time of payment is of the essence.

10.8 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (due date), then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Bank of Scotland 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 Customer shall pay the interest together with the overdue amount.

10.9 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

## 11. CUSTOMER'S INSOLVENCY OR INCAPACITY

11.1 If the Customer becomes subject to any of the events listed in clause 11.2, or the Supplier reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any

other right or remedy available to the Supplier, the Supplier may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and the Supplier without incurring any liability to the Customer, and all outstanding sums in respect of Goods delivered to the Customer shall become immediately due.

11.2 For the purposes of clause 11.1, the relevant events are:

- (a) 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 (being a company) 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;
- (b) 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 other than (where the Customer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- (c) (being a company) 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, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- (d) (being an individual) the Customer is the subject of a bankruptcy petition or order;
- (e) a creditor or encumbrancer of the Customer 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;
- (f) (being a company) 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;
- (g) (being a company) a floating charge holder over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
- (i) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.2(a) to clause 11.2(h) (inclusive);
- (j) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;
- (k) the Customer'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; and
- (l) (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

11.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

## 12. LIMITATION OF LIABILITY

12.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- (d) defective products under the Consumer Protection Act 1987; or

- (e) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

under the Contract without the prior written consent of the Supplier.

12.2 Subject to clause 12.1:

- (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, delict (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, delict (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the Goods as invoiced to the Customer by the Supplier.

12.3 If you are a consumer, the Supplier only supplies the Goods for domestic and private use. You agree not to use the Goods for any commercial, business or resale purpose, and the Supplier has no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

12.4 If you are a consumer, the Supplier is responsible for loss or damage you suffer that is a foreseeable result of the Supplier's breach of the Terms or the Supplier's negligence. Loss or damage is foreseeable if it was an obvious consequence of the Supplier's breach or if it was contemplated by you and the Supplier at the time of entering into this contract.

### 13. EVENT BEYOND THE SUPPLIER'S CONTROL

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Event Beyond the Supplier's Control. An **Event Beyond the Supplier's Control** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

### 14. CANCELLATION RIGHTS WHEN THE CUSTOMER IS A CONSUMER

14.1 This Clause shall only apply when the Customer is a consumer.

14.2 Before the Goods are delivered, you have the following rights to cancel an Order for Goods, including where you choose to cancel because the Supplier is affected by an Event Beyond the Supplier's Control under Clause 13 or the Supplier changes these Terms and Conditions under clause 3.2 to your material disadvantage:

- (a) You may cancel any Order for Goods within 7 calendar days of placing an Order by contacting the Supplier. The Supplier will confirm your cancellation in writing to you.
- (b) If you cancel an Order under clause 14.2(a) and you have made any payment in advance for Goods that have not been delivered to you, We will refund these amounts to you.
- (c) Unfortunately, if you cancel an Order for Goods under clause 14.2(a) and the Supplier has already despatched your Goods to you, the Supplier will not be able to cancel your Order until it is delivered or collected. In this case, if you return the Goods to the Supplier, the Supplier will have to charge you the cost of collection or you will have to pay the cost of returning the Goods back to the Supplier. This will not affect your refund for the Goods, but any charge for collection will be deducted from the refund that is due to you.

14.3 If the Supplier has to cancel an Order for Goods before the Goods are delivered:

- (a) if the Supplier has to cancel an Order before the Goods are delivered, due to an Event Beyond the Supplier's Control or the unavailability of stock the Supplier will promptly contact you if this happens.
- (b) If the Supplier has to cancel an Order under clause 14.3 (a) and you have made any payment in advance for Goods that have not been delivered to you, the Supplier will refund these amounts to you.

### 15. GENERAL

#### 15.1 Assignment and subcontracting.

- (a) The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations

#### 15.2 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, sent by pre-paid first class post, recorded delivery, commercial courier, or e-mail. Notices given by the Customer by e-mail shall be invalid unless a copy of the notice that has been printed, signed by the Customer, and scanned is included in the e-mail as an attachment.
- (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 15.2(a); if sent by pre-paid first class post or recorded delivery, 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.

#### 15.3 Severance.

- (a) If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

15.4 **Waiver.** A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by 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 preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

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

15.6 **Variation.** Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Supplier.

15.7 **Governing law and jurisdiction.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, Scots law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of Scotland.