

# terms and conditions of purchase

## 1. DEFINITIONS

In these Conditions:

"**Company**" means D&P Data Systems Limited.

"**Contract**" means these Conditions and the Order.

"**Conditions**" means the standard terms and conditions of purchase set out in this document and (unless the content otherwise requires) includes any special terms and conditions agreed in Writing between the Company and the Vendor.

"**Customer**" means a customer or client of the Company.

"**Delivery Address**" means the address specified in the Order for delivery of the Goods and/or Services or the Company's principal place of business if no address is specified.

"**Goods**" means the goods specified in the Order and includes any computer software and also any configuration work carried out to goods before delivery.

"**Order**" means the Company's purchase order for the provision of certain goods and/or services to be supplied to the Company by or on behalf of the Vendor as required from time to time.

"**Services**" means the services specified in the Order (or otherwise agreed in writing) and also includes any services ancillary to the supply of Goods, including installation, supervision and training.

"**Vendor**" means the person, firm or company to whom the Order is addressed.

"**Writing**" includes telex, cable, facsimile transmission, email and comparable means of communication and "**Written**" shall be construed accordingly.

## 2. ORDERING PROCEDURE

2.1 The Company may in its sole discretion place Orders for Goods and/or Services with the Vendor by telephone, fax, post or electronic means. These Conditions shall be applicable howsoever the Order is placed. Special delivery procedures will be outlined clearly in the Order which shall also include without limitation the quantity and description of the Goods and/or Services required together with the required date of delivery and the Delivery Address. All Orders will only bind the Company if they bear an official order number and are signed by an authorised signatory of the Company. A list of authorised signatories is available from any director of the Company. Should the Vendor accept Orders which are not signed by, or signed by persons other than such authorised signatories, the Company will accept no liability for such Orders, or for invoices arising therefrom. All documents relating to the Order from the Vendor must clearly bear the official Order number.

2.2 All Orders are placed inclusive of the cost of carriage to the Delivery Address. Should Goods have been ordered in error the Company reserves the right to return such Goods in the original packaging within thirty (30) days of delivery at no cost to the Company.

2.3 Any typographical, clerical or other error or omission in any Order or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

## 3. PRICE

3.1 Unless otherwise expressly stated in the Order, all prices or rates shown on the Order are fixed and exclusive of VAT which the Company shall be additionally liable to pay to the Vendor subject to receipt of a proper VAT invoice. The price shall be deemed to include all other taxes, customs, duties and other

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public dues, supply, delivery, packaging and installation where applicable and all royalties, licence fees, or similar fees arising from the use by the Company of any intellectual property belonging to the Vendor or any third party following receipt of the Goods and/or Services.

3.2 Where an Order is fulfilled in part by the Vendor no invoice may be raised by the Vendor, or will be processed for payment by the Company, until such time as the Order has been received in full by the Company.

3.3 Invoices shall be sent, following delivery, to the Delivery Address. Invoices shall quote the Company's official Order number, shall show VAT separately and shall be supported by such information (including but not limited to proof of delivery) as the Company shall reasonably require to verify that the invoice is correct. Invoices not submitted with such information may be returned to Vendor or held unpaid by the Company until such information is received in which case the due date for payment shall be extended in accordance with Condition 15.4.

#### **4. PACKING AND TRANSIT**

4.1 The Vendor shall comply with all applicable laws, regulations and other legal requirements concerning the manufacture, labeling, packaging, packing and delivery of the Goods. Wherever possible the Vendor shall ensure all packaging is suitable for recycling.

4.2 All Goods supplied must be suitably and sufficiently marked, endorsed or labelled to enable identification and must be adequately protected against damage and deterioration in transit and delivered carriage paid. Each consignment shall be clearly marked with the Vendor's name and address, the Company's Order number and the Delivery Address and be accompanied by a packing note stating the same plus a list of the contents thereof. An advice note must be sent to the Delivery Address on the same day the Goods are dispatched separately from the consignment.

4.3 The Vendor shall, at its own expense, replace any Goods lost or damaged in transit and delivery will not be deemed to have taken place until the replacement items have been delivered to the reasonable satisfaction of the Company.

4.4 The Company accepts no liability for the return of packaging materials, containers, pallets, cases or drums or for the collection or disposal of returnable packaging whether or not the Goods are accepted by the Company.

#### **5. QUALITY OF GOODS AND WARRANTIES**

5.1 Where a Vendor operates a Quality Management System then all Goods and/or Services provided by the Vendor shall be managed and controlled within the operational requirements of that system

5.2 The Vendor warrants that, for a period of 12 months (or such other period of time specified in the Order) from the Goods first being used by the Company or a Customer, whichever is later, all Goods will:

- a. be of satisfactory quality;
- b. be free from defects in design, material and workmanship;
- c. conform to any applicable specifications;
- d. be suitable for the purposes intended by the Company; and
- e. comply with all statutory requirements and regulations.

5.2 The Vendor warrants that the Services will:

- a. be of satisfactory quality;
- b. be fit for the purpose for which they were supplied;
- c. be free from defects in design, material and workmanship;

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d. comply with all statutory requirements; and

e. be provided by appropriately qualified and trained personnel, with due care and diligence and to such standard as is reasonable for the Company to expect in all the circumstances.

5.3 If any Goods are found to be faulty within thirty (30) days of arrival at the Company, or within thirty (30) days of delivery to a Customer, whichever is later, then these shall be deemed to be 'dead on arrival' and subject to immediate credit, replacement or full refund at the discretion of the Company.

5.4 Subject to Condition 5.3 and without prejudice to any other remedy the Customer may have, if any Goods and/or Services are not supplied in accordance with the Contract or are returned or rejected by the Customer for any reason, the Vendor shall at the sole option of the Company:

a. repair or replace the Goods and/or re-perform the Services as applicable; or

b. provide a full refund of any part of the price which has been paid or that proportion of the amount paid which relates to the relevant Goods and/or Services and also reimburse any additional costs and expenses incurred by the Company in obtaining alternative Goods or Services from another supplier and the Vendor hereby gives its irrevocable consent to the Company to raise a debit note in respect of any such Goods and/or Services and costs and expenses and to deduct such sums from any monies owed to the Vendor by the Company.

5.5 It is a condition of the Contract that the Goods and any items used by the Vendor in providing the Services have been put on the market in the EEA by or with the consent of the proprietor of all intellectual property rights in them or under which they are sold without any change or impairment to their condition.

5.7 Where the Vendor is providing electrical and electronic equipment, the Vendor warrants that either it is, or the producer of the electrical and electric equipment is, a member of a scheme and the Vendor shall promptly provide the Company with the appropriate producer registration number under such scheme in accordance with the Waste Electrical and Electronic Equipment Regulations (2006) ("WEEER") (where "electrical and electronic equipment", "producer" and "scheme" shall have the meanings given in the WEEER).

5.8 The Vendor warrants that the use, possession, sale or other disposal of the Goods by the Company and the provision of the Services by the Vendor shall not infringe the rights of any third party.

## **6. STATUTORY OBLIGATIONS**

6.1 The Vendor shall comply with any law or any order, regulation or by-law having the force of law, applicable to the Goods and/or Services and shall comply in particular with such provisions relating to or affecting the health and/or safety of anyone dispatching the Goods and/or Services.

6.2 Where the Goods are for resale the Vendor will provide such marketing materials as may be necessary for the resale of the Goods.

6.3 The Vendor undertakes that if it obtains access to any personal data as a result of this Contract it will: (i) use such personal data solely for the purpose of performing its obligations under this Contract; and (ii) process the same only in accordance with Company's instructions; and (iii) take appropriate technical and organisational measures to prevent unauthorised or unlawful processing or, accidental loss or destruction of or damage to such personal data; and (iv) not transfer the whole or any part of the personal data outside the European Economic Area without the Company's written consent and in the event that such consent is given, shall procure that the persons to whom the personal data is transferred shall process such data in accordance with such consent and the terms of the Contract and the data protection principles provided for by Directive 95/46/EC of the European Parliament and all implementations of that directive including, without limitation, the Data Protection Act 1998.

## **7. PURCHASE**

7.1 The Company shall purchase the Goods and/or Services from the Vendor and the Vendor agrees to sell the Goods and/or Services to the Company.

7.2 These Conditions apply to all contracts for the purchase of goods entered into by the Company and

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the Vendor should not accept any order or enter into any contract with the Company unless and until it has read and understood the Conditions.

7.3 If the Vendor does not accept these Conditions, the Vendor must notify the Company by telephone that it does not accept the Order, and confirm this in writing within twenty-four (24) hours from the date of such Order. Any Order not so refused within that period, for whatever reason, will be deemed accepted by the Vendor in accordance with these Conditions by which the Vendor will be fully bound. The Vendor is deemed to accept the Conditions upon acknowledgement howsoever given of any Order.

7.4 In the event of any conflict between the Conditions and the Order, the provisions of the Order shall take precedence.

7.5 The Vendor shall carry out a suitable assessment of any risks associated with the sale of the Goods and the provision of the Services to the Company and shall take all steps necessary to address or to make appropriate provision for any identified risks.

7.6 The Vendor hereby agrees and undertakes that it shall not induce or attempt to persuade directly or indirectly any employee of the Company or any of its subsidiary or associated companies with whom the Vendor has had any contact in connection with the supply of goods or services to the Company or any of its subsidiary or associated companies during the previous 2 years (the "**Employee**") to leave his or her employment and/or to accept employment or engagement with the Vendor, both for the duration of the Contract and for the period of twelve (12) months following completion of the Contract or termination by either party.

For the avoidance of doubt it is expressly agreed that the use of a recruitment or similar agency as an intermediary shall not avoid breach of this Condition. In the event that the Vendor breaches this Condition in any way it hereby agrees to pay to the Company as liquidated damages a sum equivalent to twenty-five per cent (25%) of the salary package of the Employee which shall include without limitation any additional benefits relating to cars, pensions, healthcare, commission, expenses and such other items as may reasonably be considered to make up the salary package of the Employee.

The Vendor hereby further agrees and undertakes that it shall not supply any goods or services to the Employee or to any person employing or otherwise engaging the Employee or of which the Employee is a director or other officer both for the duration of the Contract and for the period of twelve (12) months following completion of the Contract or termination by either party

7.7 The Company, at its sole discretion may set off amounts payable to the Vendor against any amounts then due or which at any time thereafter may become due by the Company whether in relation to this Contract or any other order, agreement or contract with the Vendor.

7.8 The Vendor shall not be entitled under any circumstances to (i) set off any amount against any sums due to the Company which shall be paid in full without set off, counterclaim or deduction or, (ii) to withhold amounts owed to the Company, or (iii) withhold Goods due to be delivered to the Company.

7.9 Should any dispute arise between the Company and the Vendor, or where any payment from the Vendor is overdue under any agreement between the parties:

a. if the Company has in its possession, for whatever reason, goods which are the property of the Vendor, the Company may take a lien over these goods until payment is made or until such time as the dispute is resolved;

b. the Company may, at its absolute discretion, dispose of these goods as it sees fit and use the proceeds of such sale towards payment of any overdue debt; and.

c. the Company reserves the right to withhold any monies due to the Vendor until such time as the dispute is resolved, either in the Courts or otherwise.

7.10 Exercise by the Company of its rights under Conditions 7.7 and 7.9 shall be without prejudice to any other rights or remedies available to the Company.

7.11 Cisco product is to remain unregistered and Smartnet free.

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## **8. VARIATION OF TERMS**

8.1 All Orders placed by the Company are placed with the express understanding that they are supplied in accordance with these Conditions.

8.2 The Contract forms the entire agreement between the Vendor and the Company and supersedes any prior agreements, understandings or arrangements between the parties, whether oral or in writing, and no representation (unless made fraudulently), undertaking or promise shall be taken to have been given or been implied from anything said or written in negotiations between the parties prior to the Contract except as set out in the Contract.

8.3 The Vendor agrees to deal with the Company on these Conditions to the exclusion of all other agreements, terms and conditions of sale of the Vendor or other contractual terms which may otherwise be applicable, except (i) where the Vendor is also a Customer of the Company in which instance the Company's "Terms and Conditions of Sale" will apply to purchases made by the Vendor from the Company or (ii) it is otherwise expressly agreed in writing by the parties.

8.4 No conduct by the Company shall be deemed to constitute acceptance of any terms put forward by the Vendor. No variation or attempted variation of these Conditions shall be made by the Vendor in any documentation given by the Vendor to the Company, or otherwise shall be accepted by the Company unless such variations are accepted in writing and signed by a director of the Company

8.5 Any requests for a variation to these Conditions should be made in writing by the Vendor to a director of the Company. Orders will be deemed as conforming to these Conditions until such time as any such variation has been expressly agreed in writing and signed by a director of the Company.

## **9. DELIVERY**

9.1 Unless otherwise specified by the Company in writing the Goods must be delivered (and unloaded) during the Company's normal business hours at the Delivery Address. The Vendor shall be responsible for delivering and unloading the Goods. The Company reserves the right to arrange for the Goods to be collected from the Vendor.

9.2 Time for delivery is of the essence. Upon receipt of an Order the Vendor must notify the Company by telephone of the expected date of delivery and confirm this in Writing. If no such notification is made, and if not otherwise stated on the Order delivery will be expected within a reasonable period of time or upon such other terms as are agreed by the parties in writing. If the Vendor is unable to deliver the Goods or perform the Services on or before the expected delivery date due to causes outside of its reasonable control it shall forthwith notify the Company of any possible delay and the reasons for such delay. If such notification is given the Vendor shall use its best endeavours to mitigate the effect of any such delay and in any event the Company shall specify such revised delivery date as it considers reasonable, or the Company at its sole discretion may cancel the Order. If the Vendor fails to deliver the Goods or perform the Services by the expected delivery date (including any revised delivery date) the Company shall have the right to obtain alternative goods in lieu thereof from another vendor and any additional costs and expenses incurred by the Company in doing so shall be reimbursed by the Vendor.

9.3 The Vendor shall complete any agreed and/or necessary testing of any Goods prior to delivery.

9.4 All Goods will be received by the Company on the understanding that they are unchecked, whether or not this is marked on the delivery note. Delivery notes must be endorsed at the time of delivery by an authorised representative of the Company.

9.5 If the Vendor delivers goods which have not been ordered by the Company these additional goods will be held for collection by the Vendor for a period of thirty (30) days after which time they will be disposed of as the Company sees fit for its own account and the cost of such disposal may be charged to the Vendor.

9.6 The Company shall be entitled to reject any Goods delivered which are not in accordance with the Contract and shall not be deemed to have accepted any Goods until the Company has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.

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9.7 The Vendor shall ensure that adequate instructions and or training is provided to the Company and its staff concerning the use and method of operation of the Goods and any conditions which are necessary to ensure that, when put to their intended use, the Company and its staff will be safe and capable of operating the Goods without risk to health. The price of the Goods shall include the provision of all documents necessary to the set-up, operation and maintenance of the Goods and all necessary training in relation to the Goods.

9.8 The Vendor shall ensure that compatible spares to effect repairs to the Goods are available for a period of seven (7) years from the date of the Order.

## **10. INSTALLATION**

10.1 If specified in the Order or otherwise agreed between the parties that the Vendor is to install the Goods then, as soon as reasonably possible after their delivery, the Vendor shall install the Goods at the Delivery Address.

10.2 The Company shall give the Vendor (or shall procure the Vendor is given) reasonable access to the Delivery Address for the purpose of installing the Goods and shall, at its own cost, undertake any preparatory work specified in the Order or otherwise agreed between the parties.

10.3 The Vendor shall procure that its employees who install the Goods comply with all reasonable health and safety, security and other regulations which are in force or apply at the Delivery Address.

## **11. SERVICES**

11.1 Unless otherwise specified in writing by the Company, any Services shall be performed at the Delivery Address during the Company's normal business hours. The Company shall give reasonable access to the Delivery Address to the Vendor for the purpose of carrying out the Services and shall use reasonable endeavours to permit the Vendor to use such facilities at the Delivery Address as are reasonably necessary for the performance of the Services. The Vendor uses any such facilities at its own risk and is responsible for performing risk assessments in accordance with Condition 7.5 above. The Vendor shall indemnify and hold the Company harmless (and keep it indemnified) in full against any liabilities that the Company may incur and any damage caused to such facilities by reason of such use.

11.2 The Vendor shall itself and shall procure that all persons carrying out the Services:

- a. use reasonable care and skill in the performance of the Services;
- b. comply with all the Company's safety, security, environmental, ethical and other policies and regulations which are in force or apply at the Delivery Address.
- c. comply in all respects with all applicable laws, regulations and other requirements and any orders or requirements of any relevant competent authority relating to the Services and in particular, but without prejudice to the generality of the foregoing, such matters as concern the health, safety and welfare of persons working at the Delivery Address; and
- d. avoid causing damage to property and equipment at the Delivery Address and without interference to the other work or operations of the Company being carried on at the Delivery Address during the execution of the Services.

11.3 The Vendor shall indemnify and hold the Company harmless (and keep it indemnified) in full against any and all liability, losses, damages, costs and expenses (including legal expenses) which the Company may suffer or incur as a result of the Vendor's failure to comply with Condition 11.2, and the Vendor shall promptly make good any damage caused by such failure.

## **12. INTELLECTUAL PROPERTY RIGHTS**

12.1 The Company acknowledges that it will not acquire any underlying rights (including any intellectual property rights) in the Goods which are standard products but to the extent that any Goods are produced to the Company's designs the Vendor acknowledges that it has no rights in or to use such designs other than to supply goods to the Company and assigns to the Company by way of future assignment any rights which it might acquire in designs of non-standard Goods made specifically for the company.

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12.2 To the extent that any intellectual property rights are created in the course of providing the Services, the Vendor assigns all such rights to the Company by way of future assignment.

### **13. INDEMNITY AND INSURANCE**

13.1 The Vendor shall indemnify and hold the Company harmless (and keep it indemnified) in full against all liability, actions, suits, claims, demands, costs, losses (including but not limited to direct and indirect consequential and special losses, damage, charges and expenses (including legal expenses)) arising in respect of loss or damage to property belonging to or death or personal injury of any person arising as a result of any act or omission of the Vendor (including its negligence) in the performance or purported performance of the Contract or otherwise arising under these Conditions.

13.2 The Vendor shall indemnify and hold the Company harmless (and keep it indemnified) in full against all liability, actions, suits, claims, demands, losses (including but not limited to direct and indirect consequential and special losses, damage, costs, charges and expenses (including legal expenses)) awarded against or incurred or paid by the Company as a result of or in connection with:

- a. a breach of any warranty or condition given by the Vendor in relation to the Goods and/or Services whether express or implied including in particular any warranty or condition that the Goods and any items used by the Vendor in providing the Services have been put on the market in the EEA by or with the consent of the proprietor of all intellectual property rights in them or under which they are sold without any change or impairment to their packaging or condition.
- b. any claim by any third party that the Goods or their use or resale by the Company or its Customers and/or the performance of the Services infringes the intellectual property rights of any person;
- c. any liability under the Consumer Protection Act 1987 in respect of the Goods; and
- d. any act or omission of the Vendor or its employees, agents or sub-contractors in supplying, delivering or installing the Goods and/or performing the Services.

13.3 The Vendor shall have in force and shall maintain a policy of insurance in respect of its liabilities under the Contract including in particular under this clause with a limit of indemnity of not less than £2 million for any one claim arising out of any one incident or event and without limit as to the number of claims which may be brought during the period of insurance. The Vendor shall promptly provide evidence that such policy is in effect if requested by the Company.

### **14. CONFIDENTIALITY**

14.1 The Vendor acknowledges and agrees that any information which is by its nature confidential or is denoted by the company as confidential including but not limited to information relating to the Company's business, the use to be made of the Goods and/or the Services, the source of the Goods, or the business or identity of a Customer is secret and confidential information and the Vendor accordingly undertakes that it will not at any time directly or indirectly use or disclose any of this confidential information in whole or part to any third party. This undertaking does not apply to information which;

- a. at the date of disclosure is generally available to the marketplace; or
- b. after disclosure to the Vendor becomes generally available through no fault of the Vendor; or
- c. was lawfully in the possession of the Vendor prior to disclosure by the Company as evidenced by the written records of the Vendor and which was not acquired directly or indirectly from the Company; or
- d. the Vendor is obliged to disclose by law.

### **15. PAYMENT AND CREDIT TERMS**

15.1 It is the responsibility of the Vendor to ensure the Company is allowed a credit limit sufficient to facilitate the supply of Goods and/or Services under the Order. Where necessary the credit limit shall be increased to facilitate this. In instances where an insufficient credit limit prevents an Order being processed the Vendor must notify this to the Company immediately by telephone and in Writing within twenty-four (24) hours of the telephone call.

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15.2 The Company will make payment of the Vendor's invoice by cheque, BAC's, bank transfer or any other method as the Company may, at its sole discretion, decide within sixty (60) days of receipt of the Vendor's invoice where there is no dispute or query on or in relation to such invoice.

15.3 Where there is a dispute or query on or in relation to an invoice the Company will make payment within sixty (60) days from such time as the dispute or query is resolved to the satisfaction of the Company.

15.4 The Vendor shall not cease to accept orders or cease to make deliveries due to any non-payment of any invoice by the Company due to a query or dispute. In the event the Vendor refuses to accept orders or ceases to make deliveries due to a disputed or queried invoice the Vendor hereby indemnifies and holds the Company harmless (and shall keep it indemnified) in full against any losses (including but not limited to direct and indirect consequential and special losses, loss of profit or loss of goodwill) the Company may suffer as a consequence of any such non-acceptance of an order or cessation of deliveries. The Vendor may not appropriate any payments in respect of an invoice to offset any disputed or queried invoices. Should the Company make payment on any subsequent invoice, the Vendor may not deem that such payment has been made in respect of the disputed or queried invoice.

## **16. TITLE AND RISK**

The property in the Goods shall pass to the Company when the Goods are unloaded at the Delivery Address, except that if for any reason the Company pays part of the price of the Goods before delivery, property in the Goods shall pass upon such payment. The risk in the Goods shall pass to the Company upon the Goods being signed for by a duly authorised representative of the Company.

## **17. CANCELLATION**

17.1 The Company shall be entitled to cancel its offer to purchase all or any part of the Goods by giving notice to the Vendor at any time prior to delivery of the Goods, in which event:

- a. the Contract shall continue in full force and effect in respect of the Goods and/or Services already delivered or paid for by the Company or that the Company indicates it still wishes to receive;
- b. the Vendor shall, if so required by the Company and notwithstanding the Company having indicated that it wishes to cancel its Order, complete and deliver any partially completed Goods and all the terms of the Contract shall apply to such Goods; and
- c. the Vendor shall be entitled to require the Company to purchase at the price paid by the Vendor any items reasonably purchased by the Vendor specifically in order to supply the Goods if the Vendor cannot within a reasonable time use such items for the performance of any other actual or anticipated agreement with the Company or any third party and provided such items are in good condition and fit for the intended purpose. All terms of the Contract shall apply to the purchase of such items as if they were the Goods.

17.2 The Company shall be entitled to cancel all or any part of the Services (if any) by giving notice to the Vendor at any time prior to their completion in which event the Company shall pay on a time and materials basis for all such Services performed in accordance with the Order and the Contract shall continue in full force and effect in respect of uncancelled Services.

## **18. TERMINATION**

18.1 The Company shall be entitled to terminate the Contract forthwith by notice in writing to the Vendor if:

- a. the Vendor commits an irremediable breach of the Contract, persistently repeats a remediable breach or commits any remediable breach and fails to remedy it within thirty (30) days of receipt of notice of the breach requiring remedy of the same; or
- b. the Vendor makes an arrangement with or enters into a compromise with its creditors, becomes the subject of a voluntary arrangement, scheme of arrangement, receivership, administration, liquidation, bankruptcy or winding up, is unable to pay its debts or otherwise becomes insolvent or suffers or is the subject of a distraint, execution, event of insolvency or event of bankruptcy or any similar process or

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event, whether in the United Kingdom or otherwise; or

c. the Company reasonably apprehends that any of the events specified in Condition 18.1(b) above or any similar event is about to occur in relation to the Vendor.

18.2 In the event of termination by the Company pursuant to this Condition 18 then, without prejudice to any other right or remedy available to it, the Company shall be entitled to:

a. keep any of the Goods already delivered to it but shall be obliged to pay that proportion of the price attributable to such Goods in accordance with the terms of the Contract and the Company shall be entitled to deduct any sums paid to the Vendor for Goods and/or Services which have not yet been delivered; or

b. return the Goods, and require the repayment of the whole or any part of the price which has been paid.

## **19. FORCE MAJEURE**

The Company shall not be liable to the Vendor for any failure to perform its obligations due to any circumstances beyond its control (including, without limitation, strikes, lockouts, industrial disputes, failure of power supplies, failure of computer hardware, software or networks, delays caused by matters outside its control or by any other person, firm or company, delays caused by any manufacturer of the goods, riots, civil disturbances, war or warlike activity, embargo, fire, explosion, flood or natural causes).

## **20. NOTICE**

Any notice or communications 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 Condition to the party giving the notice or communication.

## **21. WAIVER**

The failure or delay of the Company to enforce or to exercise, at any time or for any period of time in whole or in part, any right, power or privilege arising pursuant to this Contract does not constitute and shall not be construed as a waiver of such term or right and shall in no way affect the Company's right later to enforce or exercise in whole or in part its right, power or privilege. No waiver by the Company of any breach of any of these Conditions by the Vendor shall be considered as a waiver of any subsequent breach of the same or any other condition.

## **22. PROVISIONS OF TERMS & CONDITIONS**

22.1 If any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall be construed as if such invalid or unenforceable term or right did not exist.

22.2 The headings in these Conditions are for convenience only and shall not affect their interpretation. Nothing in these Conditions shall be deemed to restrict the rights of the Company under common law or statute.

22.3 The Contract is personal to the Vendor and the Vendor may not assign, transfer, sub-contract or otherwise part with the Contract or any right or obligation under it without the prior written consent of the Company.

22.4 The Vendor agrees that a Customer may:

a. enforce the Company's rights under this Contract;

b. take advantage of the benefits conferred upon the Company by this Contract; or

c. rely on the representations, warranties and covenants given by the Vendor.

22.5 Save as specified in Condition 22.4, nothing in this Contract shall confer any right upon any person

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who is not a party to it whether under the Contract (Rights of Third Parties) Act 1999 or otherwise.

### **23. LAW & JURISDICTION**

The Contract (together with any associated non-contractual disputes or claims) shall be construed and have effect in all respects in accordance with English law and any disputes arising therefrom or in connection with these Conditions and any written special conditions of purchase agreed between the parties shall be submitted to the jurisdiction of the English Courts to which jurisdiction the parties exclusively submit provided that nothing in the Contract will prevent the Company from taking proceedings against the Vendor in any other court of competent jurisdiction.

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