

GENERAL CONDITIONS OF SALE

1. DEFINITIONS AND INTERPRETATION

1.1

“Clarity Mail Product” an outsourced print solution where the Customer prints documents from a desktop application to a print driver that securely sends a print ready file to the Supplier on receipt of which the Supplier prints, encloses and manages the mailing of the document. If the Contract includes a Clarity Mail Product the Customer will be able to access the documents sent to the Supplier in its Web Archive

“Cloud” Software applications or file storage in a third party datacentre provided as a service and accessed via the Internet

“Computer System” the computer systems and peripherals located at the Supplier’s premises, in the Cloud, or at the premises of any of the Permitted Sub-processors

“Conditions” the standard terms and conditions of sale and supply set out in this document together with any special terms agreed In Writing between the Supplier and the Customer

“Confidential Information” all information concerning the business or affairs of a Party (or of any member of the group of companies to which such Party belongs) whether conveyed orally, In Writing, in machine readable form or otherwise including Data, know-how or other matters connected with the Products or Services, and information concerning a Party’s relationships with actual or potential clients, customers or suppliers and the needs and requirements of such persons and any other information which, if disclosed, will be liable to cause harm to such Party

“Contract” the contract between the Supplier and the Customer (each individually a **“Party”** and together the **“Parties”**) for the sale and purchase of the Products and/or the supply of the Services, incorporating these Conditions

“Customer” the person, firm or company who purchases the Products or Services from the Supplier

“Data Protection Legislation” all applicable data protection laws including:

- (i) the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and, from 25 May 2018, the General Data Protection Regulation (EU) 2016/679;
- (ii) any laws which implement any of the foregoing; and
- (iii) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing

“Data” a collection of names and addresses and/or other information to be stored, amended, deleted or retrieved using the Computer System (including any **“Personal Data”** as defined in the Data Protection Legislation)

“Data Controller”, in relation to Personal Data, means a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any Personal Data is, or is to be processed

“Data Processor”, in relation to Personal Data, means any person (other than an employee of the Data Controller) who processes Personal Data on behalf of the Data Controller

“Force Majeure” any act, event, omission or accident beyond the Supplier’s reasonable control which shall include acts of God, explosion, flood, tempest, fire or accident; war or threat of war, sabotage, epidemic, insurrection or civil disturbance; terrorism, governmental actions; acts of a third party; strikes, lockouts or other industrial actions or trade disputes (other than by the Supplier’s employees); difficulties in obtaining raw materials, labour, fuel, parts or machinery; power failure or breakdown in machinery; restraints or delays affecting carriers; malicious damage or acts of hackers; failure in information technology or telecommunications services; failure of a third party software manufacturer; a Virus that cannot be detected or controlled by the use of reasonable anti-virus protective measures

“Inserts” any circular letter, envelope, leaflet or other document whether supplied by the Customer, produced by the Supplier or by a third party which are to be incorporated in a Mail Pack

“Integrity Print” Integrity Print Limited (company registration number 06596913) whose registered office is at First Avenue, Westfield Trading Estate, Midsomer Norton, Bath, BA3 4BS and any of its trading divisions

“Integrity Print Group” the persons who are from time to time part of the Integrity Print group of companies being (i) a subsidiary undertaking of Integrity Print, (ii) a parent undertaking of Integrity Print; and/or (iii) any other subsidiary undertaking of such parent undertaking. The expressions **“subsidiary undertaking”** and **“parent undertaking”** have the meanings given to them by the Companies Act 2006

“Intellectual Property Rights” all intellectual and industrial property rights (including patents, know how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights and unregistered trade marks, rights to prevent passing off for unfair competition and copyright, data rights, domain names, topography rights and any other rights in any invention, discovery or process) in the United Kingdom and all other countries in the world and together with all renewals and extensions thereof

“In Writing” communication by letter, fax, email or comparable means of communication

“Mail Packs” one or more letters, financial statements, Inserts, envelopes, leaflets or other documents which are to be sent to a person or persons by one mailing (whether or not by the Supplier) and which may be assembled as part of the Contract

“Multimedia Services” Products or Services which do not result in the production of printed material or other physical matter and which are accessed and utilised via a computer, typically (but not limited to) web applications, other browser based applications, software design and production, production of data, production of PDF and other electronic document formats, production of CD-ROMS, presentations, mobile phone services (SMS), research and development and bulk emailing

“Permitted Sub-processor” any of the companies in the Integrity Print Group, the Sub-processors named in the Supplier’s quotation and any other Sub-processors as may be agreed In Writing between the Supplier and the Customer from time to time

“Products” any products to be supplied and/or delivered to the Customer by the Supplier or third parties on a Customer’s behalf under the Contract (including any part or parts of them)

“Service/Services” the services (if any) which the Supplier is to perform pursuant to or in connection with the Contract

“Sign-Off” the Customer’s final approval of the Product proofs by signature of a form given to it by the Supplier or its acceptance In Writing, of the final proof

“Software” all software including computer programs, operating systems, file layouts and screen layouts and all associated files and data (including job control and other procedure language files, macros and file allocation tables)

“Sub-processor” any agent, subcontractor or other third party (but for the avoidance of doubt not the Supplier’s employees) engaged by the Supplier for carrying out any processing activities in respect of Personal Data

“Supplied Items” materials and components (including any Data and, where applicable, Inserts) for the Products supplied by the Customer, its agents or third party suppliers to the Supplier

“Supplier” Integrity Print or, if different, the member of the Integrity Print Group identified in the quotation

“Transactional Product” a product where the production process includes the supply of Data by the Customer to the Supplier. The Supplier may employ Computer Systems and Software to cleanse, reformat, sort and output the Data to meet the Customer’s requirement for a printed or electronic document. As directed by the Customer, the document may be delivered by mail or electronic means to the recipient, or may be placed in the Cloud as a Web Archive

“Virus” any form of code which causes harm, damage or impedes the functionality or performance of any computer system or data

“Web Archive” a website that can be accessed via the public internet where electronic documents will be made available to the Customer by the Supplier

“Working Day” a day (other than a Saturday, Sunday or public holiday in England and Wales) between the hours of 8.30am to 5.00pm

“Written Notice” notice from one Party to another by letter (excluding fax, email and comparable means of communication)

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, consolidated, re-enacted, modified, extended or replaced at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their construction or interpretation.

1.4 Any phrase in these Conditions introduced by the term **“include”**, **“including”**, **“in particular”** or any similar expression will be construed as illustrative and will not limit the sense of the words preceding that term.

1.5 In these Conditions the masculine includes the feminine and the neuter and the singular includes the plural and vice versa.

2. ACCEPTANCE AND AMENDMENT

2.1 Subject to any variation under clause 2.5 the Contract will be on these Conditions to the exclusion of all other terms and conditions and all previous oral or written representations. No terms or conditions endorsed upon, delivered with or contained in the Customer’s purchase order, confirmation of order, specification or other document will form part of the Contract whether or not such document is referred to in the Contract.

2.2 The Supplier may provide a quotation to the Customer by post, fax, email, electronic transfer or verbal communication.

2.3 Provided that the Supplier has not previously withdrawn it, a quotation given by the Supplier is only valid for a period of thirty Working Days from its date, unless otherwise expressly agreed by the Supplier In Writing. Each order or acceptance of a quotation for Products or Services by the Customer shall be deemed to be an offer by the Customer to purchase Products or Services subject to these Conditions.

2.4 No order placed by the Customer shall be deemed to be accepted by the Supplier until the order is either acknowledged by the Supplier In Writing or (if earlier) the Supplier delivers the Products or performs the Services.

2.5 These Conditions apply to all sales of Products and Services by the Supplier and any variation to these Conditions and any representations about the Products or Services shall have no effect unless expressly agreed In Writing and signed by an authorised representative of the Supplier.

3. SPECIFICATION

3.1 The quantity and description of the Products and/or Services shall be as set out in the Supplier's quotation or acknowledgement of order.

3.2 The Supplier may make any changes to the specification, design, materials or finishes of the Products or provision of the Services which:

3.2.1 are required to conform with any applicable safety or other statutory or regulatory requirements; or

3.2.2 in the Supplier's reasonable opinion, do not materially affect their quality or performance.

3.3 All advertising, samples, artwork, specifications, illustrations or descriptive material made available by the Supplier and any descriptions or illustrations contained in the Supplier's sales literature, including brochures, quotations, price lists, acknowledgement of order, invoice or other document or other information issued by the Supplier (including on its website) are issued for the sole purpose of giving an approximate idea of the Products or Services described in them. They will not form part of the Contract unless specifically stated otherwise. All documents containing such illustrative or descriptive material (as well as the Intellectual Property Rights in such material) shall remain the exclusive property of the Supplier and must not be copied, loaned or transferred.

3.4 Any typographical, clerical or other error or omission in any of the documents referred to in clause 3.3 shall be subject to correction without any liability on the part of the Supplier.

3.5 The Customer must ensure that the terms of its order are complete and accurate, and any artwork, sketches, specifications, descriptions, electronic data, information or other instructions supplied by the Customer or by any agent or representative of the Customer in connection with the manufacture or sale of the Products or provision of the Services are accurate, unambiguous and clearly legible and meet the Customer's requirements.

3.6 Where the Products and/or Services include machine readable codes or symbols:

3.6.1 The Supplier shall print the same as specified or as approved by the Customer in accordance with generally accepted industry standards and procedures;

3.6.2 The Customer shall be responsible for satisfying itself that the machine readable code or symbol will read correctly on the equipment likely to be used by those for whom the machine readable code or symbol is intended;

3.6.3 The Customer shall indemnify the Supplier against all liability, actions, proceedings, costs, claims, damages or demands resulting from the machine readable code or symbol not reading at all or not reading correctly for any reason whatsoever, except to the extent that such a claim arises from any failure of the Supplier to comply with clause 3.6.1 above which is not attributable to any error falling within the tolerances generally accepted in the industry in relation to printing of this kind.

3.7 Where the Supplier is supplied with Supplied Items or is requested to use specific material by the Customer when supplying the Products or undertaking the Services:

3.7.1 the Supplier will not be liable for any defect, error or imperfection in the Products (including, if applicable, any Mail Packs, Transactional Products or Clarity Mail Products) or errors in their delivery caused by defects in or unsuitability of the Supplied Items or specified materials, it being noted and agreed that the Supplier may not be able to identify defects in the Supplied Items or specified materials, or the unsuitable nature of the Supplied Items or specified materials until production has commenced;

3.7.2 the Supplier may reject any of the Supplied Items or specified materials which in its opinion are unsuitable;

3.7.3 the Supplier may, if the Supplied Items or specified materials are found to be unsuitable during production, charge the additional production costs incurred to the Customer after notifying, where possible, the Customer In Writing of the unsuitability of the Supplied Items or specified materials; and

3.7.4 the Customer must ensure that the ordered quantities of the Supplied Items are adequate to cover spoilage.

3.8 Work done whether experimentally or otherwise at the Customer's request may at the Supplier's option be charged separately.

3.9 Unless otherwise agreed In Writing by the Parties, the Supplier shall be entitled to affix to or print the Supplier's name and/or trade or other marks on any Product and, where the Supplier owns the copyright, the year in which copyright arose in the Product.

4. SIGN OFF

4.1 Proofs will be provided by the Supplier as follows:

4.1.1 for orders for new and amended Products (other than Clarity Mail Products), the Supplier will provide the Customer with proofs of the Products prior to production, which the Customer will proof read and, if necessary, edit before returning to the Supplier for amendment (if amendment is necessary). In the case of Multimedia Services, the proofs may be sent to the Customer by e-mail with a link to a website which the Customer will access to check the proofs. The Customer will proof read subsequent amended proofs provided by the Supplier. Prior to production (or completion of Multimedia Services) but following final checking of the proof, the Supplier will ask the Customer to Sign-Off the amended version of the proof;

4.1.2 for exact repeat orders of orders made in the previous 12 months, proofs will not be supplied and, unless otherwise requested by the Customer on or around the time the Customer places its order and in any event prior to production, the Signed-Off proofs from the previous order will be used. The Customer acknowledges that if it requests proofs for a repeat order this will have an impact on any times frames for delivery stated in the Supplier's quotation; and

4.1.3 for the avoidance of doubt, proofs will not be provided for Clarity Mail Products and the Customer shall satisfy itself that there are no defects, errors or omissions in the print ready file prior to sending it to the Supplier.

4.2 Following Sign-Off the Supplier will not be responsible for errors in the Products or the Multimedia Services, unless it has failed to print or complete the Multimedia Services in accordance with the Signed-Off proofs.

4.3 The Customer shall pay for any re-prints that may be necessary due to the Customer's failure to amend the proofs correctly prior to Sign-Off. The Supplier shall produce, at no additional cost to the Customer, any re-prints that may be necessary due to the Supplier's failure to print the Products or complete the Multimedia Services in accordance with the Signed-Off proofs.

4.4 The Supplier may charge the Customer an additional charge (which may include standing time if a printing press or other equipment is subsequently inactive) if alterations, additional proofs and/or other works are carried out:

4.4.1 at the Customer's request after proofs have been Signed-Off;

4.4.2 where style, type or layout is left to the Supplier's judgment and the Customer requests variations to that aspect or aspects of the proof; or

4.4.3 where drawings, proofs or other instructions supplied to the Supplier by the Customer are not in accordance with clause 3.5.

4.5 All final artwork and film (not in digital artwork) will be held by the Supplier for a maximum period of 12 months from Sign Off.

5. CANCELLATION OF ORDERS

5.1 Subject to clause 5.2, no order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement of the Supplier In Writing and on the terms that the Supplier shall invoice for the work carried out to such time, any materials ordered for the Customer and any other additional costs incurred as a result of such cancellation, and such invoice shall be payable immediately by the Customer.

5.2 Orders for Products that are, in the Supplier's opinion, standard stock items may be cancelled by Written Notice to the Supplier received before the Products are allocated to the Contract.

6. DATA / DATA PROTECTION

6.1 If the Customer is required to supply Data to the Supplier, such Data shall be provided by secure electronic transfer in machine readable files in the format specified by the Supplier to the Customer ("**Compatible Format**"). The Supplier will provide a secure SFTP / FTPS site with appropriate access controls to facilitate the transfer of Data by the Customer to the Supplier. The Supplier will not, under any circumstances, accept a transfer of Data containing Personal Data unless the Customer has encrypted that Data prior to its transmission to the Supplier. The Supplier reserves the right, without notice to the Customer, to delete any Data which it knows or suspects contains Personal Data that has not been encrypted prior to its transmission to the Supplier. The Supplier shall not be liable for any loss or leakage of Data if the Customer chooses to transfer the Data to the Supplier other than as specified in this clause 6.1, or fails to exercise control of the Customer's access credentials to the secure SFTP / FTPS site.

6.2 The Customer will supply the Data to the Supplier within the time specified by the Supplier to allow the Supplier to perform its obligations under the Contract. The Supplier may reject any Data which is not so supplied or may at its own discretion and at the Customer's sole expense, reformat the Data so that it is in Compatible Format.

6.3 The Supplier will be responsible for loading the Data onto the Computer System. Subject to clause 6.4, the Supplier will retain the Data at its discretion for a maximum period of 90 days from completion of the Contract unless requested by the Customer In Writing to return or destroy the Data before the end of such period. The Customer is solely responsible for making and keeping secure any back-up copy of any Data supplied to the Supplier and the Supplier shall not be liable for any loss sustained as a result of the Data supplied to it being lost or destroyed in whole or in part (other than as a result of the Supplier's breach of the Data Protection Legislation).

6.4 If the Contract includes the provision of a Web Archive:

6.4.1 the Web Archive will, unless otherwise agreed In Writing by the Supplier and the Customer, be hosted by the Supplier on the Computer System; and

6.4.2 documents will, unless otherwise agreed In Writing by the Supplier and the Customer, be available in the Web Archive for a period of 30 days from the date that the document was added to the Web Archive.

6.5 Each party warrants that it will at all times comply with its obligations under the Data Protection Legislation and shall not do anything to put the other party in breach of its obligations under the Data Protection Legislation.

6.6 The Supplier may, in order to fulfil its duties under the Contract, need to enter into sub-contracting arrangements with Permitted Sub-processors and may provide Permitted Sub-processors with access to the Data. Other than the Permitted Sub-processors the Supplier shall not appoint any Sub-processors.

6.7 The Customer warrants that:

6.7.1 there is a lawful basis for the processing activity defined in the Contract, and that it has the requisite authority and consents from each data subject (as defined in the Data Protection Legislation) to supply the Data to the Supplier for the purposes specified in the Contract including authority to permit the Supplier to supply the Data to its Permitted Sub-processors;

6.7.2 it has and will maintain for the duration of the Contract the appropriate data protection notification which includes provisions covering the processing of Data by the Customer in relation to the Contract and the processing of Data by the Supplier or its Permitted Sub-processors in accordance with the provisions of the Contract; and

6.7.3 any use of the Data by the Supplier in carrying out its duties under the Contract will not breach the provisions of Data Protection Legislation.

6.8 The Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract, be a Data Processor and shall:

6.8.1 process that Personal Data only on the written instructions of the Customer (which includes the terms of the Contract);

6.8.2 ensure that it has in place appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data;

6.8.3 at the Customer's expense, use reasonable endeavours to assist the Customer with any subject access request that the Customer receives relating to Personal Data that the Supplier processes on the Customer's behalf under the Contract;

6.8.4 not cause or permit Personal Data to be transferred outside the EU unless:

6.8.4.1 the transfer is on the basis of a valid adequacy decision made by the European Commission;

6.8.4.2 appropriate safeguards are in place (as set out in the Data Protection Legislation); or

6.8.4.3 such transfer is otherwise permitted under applicable Data Protection Legislation;

6.8.5 ensure that access to Personal Data that it processes on the Customer's behalf under the Contract shall be limited to its employees and Permitted Sub-processors who are subject to binding written confidentiality obligations;

6.8.6 ensure that any Permitted Sub-processor is appointed subject to a binding written contract containing materially the same obligations as under this clause 6 and that any Permitted Sub-processor complies with all such obligations; and

6.8.7 maintain in accordance with the Data Protection Legislation, written records of all categories of processing activities carried out on the Customer's behalf.

6.9 The Supplier shall, in accordance with the Data Protection Legislation, make available to the Customer such information as is reasonably necessary to demonstrate the Supplier's compliance with the obligations of Data Processors under the Data Protection Legislation, and allow and contribute to audits, including inspections, by the Customer (or the Customer's nominated auditor) for this purpose, subject to the Customer:

6.9.1 giving the Supplier reasonable prior notice;

6.9.2 ensuring the confidentiality of all information generated as a result;

6.9.3 ensuring that such audit or inspection is undertaken at a mutually agreed time and date, with minimal disruption to the Supplier's business and the business of the Supplier's customers; and

6.9.4 paying reasonable costs for assisting with the provision of information and allowing for and contributing to inspections and audits.

6.10 In respect of any actual or reasonably suspected unauthorised access to or acquisition of Personal Data that the Supplier processes on the Customer's behalf under the Contract, the Supplier shall promptly notify the Customer and provide the Customer with details of such breach.

6.11 The Supplier shall be entitled to refuse to carry out any work which contravenes, or which the Supplier reasonably believes will contravene, the Data Protection Legislation or in its opinion is contrary to the British Code of Advertising, Sales Promotion and Direct Marketing, Advertising Standards Agency, C&CCC standards, the ICSTIS Code of Practice or any other relevant legislation, legal instrument or guidance.

7. PRINTING

7.1 Electronic artwork files, films, plates, die cutters, perforations, stereos and other materials owned by the Supplier and used by it in the production of plates, film-setting, negatives, positives and the like shall remain its exclusive property. When such items are supplied by the Customer they shall remain the Customer's property.

7.2 Unless agreed otherwise In Writing, and subject to the payment by the Customer of any storage costs agreed to be payable to the Supplier in connection with any such agreement, the Supplier and/or its sub-contractors shall be entitled to destroy any gravure cylinders after approval of delivered Products.

8. MAIL PACKS

If the Contract is for Mail Packs:

8.1 the Customer shall specify the number of Mail Packs to be produced and/or delivered and the date on which the Mail Packs are to be delivered by the Supplier to the Customer or the Customer's carrier and shall provide the Data to be used in preparing the Mail Packs;

8.2 the Customer shall supply the Data and, where applicable, the Inserts to the Supplier no later than the date and time agreed In Writing between the Parties. If the Customer does not supply the Data and Inserts on time, the Supplier shall not be liable for any delay;

8.3 where the Supplier is to undertake mailing services for the Customer, unless otherwise agreed in writing by the Parties, if any Supplied Item is delivered by or on behalf of the Customer more than five days prior to the mailing for which that item is required or is held by the Supplier for more than five days after such mailing, the Supplier may charge the Customer an additional fee for the storage of such item or may destroy or dispose of all such items (at the Customer's cost) fourteen days after notice to that effect is given to the Customer.

8.4 where it has been agreed that the postage shall be charged to the Supplier's account with Royal Mail or other carrier, the Customer shall pay to the Supplier the gross amount of the postage (including VAT where required) or carriage charges due prior to the Mail Packs being collected by Royal Mail or other carrier from the Supplier. The Supplier shall be entitled to withhold delivery of the Mail Packs to Royal Mail or other carrier until the Customer has paid such sum; and

8.5 subject to clause 16.1 and save in the event of the Supplier's breach of clause 6, the Supplier shall not be liable for any loss, damage or expense incurred or sustained by the Customer as a result of any person:

8.5.1 not receiving a Mail Pack;

8.5.2 receiving an incorrect Mail Pack;

8.5.3 receiving a Mail Pack more than once; or

8.5.4 incorrectly receiving a Mail Pack.

9. DELIVERY/RISK

9.1 Risk in the Products shall pass to the Customer on delivery of the Products.

9.2 The Customer will take delivery of the Products on a date to be agreed between the Parties.

9.3 If the Customer has any special requirements regarding delivery (including in relation to the quantity of Products delivered, place of delivery or method of delivery) the Customer shall request this In Writing at the time of requesting a quotation. If the Customer needs to amend the number of deliveries and/or the method of delivery the Supplier will have the right to charge for any increase in the cost of providing this service.

9.4 The Supplier shall use reasonable endeavours to deliver the Products or perform the Services within the time agreed when the Customer places an order and, if no time is agreed, then within a reasonable time, but the time of delivery or performance shall not be of the essence. Subject to clause 19, if the Supplier is unable for any reason to fulfil any delivery or performance on the specified date the Customer shall be entitled to cancel the order by informing the Supplier that they wish to cancel In Writing. In such circumstances the Supplier will be deemed not to be in breach of the Contract, nor (for the avoidance of doubt) will the Supplier have any liability to the Customer for direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profit, loss of business, depletion of goodwill and like loss) howsoever caused (including as a result of negligence) for any delay or failure in delivery or performance except as set out in this clause 9.4. If the Customer cancels the order in accordance with this clause 9.4 the Supplier shall invoice and the Customer shall pay for the costs the Supplier has incurred up to the date of cancellation.

9.5 The quantity of any consignment of Products as recorded by the Supplier upon despatch from the Supplier's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.

9.6 If, to assist the Customer in removing the Products from point of delivery, the Supplier, its employees, agents or sub-contractors load any of the Products free of charge, no liability whatsoever (except liability for death or personal injury resulting from the Supplier's, its employees', agents' or its sub-contractor's negligence) shall be incurred by the Supplier (including where arising from the Supplier's negligence), its employees, agents or sub-contractors and the Customer shall indemnify the Supplier, its employees, agents and subcontractors in respect of any such liability.

9.7 If the Customer, its employees, agents or sub-contractors, request the use of the Supplier's property, including any lifting equipment or transport, to assist in the loading or unloading of the Products, the Customer accepts all liability for all the associated risks and agrees to comply fully with any instructions issued by the Supplier and the Customer shall indemnify the Supplier in respect of:

9.7.1 any loss or damage caused to the Supplier's property by the Customer, its employees, agents or sub-contractors; and

9.7.2 any claim by any third party (including the Customer's employees, agents or sub-contractors) arising from or in connection with the Customer's use of the Supplier's property.

9.8 If for any reason the Customer will not accept delivery of any of the Products when they are ready for delivery, or the Supplier is unable to deliver the Products on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:

9.8.1 risk in the Products will pass to the Customer and following risk passing to the Customer the Supplier shall have no liability for those Products (including for loss or damage caused by the Supplier's negligence);

9.8.2 the Products will be deemed to have been delivered and Services deemed to have been performed on the due date; and

9.8.3 the Supplier may store the Products until delivery and the Customer will be liable for all related costs and expenses (including storage and insurance).

9.9 Unless otherwise expressly agreed In Writing between the Parties, if the Supplier delivers to the Customer a quantity of Products of up to 10% more or less than the quantity ordered, the Customer shall not be entitled to object to or reject the Products or any of them by reason of the surplus or shortfall and shall pay for such Products at the pro rata Contract rate.

9.10 Except where expressly agreed In Writing between the Supplier and the Customer:

9.10.1 delivery of Mail Packs and Transactional Products shall be made ex-works (as defined in the edition of the "Incoterms" then current) the Supplier's premises or the premises of its sub-contractor (as applicable) when collected by Royal Mail or other carrier; and

9.10.2 the Services shall be performed and delivered at the place specified in the Supplier's quotation.

10. STOCK OBSOLESCENCE POLICY

10.1 The Supplier will hold at its premises such stocks of printed material and associated items as it deems reasonably necessary to fulfil its obligations under the Contract and will at all times manage such stock to ensure that the stock levels, and thereby the financial risks in relation to such stock borne by the Customer, are kept to the minimum level reasonably possible.

10.2 The Supplier will periodically provide details of stock held and will bring to the Customer's attention changes in stock movement pattern which may result in a cost to the Customer pursuant to this clause 10. The Customer will endeavour to keep the Supplier updated of any changes which may impact upon stock movement.

10.3 If there is No Demand (as defined below) for a particular item of stock in any period of three consecutive months, the Supplier shall be entitled to charge a commercial rate for storage of such stock and may submit an invoice to the Customer for these storage costs and 100% of the sales value to the Supplier of that stock. For the purposes of this clause "**No Demand**" shall mean either: no sales of the relevant stock items to the Customer during three consecutive months; or actual demand during the three month period results in the remaining stock being in excess of 12 months' requirements (which shall be calculated on the basis of the Customer's prior purchasing history).

10.4 If, following payment for stock by the Customer pursuant to clause 10.3, No Demand for that stock is received in the subsequent six month period, the Supplier may, without liability to the Customer and at the Customer's expense, dispose of the remainder of that stock.

11. OWNERSHIP

11.1 Ownership of the Products shall not pass to the Customer until the Supplier has received in full (in cash or cleared funds) all sums due to it in respect of the Products and Services and all other sums which are or which become due to the Supplier from the Customer on any account.

11.2 Until ownership of the Products passes to the Customer, the Customer must:

11.2.1 hold the Products on a fiduciary basis as the Supplier's bailee;

11.2.2 store the Products (at no extra cost to the Supplier) separately from all other products of the Customer or any third party in such a way that they remain readily identifiable as the Supplier's property;

11.2.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Products; and

11.2.4 maintain the Products in satisfactory condition insured on the Supplier's behalf for their full price against all risks to the reasonable satisfaction of the Supplier. On request the Customer shall produce the policy of insurance to the Supplier.

11.3 The Customer may resell the Products before ownership has passed to it solely on the following conditions:

11.3.1 any sale shall be effected in the ordinary course of the Customer's business at full market value and the Customer shall account to the Supplier accordingly; and

11.3.2 any such sale shall be a sale of the Supplier's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale.

11.4 The Customer's rights to possession of the Products shall terminate immediately if any of the circumstances set out in clause 18.1 occur.

11.5 The Supplier shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed from the Supplier.

11.6 The Customer grants the Supplier, its agents and employees an irrevocable licence at any time to enter any premises where the Products are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.

11.7 On termination of the Contract, howsoever caused, the Supplier's rights contained in this clause 11 shall remain in effect.

12. CUSTOMER'S PROPERTY

12.1 The Supplier will take reasonable care of any property of the Customer left with it for the purpose of the Contract (including any obsolete stock purchased by the Customer pursuant to clause 10) save that all property supplied to the Supplier by or on behalf of the Customer will remain at the risk of the Customer.

12.2 The Supplier reserves the right to make a reasonable charge for storage of any property of the Customer left with it, including excess Products and Supplied Items. If the Customer does not wish to pay for such storage the Supplier may, without liability to the Customer and at the Customer's cost, destroy the excess Products and/or Supplied Items after giving the Customer not less than four weeks notice of the charge for storage.

13. PRICES

13.1 Quotations for Products and/or Services are made subject to the suitability and availability of drawings, proofs, Data or other instructions to be provided by the Customer to the Supplier and of any Supplied Items (whether charged to the Supplier or not) and of any materials to be supplied by the Supplier which are specially requested by the Customer and which are not normally used by the Supplier in the course of its business.

13.2 All quotations are made on the basis of the use of industry processed colours. If the Customer wishes to use other colours, the Supplier may make an additional charge.

13.3 Unless otherwise agreed In Writing the price payable by the Customer shall be the price set out in the Supplier's quotation or, where applicable, the Supplier's published price list or pricing matrix current at the date of delivery of the Products or provision of the Services and is exclusive of:

13.3.1 any export or import tax and/or duties; and

13.3.2 any value added tax or other applicable sales tax or duty which will be added to the sum in question.

13.4 Prices may be altered by the Supplier without notice to the Customer (although the Supplier will endeavour to give reasonable notice to the Customer verbally or In Writing) to reflect increases in the cost of manufacture or distribution of the Products or increases in the cost of providing the Services which are due to:

13.4.1 any factor beyond the reasonable control of the Supplier; this includes foreign exchange fluctuation, currency regulation, alteration of duties, charges and taxes, increases in the cost of labour, materials, other manufacturing costs, service costs and transport costs; or

13.4.2 any change in delivery dates, quantities or specifications for the Products or Services requested by the Customer; or

13.4.3 any delay in the Supplier receiving Supplied Items or receiving Supplied Items of inferior quality which require replacing; or

13.4.4 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions. Any dispute as to the amount of any increase in price shall be governed by the dispute resolution procedure in clause 21.

13.5 If the Customer requires delivery of the Products or provision of the Services to be expedited or notifies the Supplier of any special requirements regarding delivery of the Products or provision of the Services, the Supplier may charge the Customer an additional sum to cover additional costs incurred including overtime payable to its employees or sub-contractors.

14. PAYMENT

14.1 Unless otherwise agreed In Writing or stated on the Supplier's quotation, invoices are due for payment by the Customer no later than 30 days from the end of the month in which the invoice is raised.

14.2 Time for payment shall be of the essence.

14.3 The Supplier reserves the right at any time before proceeding or proceeding further with a Contract to demand full or partial payment of monies due and payable under the Contract and under any other contract between the Supplier and the Customer.

14.4 Payments shall be made in such currency and into such bank account as the Supplier shall nominate from time to time In Writing.

14.5 Payment will not be deemed to have been received until the Supplier has received cleared funds.

14.6 All payments payable to the Supplier under the Contract shall become due immediately upon termination of the Contract despite any other provision.

14.7 The Customer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Supplier to the Customer.

14.8 If the production or delivery of the Products or the provision of the Service is suspended at the request of the Customer or delayed due to the default of the Customer, the Supplier may charge the Customer for the work carried out to such time, any materials ordered for the Customer and any other additional costs incurred as a result of such suspension or delay, and such charge shall be payable immediately by the Customer.

14.9 If the Customer defaults in any payment then, without prejudice and in addition to the Supplier's other rights under the Contract, the Supplier may suspend work, delay or withhold delivery or cancel the Contract or suspend work, delay or withhold delivery under or cancel any other contract between the Supplier and the Customer and retain any progress payments or payments on account already received under the Contract or under any other contract between the Supplier and the Customer.

14.10 If the Customer fails to make any payment under the Contract on the due date then (without prejudice to its other rights and remedies) the Supplier may charge the Customer interest (both before and after judgment) on the amount unpaid at the annual rate of 4% above HSBC Bank plc's base rate from time to time, accruing on a daily basis, until payment is made in full.

14.11 The Supplier shall have a lien on all undelivered Supplied Items or other goods being the subject of the Contract for all monies due from the Customer to the Supplier under any contract between them.

14.12 The Customer shall indemnify and keep indemnified the Supplier from and against any costs (including legal costs on an indemnity basis), expenses and other liabilities which the Supplier may reasonably incur either before or after the commencement of any action, in connection with any legal proceedings the Supplier may bring in respect of a breach by the Customer of any of its obligations under the Contract or warranties given by the Customer under the Contract including proceedings for the collection of any sums due from the Customer pursuant to the Contract together with the enforcement of any settlement or judgment obtained in respect thereof.

15. WARRANTIES

15.1 The Customer warrants that:

15.1.1 any instructions given by the Customer or any specification or other materials (including the Supplied Items and Data) provided by the Customer to the Supplier for the purpose of the Supplier carrying out its obligations under the Contract shall not:

15.1.1.1 be defamatory, offensive, abusive, discriminatory, obscene, threatening, promote unlawful violence, facilitate illegal activity or otherwise be unlawful, immoral or tortious; or

15.1.1.2 infringe the rights (including Intellectual Property Rights, human rights and moral rights) of any third party;

15.1.2 the Customer is entitled to transfer the Data to the Supplier and such transfer of the Data and the processing of the Data by the Supplier (and its Permitted Sub-processors) in accordance with the terms of the Contract shall comply with the Data Protection Legislation and any other relevant legislation, legal instrument or guidance;

15.1.3 all Data provided by the Customer or transmitted to the Supplier is and will be free from Viruses.

15.2 The Supplier may in its absolute discretion refuse to produce or deliver any Products or Services which in its opinion may or do contravene the Customer's warranties given in clause 15.1.

15.3 Notwithstanding clause 15.2, the Customer shall indemnify and keep indemnified the Supplier against all actions, costs (including reasonable legal fees), loss, damage, claims, proceedings, demands, fines or other liabilities in each case whether arising directly or indirectly in respect of any breach or alleged breach of the Customer's warranties given in clauses 6.5, 6.7, 15.1 and 17.2.

15.4 The Supplier warrants that the Services will be provided with reasonable care and skill.

15.5 The Supplier warrants that (subject to the other provisions of these Conditions) upon delivery and for a reasonable period of time from the date of delivery the Products will be of satisfactory quality within the meaning of the Sale of Goods Act 1979. Unless otherwise expressly agreed In Writing between the Parties, the Supplier will have sole discretion to determine what constitutes a reasonable period of time for the purposes of this clause 15 taking certain factors into account (including the Customer's storage procedures).

15.6 The Supplier does not warrant that any Multimedia Services will meet the Customer's requirements, or that the operation of any Multimedia Services will be uninterrupted or error free.

15.7 The Supplier shall not be liable for any defects in the Products or in the performance of the Services, or for breach of the warranties in clauses 15.4 and 15.5 if:

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

15.7.2 the Customer alters or repairs such Products without the written consent of the Supplier; and/or

15.7.3 the defect in such Products arises from any design defect in any drawing, design or specification supplied or approved by the Customer or from the Customer failing to amend the proofs correctly prior to Sign Off or, in the case of Clarity Mail Products the defect was present in the print ready file at the time the Customer sent the file to the Supplier.

15.8 The Supplier shall not be liable for a breach of any of the warranties in clauses 15.4 and 15.5 unless the Customer gives notice In Writing of such alleged breach within two Working Days of:

15.8.1 the date of the provision of the Services or date of delivery of the Products (where the defect would be apparent to the Customer upon a reasonable inspection); or

15.8.2 (in the case of non-delivery of the Products or non-provision of the Services) the date when the Products would in the ordinary course of events have been received or when the Services would have been performed; or

15.8.3 the date when the Customer knew or ought reasonably to have known of the defect (where the defect would not be apparent to the Customer upon a reasonable inspection).

15.9 Subject to clauses 15.7 and 15.8, if any of the Products or Services do not conform with any of the warranties in clauses 15.4 and 15.5 the Supplier shall at its option repair or replace such Products (or the defective part) or re-perform the Services (or the defective part) or refund the price of such Products or Services at the pro rata Contract rate provided that, if the Supplier so requests, the Customer shall return the Products or the part of such Products which is defective to the Supplier.

15.10 If the Supplier produces a Product or performs a Service which, in the Supplier's reasonable opinion, is fit for its purpose, albeit not exactly conforming to the Customer's specification, the Customer shall not be entitled to reject the Product or Service immediately, but shall enter into good faith negotiations with the Supplier to agree a suitable credit note or reduction in price.

15.11 If the Supplier complies with clauses 15.9 and/or 15.10 it shall have no further liability for a breach of any of the warranties in clauses 15.4 and 15.5 in respect of such Products or Services.

15.12 Any Products rejected by the Customer or by the Supplier because they do not comply with the warranties in clauses 15.4 and 15.5 shall remain the property of the Supplier who may dispose of the same in any way in which it thinks fit.

16. LIMITATION OF LIABILITY

16.1 The Supplier does not exclude its liability (if any) to the Customer:

16.1.1 for breach of the Supplier's obligations arising under section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982;

16.1.2 for personal injury or death resulting from the Supplier's negligence or the negligence of its employees;

16.1.3 for defective products under the Consumer Protection Act 1987;

16.1.4 for fraud or fraudulent misrepresentation; or

16.1.5 for any matter which it would be unlawful for the Supplier to exclude or restrict liability.

16.2 Except as provided in clauses 15.9 and 16.1, the Supplier will be under no liability to the Customer whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused arising out of or in connection with:

16.2.1 any of the Products or Services, or the manufacture or sale or supply, or failure or delay in supply, of the Products or Services by the Supplier or on the part of the Supplier's employees, agents or sub-contractors;

16.2.2 any breach by the Supplier of any of the express or implied terms of the Contract;

16.2.3 any use made or resale by the Customer of any of the Products, or of any product incorporating any of the Products; or

16.2.4 any statement made or not made, or advice given or not given, by or on behalf of the Supplier or otherwise under the Contract.

The Customer's attention is in particular drawn to the provisions of clauses 16.3 and 16.4.

16.3 Except as set out in clauses 15.9 and 16.1 the Supplier hereby excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Customer.

16.4 Subject to clause 16.1 the Supplier's aggregate liability under the Contract (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused will be limited to the price payable under the Contract or if delivery is by instalments or performance is in stages, that part of the Contract to which the delivery or performance relates.

16.5 The Customer shall indemnify the Supplier against all liability, actions, proceedings, costs, claims, damages or demands in any way connected with the Contract brought or threatened to be brought against the Supplier by any third party except to the extent the Supplier is liable to the Customer in accordance with these Conditions.

17. INTELLECTUAL PROPERTY RIGHTS

17.1 The Customer shall grant to the Supplier a non-exclusive licence to use the Customer's Intellectual Property Rights in any film screens, drawings, artwork, designs, business forms or other materials provided to the Supplier by the Customer or Supplied Items (the "**Customer's Materials**") for the purposes of the Supplier carrying out its obligations under the Contract.

17.2 The Customer warrants that it owns the Intellectual Property Rights in the Customer's Materials and that the Supplier's use of the Customer Materials will not infringe any third party Intellectual Property Rights.

17.3 Any film screens, drawings, artwork, designs, business forms or other materials in electronic or physical format created by the Supplier ("**Supplier Materials**") in the production of the Products or provision of the Services and all Intellectual Property Rights therein are and shall remain the exclusive property of the Supplier, unless provided by the Customer or otherwise agreed In Writing by the Supplier.

17.4 In the event that any Supplier Materials are created as a result of a proposal by the Supplier to the Customer that is not accepted or a commission from the Customer that is subsequently cancelled, then the Customer shall have no licence to use any Intellectual Property Rights in any such Supplier Material and the Customer shall promptly return all such material to the Supplier.

17.5 As between the Supplier and the Customer, the Supplier shall own and retain all Intellectual Property Rights in any Software written or developed by it and the Customer shall obtain no rights in this by virtue of the Contract. As between the Supplier and the Customer, the Customer shall own and retain all Intellectual Property Rights and any other rights in any Data provided or transmitted to the Supplier by the Customer (or on its behalf).

17.6 The Supplier shall grant to the Customer a non-exclusive licence to use the Supplier's Intellectual Property Rights in the Products and Services and the Software only for the sole express purpose for which the Products and Services were supplied, and the Customer shall have no licence for any other use without the express consent In Writing of the Supplier.

17.7 The Supplier may reproduce any design of the Customer in its own publicity material including brochures, catalogues, advertising material and the Supplier's website, provided it has the Customer's consent.

18. TERMINATION

18.1 The Supplier may by Written Notice served on the Customer immediately terminate the Contract if the Customer:

18.1.1 is in material breach of any of the terms of the Contract and, where the breach is capable of remedy, the Customer fails to remedy such breach within the number of days specified in any Written Notice from the Supplier, specifying the breach and requiring it to be remedied. Failure to pay any sums due in accordance with clause 14.1 is a material breach of the terms of the Contract which is not capable of remedy; or

18.1.2 becomes bankrupt, insolvent, has a receiver, manager or administrative receiver appointed, makes any composition with its creditors or has a deputy appointed under the Mental Capacity Act 2005; or

18.1.3 has any distraint, execution, or other process levied or enforced on any of its property; or

18.1.4 ceases or threatens to cease to trade; or

18.1.5 has a change in its management and/or control as defined by section 450 Corporation Tax Act 2010; or

18.1.6 any equivalent event occurs to the Customer in another jurisdiction; or

18.1.7 if the Supplier reasonably anticipates that one of the above set of circumstances is about to occur.

18.2 The termination of the Contract howsoever arising is without prejudice to the rights, duties and liabilities of either the Customer or the Supplier accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

18.3 In its absolute discretion and without prejudice to any other rights and remedies, the Supplier may suspend any deliveries following service of a Written Notice under clause 18.1.1, until either the breach is remedied or the Contract terminates, whichever occurs first.

19. FORCE MAJEURE

19.1 Subject to clause 19.2, the Supplier shall not be deemed to be in breach of the Contract or otherwise liable to the Customer in any manner whatsoever for any failure or delay in performing its obligations under the Contract due to Force Majeure.

19.2 The Supplier reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Products and/or Services ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to Force Majeure.

19.3 Subject to clause 19.4, if the Force Majeure in question continues for a continuous period in excess of 30 days, the Customer shall be entitled to give Written Notice to the Supplier to terminate the Contract. The notice to terminate must specify the termination date, which must not be less than 15 days after the date on which the notice is given, and once such notice has been validly given, the Contract will terminate on that termination date.

19.4 The Customer agrees that it shall give the Supplier a reasonable opportunity to put forward alternative proposals for continuing the performance of the Contract in the event of Force Majeure and the Customer shall not unreasonably withhold its consent to the Supplier's proposals.

19.5 If the Supplier's performance of its obligations under the Contract is affected by Force Majeure the Supplier shall not be required to obtain elsewhere in the market goods or services with which to replace or permit it to produce the Products or perform the Services, the production, delivery or performance of which has been postponed or cancelled as a result of Force Majeure. In the event of cancellation, the Supplier shall be paid pro rata for work done to the date of cancellation.

20. CONFIDENTIALITY

20.1 The Parties shall keep confidential any and all Confidential Information that they may acquire about each other pursuant to the Contract. Confidentiality agreements are to be complied with by the Customer during visits to the Supplier sites.

20.2 The Parties shall not use the Confidential Information for any purpose other than to perform their obligations under the Contract. Each Party shall ensure that its officers, employees, agents and sub-contractors comply with the provisions of this clause 20.

20.3 The obligations on the Parties set out in clause 20.1 shall not apply to any information which:

20.3.1 is publicly available or becomes publicly available through no act or omission of the Parties;

20.3.2 is in the possession of the receiving Party without restriction in relation to disclosure before the date of receipt from the disclosing Party;

20.3.3 is received from another person who (the disclosing Party can prove through written documentation) lawfully acquired it and who is under no obligation restricting its disclosure; or

20.3.4 the Parties are required to disclose by order of a Court of competent jurisdiction or a competent regulatory authority.

20.4 The provisions of this clause 20 shall continue to apply after expiry or termination of this Contract

21. DISPUTE RESOLUTION

21.1 This clause 21 will not prevent either Party from:

21.1.1 seeking injunctive relief in the case of any breach or threatened breach by the other;

21.1.2 commencing any proceedings where this is reasonably necessary to avoid any loss of a claim due to the rules on limitation of actions; or

21.1.3 commencing proceedings in the case of non-payment of an undisputed invoice.

21.2 If any dispute arises out of the Contract (“**a Dispute**”) the Parties will attempt to resolve it by negotiating in good faith. Subject to clause 21.1 the procedures set out in the rest of this clause 21 will be followed prior to the issue of any proceedings or in relation to any Dispute concerning matters of procedure and management.

21.3 Any Dispute which the Parties fail to resolve within five Working Days of its first notification by one Party to the other will be referred to the Parties’ respective contract managers for resolution.

21.4 If the relevant Dispute remains unresolved within 15 Working Days of its referral to the Parties’ respective contract managers the Dispute will be referred to the Supplier’s sales manager and the Customer’s equivalent manager for resolution.

21.5 If the relevant Dispute remains unresolved within 15 Working Days of its referral to the Supplier’s sales manager and the Customer’s equivalent manager the Dispute will be referred to a director of the Supplier and a director (or equivalent senior manager) of the Customer for resolution.

21.6 If the relevant Dispute remains unresolved within 15 Working Days of its referral to a director of the Supplier and director (or equivalent senior manager) of the Customer then either Party is free to pursue the rights granted to it under the Contract through the courts.

22. NOTICES

22.1 All notices between the Parties must, be by Written Notice and delivered by hand or sent by first class post:

22.1.1 in the case of notices to the Supplier, to its registered office or such address as shall be notified to the Customer by the Supplier from time to time; or

22.1.2 in the case of notices to the Customer, to the registered office of the Customer (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to the Supplier by the Customer from time to time.

22.2 Notices shall be deemed to have been duly served:

22.2.1 if delivered by first class post, two Working Days after being posted; and

22.2.2 if delivered by hand, at the time of delivery;

22.3 Notices addressed to the Supplier shall be marked for the attention of the Managing Director.

23. GENERAL

23.1 Each right or remedy of the Supplier under the Contract is without prejudice to any other right or remedy of the Supplier whether under the Contract or not.

23.2 The Supplier may (subject to clause 6.6) assign, license or sub-contract all or any part of its rights or obligations under the Contract without the Customer's consent.

23.3 The Customer shall not be entitled to assign the Contract or any part of it without the prior consent of the Supplier In Writing.

23.4 Neither the Supplier nor the Customer shall during the term of the Contract and for 12 months following its termination either directly or indirectly solicit or entice away (or seek to attempt to solicit or entice away) from the employment of the other Party any person employed by such other Party's group (in the case of the Supplier) in the provision of the Products and Services to the Customer or (in the case of the Customer) in the receipt and/or administration of the Products and Services from the Supplier without the other Party's prior agreement In Writing providing that nothing in this clause 23.4 shall prohibit a Party from engaging a person who replies to a general advert and who is not otherwise solicited or enticed.

23.5 No failure or delay by the Supplier to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

23.6 If any condition or part of the Contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from the Contract and will be ineffective without, as far as is possible, modifying any other provision or part of the Contract and this will not affect any other provisions of the Contract which will remain in full force and effect.

23.7 Save as expressly stated otherwise in these Conditions the Parties to this Contract do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a Party to it.

23.8 The Contract contains all the terms which the Supplier and the Customer have agreed in relation to the Products and/or Services and supersedes any prior written or oral agreements, representations or understandings between the Parties relating to such Products and/or Services. 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. Nothing in this clause 23.8 will exclude any liability which one Party would otherwise have to the other Party in respect of any statements made fraudulently.

23.9 The Customer engages the Supplier as an independent contractor. Nothing in this Agreement shall create a partnership, joint venture or the relationship of principal and agent or employer and employee.

23.10 This Contract shall be governed by and construed in accordance with English law and each Party agrees to submit to the exclusive jurisdiction of the English Courts.