PREMIER HYTEMP

TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

Applicable from 1 January 2015.

1. INTERPRETATION

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

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

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 18.6.

Contract: the contract between the Customer and the Supplier for the supply of Goods and/or Services in accordance with these Conditions.

Customer: Premier Hytemp Limited (registered in Scotland with company number SC093051).

Customer's Group: the Customer, any subsidiary of the Customer, any holding company of the Customer and any subsidiary of any such holding company.

Customer's Materials: has the meaning given in clause 10;

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

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

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

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use and protect confidentiality of confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order or in the Customer's written acceptance of the Supplier's quotation.

Services: the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

Services Specification: any specification for the Services, including any related plans and drawings, that is agreed by the Customer and the Supplier.

Supplier: the person or firm from whom the Customer purchases the Goods and/or Services.

Supplier's Group: the Supplier, any subsidiary of the Supplier, any holding company of the Supplier and any subsidiary of any such holding company.

1.2 **Construction.** In these Conditions, unless the context requires otherwise, the following rules apply:

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

(b) A reference to a party includes its personal representatives, successors or permitted assigns.

(c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

(d) Any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

(e) A reference to **writing** or **written** includes faxes and e-mails.

2. BASIS OF CONTRACT

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

2.2 The Order constitutes an offer by the Customer to purchase the Goods and/or Services from the Supplier in accordance with these Conditions.

2.3 The Order shall be deemed to be accepted on the earlier of:

(a) the Supplier issuing a written acceptance of the Order; and

(b) the Supplier doing any act consistent with fulfilling the Order,

at which point the Contract shall come into existence.

2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

2.5 The Customer may cancel the Order at any time prior to commencement of the Services and/or manufacture or acquisition of the Goods by the Supplier without liability to the Supplier. Subject to the Customer's rights under clauses 4.6 and 5.5, if the Services have been commenced and/or any Goods have been manufactured or acquired by the Supplier specifically for the purposes of the Order, the Customer may cancel the Order but shall pay for such Services and/or Goods in accordance with the Order.

3. SUPPLY OF THE GOODS

3.1 The Supplier shall ensure that the Goods shall:

(a) correspond with their description and any applicable Goods Specification;

(b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer expressly or by implication or which reasonably ought to be known to the Supplier, and in this respect the Customer relies on the Supplier's skill and judgement;

(c) be free from defects in design, material and workmanship and remain so for 48 months after Delivery;

(d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods;

(e) be of the highest standard of material and workmanship and in accordance with the generally accepted standards and quality of the industry concerned applicable to the Goods; and

(f) be accompanied by any valid test certificates and other documents specified in the Order.

3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

3.3 The Customer shall have the right to inspect and test the Goods at any time before delivery.

3.4 If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

3.5 Notwithstanding any such inspection or testing, or the issue of any test certificate in relation to the Goods by the Supplier or an agreed third party, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Customer shall have the right to conduct or require further inspections and tests after the Supplier has carried out its remedial actions.

4. DELIVERY OF GOODS

4.1 The Supplier shall ensure that:

(a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;

(b) each delivery of the Goods is accompanied by any required certificates relating to the chemical and mechanical properties of the Goods and any other documents specified in the Order;

(c) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

(d) if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.

4.2 The Supplier shall deliver the Goods:

(a) on the date specified in the Order (**Delivery Date)**;

(b) to such location as is set out in the Order, or as instructed by the Customer prior to delivery (**Delivery Location**); and

(c) during the Customer's normal business hours, or as instructed by the Customer.

4.3 Time is of the essence as regards delivery of the Goods.

4.4 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.

4.5 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 6.

4.6 The Customer may defer delivery or cancel the Contract without further liability to the Supplier in the event of changes in market conditions or market demand for the Goods or in the event that the customer of the Customer cancels or delays delivery under its contract with the Customer for which purposes the Goods are being acquired.

5. SUPPLY OF SERVICES

5.1 The Supplier shall provide the Services to the Customer in accordance with the terms of Contract.

5.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Customer.

5.3 Time is of the essence as regards the completion of the Services.

5.4 In providing the Services, the Supplier shall:

(a) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;

(b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier’s industry, profession or trade;

(c) use personnel who are suitably qualified and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier’s obligations are fulfilled in accordance with the Contract;

(d) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Services Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Customer or which reasonably ought to be known to the Supplier, and in this respect the Customer relies on the Supplier's skill and judgement;

(e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;

(f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;

(g) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;

(h) observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer’s premises; and

(i) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the supplier acknowledges that the Customer may rely or act on the Services.

5.5 The Customer may defer completion or cancel the Contract without further liability to the Supplier in the event of changes in market conditions or market demand for the Deliverables or in the event that the customer of the Customer cancels or delays delivery under its contract with the Customer for which purposes the Services are being performed.

6. REMEDIES

6.1 If the Goods are not delivered on the Delivery Date or if the Services, or any part of them, are not performed by the applicable date or dates, then, without limiting any of its other rights or remedies, the Customer shall have the right to any one or more of the following remedies:

(a) to terminate the Contract with immediate effect by giving written notice to the Supplier;

(b) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;

(c) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods and/or services from a third party;

(d) where the Customer has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier;

(e) to repossess any Customer Materials held by the Supplier;

(f) to claim damages for any other costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out under clause 3.1, then without limiting any of its other rights or remedies, the Customer shall have the right to any one or more of the following remedies, whether or not it has accepted the Goods

(a) to terminate the Contract with immediate effect by giving written notice to the Supplier;

(b) to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;

(c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

(d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;

(e) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods from a third party; and

(f) to claim damages for any other costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

6.3 If the Supplier fails to perform the Services in accordance with the undertakings given under clause 5.4, then without limiting any of its other rights or remedies, the Customer shall have the right to any one or more of the following remedies, whether or not it has accepted the Services:

(a) to terminate the Contract with immediate effect by giving written notice to the Supplier;

(b) to reject the Deliverables (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;

(c) to require the Supplier to repair or replace the rejected Deliverables, or to provide a full refund of the price of the rejected Deliverables (if paid);

(d) to refuse to accept any subsequent performance of the Services or delivery of the Deliverables which the Supplier attempts to make;

(e) to recover from the Supplier any costs incurred by the Customer in obtaining substitute Services or Deliverables from a third party;

(f) to repossess any Customer Materials held by the Supplier;

(g) to recover the cost of any Customer Materials which are no longer in a condition such that they can be reused or resold by the Supplier; and

(h) to claim damages for any other costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

6.4 If the Goods are not delivered on the Delivery Date and/or the Services are not completed by the applicable date the Customer may at its option claim or deduct 1 per cent of the price of the Goods and/or the Services for each day's delay in delivery or completed by way of liquidated damages, up to a maximum of 20 per cent of the total price of the Goods and/or Services. The Supplier shall pay the liquidated damages to the Customer within 20 Business Days of receipt of the Customer’s invoice although the Customer shall be entitled to set off its claim for liquidated damages against any sum owing by the Customer to the Supplier. The Supplier and the Customer agree that the liquidated damages referred to in this clause 5.2 are a genuine reasonable pre-estimate of the losses which may be sustained by the Customer in the event that the Supplier fails to deliver the Goods on the Delivery Date and/or complete the Services by the applicable date and the Supplier shall not be entitled to claim that the liquidated damages should be construed as a penalty or any claim for the liquidated damages should not be enforced. Payment of liquidated damages by the Supplier shall not release the Supplier from its other obligations under the Contract and the Customer’s rights to claim damages for breach of contract.

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

6.6 The Customer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

7. TITLE AND RISK

Title and risk in the Goods shall pass to the Customer on completion of delivery.

8. PRICE AND PAYMENT

8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date the Contract came into existence.

8.2 The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

8.3 The price of the Goods and/or the charges for the Services are exclusive of amounts in respect of value added tax (**VAT**) (or other applicable sales tax), but include the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Customer.

8.4 The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or the Services.

8.5 The Supplier may invoice the Customer for the Goods on or at any time after the completion of delivery. The Supplier may invoice the Customer for the Services on or at any time after completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

8.6 Unless otherwise stated in the Order, the Customer shall pay correctly rendered invoices within 60 days of the end of the month during which the invoice was dated. Payment shall be made to the bank account nominated in writing by the Supplier.

8.7 The Customer shall have no liability to pay interest on any amounts which are considered overdue.

8.8 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.

8.9 The Customer may withhold payment of any invoice if there is inconsistency regarding proof of delivery, completion, quality, price, charges or other dispute in relation to the Goods and/or the Services.

8.10 The Customer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Customer against any liability of the Customer or any member of the Customer's Group to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

8.11 If the Supplier requires payment by bill of exchange or other instrument, the Supplier shall be responsible for all bankers' or other extra costs incurred by the Customer or the Supplier in relation to such payment.

9. WORK ON THE CUSTOMER'S PREMISES

9.1 Where the Contract provides for the Supplier to carry out work on the Customer's premises the Supplier shall:

(a) ensure full observance of relevant legislation including the Health & Safety at Work Act 1974 and any relevant regulations made under it and the Customer policies regarding safe working, access and security by any person employed by or carrying out work on its behalf;

(b) ensure that any waste is disposed of in accordance with all applicable environmental laws and that all such laws are complied with; and

(c) not commit any act on the Customer's premises which will render the Customer liable at common law or under statute to any third party.

10. CUSTOMER MATERIALS

The Supplier acknowledges that all materials (including free issue materials), equipment and tools, drawings, Goods Specifications, Services Specifications and data supplied by the Customer to the Supplier (**Customer's Materials**) and all rights, including Intellectual Property Rights, in the Customer's Materials are and shall remain the exclusive property of the Customer. The Supplier shall keep the Customer's Materials in safe custody at its own risk, insure them for their full replacement value, maintain them in good condition until returned to the Customer, and not dispose or use the same other than in accordance with the Customer's written instructions or authorisation.

11. INTELLECTUAL PROPERTY RIGHTS

11.1 In respect of the Goods and any goods that are transferred to the Customer as part of the Services under the Contract, including without limitation the Deliverables or any part of them but excluding any Customer's Materials, the Supplier warrants that it has full clear unencumbered title to all such items, and that at the date of delivery of such items to the Customer, it will have full and unrestricted rights to sell and transfer all such items to the Customer.

11.2 The Supplier assigns to the Customer, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services including for the avoidance of doubt the Deliverables (but excluding any Intellectual Property Rights in the Customer's Materials).

11.3 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

11.4 The Supplier shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such further documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with clause 11.2.

12. INDEMNITY

12.1 The Supplier shall keep the Customer indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer as a result of or in connection with:

(a) any claim made against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the supply or use of the Goods or receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

(b) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of or in

connection with defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and

(c) any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods and/or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.

12.2 This clause 12 shall survive termination of the Contract.

13. INSURANCE

During the term of the Contract and for a period of 3 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

14. CONFIDENTIALITY

14.1 A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

14.2 This clause 14 shall survive termination of the Contract.

15. TERMINATION

15.1 The Customer may terminate the Contract in whole or in part at any time before delivery of the Goods or completion of the Services with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. Subject to clauses 4.6 and 5.5, the Customer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods and/or the Services at the time of termination provided that the Supplier can provide evidence of its costs to the reasonable satisfaction of the Customer, but such compensation shall not include loss of anticipated profits or any consequential loss.

15.2 In any of the circumstances in these Conditions in which the Customer may terminate the Contract, where both Goods and Services are supplied, the Customer may terminate the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.

15.3 Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:

(a) the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 Business Days of the Supplier being notified in writing to do so;

(b) the Supplier suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;

(c) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Supplier is a company) these events take place for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;

(d) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier, other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or

more other companies or the solvent reconstruction of the Supplier;

(e) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier;

(f) (being a company) the holder of a qualifying floating charge over the Supplier's assets has become entitled to appoint or has appointed an administrative receiver;

(g) (being an individual) the Supplier is the subject of a bankruptcy petition or order;

(h) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

(i) a person becomes entitled to appoint a receiver over the Supplier's assets or a receiver is appointed over the Supplier's assets;

(j) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.3(b) to clause 15.3(i) inclusive;

(k) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;

(l) the Supplier's financial position deteriorates to such an extent that in the Customer's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;

(m) (being an individual) the Supplier dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation; or

(n) (being a company) control of the Supplier is acquired by any person who did not control the Supplier at the date of the Order, **control** for the purposes of this sub-clause (n) meaning the power to direct or cause the direction of the management and policies of the Supplier, whether directly or indirectly and whether through the ownership of voting securities, by contract, or otherwise.

15.4 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

15.5 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

16. CONSEQUENCES OF TERMINATION

16.1 On termination of the Contract for any reason, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer's Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

17. FORCE MAJEURE

17.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure result from events, circumstances or causes beyond its reasonable control.

17.2 The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.

17.3 If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than 20 Business Days, the Customer may terminate the Contract immediately by giving written notice to the Supplier.

18. GENERAL

18.1 **Assignment and other dealings.**

(a) The Customer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

(b) The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Customer.

18.2 **Notices.**

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 18.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

18.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

18.4 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18.5 **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms and no rights under the Contract are enforceable by any person who is not a party to the Contract under the Contracts (Rights of Third Parties) Act 1999.

18.6 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Customer.

18.7 **Governing law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

18.8 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).