

PROMO PARROT

TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

1. INTERPRETATION

- 1.1 These conditions apply to all orders which the Company, accepts from you, our client, to the exclusion of any other terms and conditions unless expressly approved by us in writing.
- 1.2 In these Conditions, the following definitions apply:
 - 1.2.1 'Business Day' a day (other than a Saturday, Sunday or public holiday)
 - 1.2.2 'Brief' means the written brief (if any) describing the Deliverables required, their intended use and any pre-set timings for supply, signed by you and supplied to us in advance of conclusion of the Order;
 - 1.2.3 'the Company' means Promo Parrot Ltd (company number 9319026) whose registered office is at Curtis Buildings, Berking Avenue, Leeds LS9 9LF;
 - 1.2.4 'Conditions' the terms and conditions set out in this document as amended from time to time in accordance with clause.
 - 1.2.5 'Contract' the contract between the Supplier and the Customer for the supply and purchase of the Services in accordance with the Order and these Conditions.
 - 1.2.6 'Customer' the person, firm or company who purchases the Services from the Supplier.
 - 1.2.7 'Deliverables' means the supplies and/or materials to be supplied by the Company in accordance with an Order as described in the Order or in more detail in the Brief;
 - 1.2.8 'Force Majeure Event' has the meaning given in clause 17.
 - 1.2.9 'Materials' means original artwork or any other items provided by you to enable us to carry out the Works;
 - 1.2.10 'Order' refers to any order given by you and accepted by us either by notifying you of our acceptance or by starting the Works or the preparation of the Deliverables;
 - 1.2.11 'Rights' means all copyright, design rights (whether registered or unregistered), patents, rights in trade marks (whether registered or unregistered), database rights or other intellectual property rights in the Deliverables, for the full term of those rights, worldwide;
 - 1.2.12 'Services' the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Brief.
 - 1.2.13 'Supplier' has the same meaning as 'the Company'
 - 1.2.14 'Works' refers to any works to be carried out by us in accordance with your Order.
 - 1.2.15 Where any Deliverables are sold to you as a consumer (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) your statutory rights are not affected by these conditions.
- 1.3 CONSTRUCTION In these Conditions, the following rules apply:
 - 1.3.1 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
 - 1.3.2 a reference to a party includes its personal representatives, successors or permitted assigns;
 - 1.3.3 a reference to a statute or statutory provision is a reference to such statute or statutory 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;

1.3.4 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; and

1.3.5 a reference to writing or written includes faxes and emails.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (Commencement Date).

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

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

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

Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 Business Days from its date of issue.

3. SUPPLY OF SERVICES

3.1 The Supplier shall supply the Services to the Customer in accordance with the Brief in all material respects.

3.2 The Supplier shall use all reasonable endeavours to meet any performance dates specified by the Customer, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

3.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

3.5 The Customer is responsible for supplying any Materials required by the Supplier to complete the Works and any instructions contained in the Order.

3.6 The Supplier reserves the right to sub-contract all or any of our rights or obligations under the Order.

3.7 In relation to all steps required to complete the Order the Supplier will act as principal and not as the Customer's agent and will enter into all related contracts as principal.

4. MATERIALS

4.1 Unless otherwise agreed the Materials must be delivered by the Customer to the Supplier at the Supplier's premises on the date specified in the Order or when requested by the Supplier.

4.2 The Materials will only be used to enable the Supplier to carry out the Works and will remain the Customer's property at all times.

4.3 The Supplier will take reasonable care of the Materials while they are in the Supplier's possession although the Supplier cannot be responsible for loss or damage caused by matters outside its control.

4.4 If any Materials are not delivered on the date specified in the Order or when requested by the Supplier we may have to delay completion of the Works.

4.5 The Supplier reserves the right not to carry out the Works if in its view the Materials are not of appropriate type or quality.

5. VARIATIONS

- 5.1 The Supplier will only accept variations to the Order after acceptance by the Supplier if the Company's suppliers agree to accommodate such variations.
- 5.2 The Supplier reserves the right to charge extra for variations to the Customer's Order.

6. SAMPLES

- 6.1 If requested in the Order and a reasonable time scale is provided the Supplier will prepare a sample of the Deliverables for the Customer's approval prior to production.
- 6.2 The Supplier reserves the right to charge extra if preparation of samples is required.
- 6.3 Delays in returning samples to the Supplier or approving samples may delay completion of the Deliverables.
- 6.4 The Supplier will use reasonable endeavours to effect any changes notified to the Supplier but the Supplier reserves the right to charge extra for variations requested at proof stage that go beyond the original Order.
- 6.5 The Supplier will not be liable for any errors occurring in the finished Deliverables that were not notified to the Supplier at proof stage or where no proof stage was specifically requested and scheduled by the Customer.
- 6.6 Samples may be sent to the Customer for your approval by way of an emailed or faxed image of the Deliverables unless the Customer specifically requests otherwise in the Order and depending on the lead time for delivery.
- 6.7 The Supplier cannot guarantee that any or all colours will be exactly replicated in the final version printed.

7. PRODUCTION

- 7.1 The Supplier will endeavour to produce the quantity ordered but unless otherwise agreed all orders are accepted on the basis of margins for overs and shortages of up to 10%.
- 7.2 The price will be reduced or increased to reflect the actual quantity produced.
- 7.3 The Supplier may refuse to produce any matter which in the Supplier's opinion is illegal or libellous.

8. DELIVERY

- 8.1 Prior to commencement of the Services, the Customer shall deliver the Materials to the Supplier and accepts it is responsible for the suitable packing of the Materials having regard to their manufacture tolerances, quality and value to the Customer in materials which can be reused where appropriate by the Supplier for delivery of Materials. Where such materials are not reusable or in the opinion of the Supplier deemed inadequate for packing Materials the Supplier will pack Materials as it deems appropriate and any additional costs incurred shall be charged to the Customer.
- 8.2 If the Order states that the Supplier shall deliver the Materials to the Customer on Completion of the performance of the Services, the Supplier shall ensure that:
 - 8.2.1 each delivery of the Materials is accompanied by a delivery notice, the type and quantity of the Materials and, if the Order is being delivered by instalments, the outstanding balance of the Materials remaining to be delivered;
 - 8.2.2 it shall deliver the Materials to the location set out in the Order or such other location as the parties may agree in writing (Delivery Location) at any time after the Supplier notifies the Customer that the Materials are ready; and
 - 8.2.3 delivery of the Materials shall be completed on the Materials' arrival at the Delivery Location.
- 8.3 If the Order states that the Customer shall collect the Materials from the Supplier's premises, the Supplier shall ensure that:
 - 8.3.1 the Materials made available for collection are accompanied by a delivery note which shows the date of the Order, the type and quantity of the Materials and, if the Order is being collected by instalments, the outstanding balance of the Materials remaining to be collected;

- 8.3.2 it shall make the Materials available for collection from the Supplier's premises (as notified to the Customer by the Supplier either in the Order or otherwise as agreed in writing between the parties) at any time after the Supplier notifies the Customer that the Materials are ready; and
- 8.3.3 collection of the Materials shall be completed on the Materials being loaded onto the Customer's transport or at the Customer's direction a third party carrier at the Supplier's premises.
- 8.4 Any dates quoted for delivery or collection are approximate only, and the time of delivery or notifying the Customer that the Materials are ready for collection is not of the essence. The Supplier shall not be liable for any delay in the delivery of the Materials or making the Materials available for collection that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Services or the Materials.
- 8.5 The Customer is responsible in all cases for unloading the delivery vehicle at the delivery locations entirely at its own risk.
- 8.6 If the Supplier fails to deliver the Materials or make the Materials available for collection (as appropriate), its liability shall be limited to costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Materials. The Supplier shall have no liability for any failure to deliver the Materials to the extent that such failure caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Materials.
- 8.7 If the Customer fails to accept delivery of the Materials or collect the Materials from the Supplier's premises (as appropriate) within one calendar month of the Supplier notifying the Customer that the Materials are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligation under the Contract:
- 8.7.1 the Supplier may dispose of the Deliverables without affecting the Customers obligations to pay any sums due to the Supplier in full or;
- 8.7.2 the Supplier may continue to store the Deliverables but the Supplier will charge for this at the current rates in place at that time.
9. RISK
- 9.1 The Materials, once the Services have been supplied and any other materials or documents supplied by the Customer to the Supplier are received by the Supplier they are insured by the Supplier whilst in the supplier's possession in accordance with the insurance policy in place at that time.
- 9.2 Please note that in cases involving high value Materials the Customer is strongly advised to insure all such Materials, other materials and documents against all risks and at all times (including but limited to whilst Materials are on the Supplier's premises).
- 9.3 The Customer shall not make any claim against the Supplier and acknowledge and agrees that the Supplier shall not be liable for any loss of or damage to any such Materials, other materials or documents supplied or delivered to the Supplier by the Customer in excess of this sum or for any damage whatsoever caused in Transit.
10. RETENTION OF TITLE
- 10.1 Property in the Deliverables shall not pass to the Customer until the Customer has paid the price for the Deliverables and any other outstanding sums due to the Supplier.
- 10.2 Until property in the Deliverables passes:
- 10.2.1 the Customer will hold the Deliverables as the Supplier's fiduciary agent and bailee;
- 10.2.2 the Supplier may at any time ask the Customer to return the Deliverables to the Supplier and if the Customer does not for any reason the Supplier may enter upon your premises and repossess the Deliverables.
11. ACCEPTANCE
- 11.1 The Customer should inspect the finished Deliverables on collection or delivery and if no complaint has been received by the Supplier within 7 days the Customer will be deemed to have accepted the Deliverables.

11.2 If there is any complaint the Customer will allow the Supplier to inspect the Deliverables.

11.3 If any of the finished work is properly rejected the Supplier reserve the right to satisfy any claim the Customer may have in full by either:

11.3.1 refunding the cost of the rejected Deliverables; or

11.3.2 redoing the rejected Deliverables.

12. INTELLECTUAL PROPERTY

12.1 Where the Supplier has produced an original design in respect of the Deliverables the Supplier will grant the Customer a royalty free licence ('the Licence') to use the Deliverables for the purposes referred to in the Order or the Brief commencing when all sums payable in respect of the Deliverables have been paid.

12.2 The Licence will be for use in the United Kingdom and such other territories (if any) as are specified in the Order or the Brief.

12.3 The Licence will end if the Customer becomes insolvent or ceases to carry on business.

12.4 If any of the Materials use any trade marks, trading styles or trade names ('Marks') owned by the Customer or under the Customer's control, it is agreed that the Supplier shall have the right to use or allow use of any such Marks for the purposes of completing the Works.

12.5 The Supplier shall not gain any Rights over such Marks by virtue of such use but the Customer agrees to the Supplier including examples of the Deliverables in the Supplier's own promotional materials and displays.

12.6 The Customer will indemnify the Supplier for any damages penalties costs and expenses incurred by the Supplier as a result of carrying out the Customer's Order in relation to any breach of a third party's intellectual property rights or the Materials being illegal or libellous in any way.

13. PRICE

13.1 The price for the Services shall be the price quoted by the Supplier, or the price ruling at the date of the completion of the Services. Prices quotes are subject to revision for errors or omissions at any time.

13.2 Where the quote has expired and no revised quote has been sent by the Supplier to the Customer the Supplier reserves the right to charge either the price specified in the expired quote or the Supplier's standard price for the Works carried out and the Deliverables supplied.

13.3 Any increase in costs or expenses arising from any act or omission or any special requirements of the Customer or any unusual or special circumstances arising out of the Order or any modifications made at the Customer's request may, at the Supplier's option, be charged to the Customer in addition to the price specified in the Order.

13.4 In addition the Supplier may invoice the Customer at cost for all expenses charged to the Supplier in relation to the Works.

13.5 The Supplier may, by giving notice to the Customer at any time before delivery, increase the price of the Services to reflect any increase in the cost of the Services that is due to:

13.5.1 any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties and increases in labour, materials and other manufacturing costs);

13.5.2 any request by the Customer to change the delivery date(s), quantities or types of Services ordered, or the Specification; or

13.5.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

13.6 The price for the Services shall be subject to the addition of value added tax (VAT). The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services.

14. PAYMENT

- 14.1 The Deposit (if any) shown on the Order is payable on placing the Order.
- 14.2 The Supplier will send the Customer an invoice for the total price of the Order and any additional charges due in accordance with these Conditions, less any deposit paid, on or within 7 days of delivery of the Deliverables or performance of the Works.
- 14.3 Where delivery of the Deliverables is made in instalments the Supplier shall invoice the full amount of the Order either on completion of the Works or within 7 days of delivery of the first instalment.
- 14.4 The Supplier reserves the right to invoice the Customer separately for expenses.
- 14.5 All invoices are payable by the Customer within 30 days of the date of the invoice in full and cleared funds to a bank account nominated in writing by the Supplier unless the Supplier agrees to an extension in writing.
- 14.6 Time for payment shall be of the essence of the Contract.
- 14.7 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, 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 Services at the same time as payment is due for the supply of the Services.
- 14.8 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment then the Supplier may charge interest in addition to the amount shown on the invoice:
- 14.8.1 interest (both before and after any judgment) on the amount unpaid at the rate specified under the Late Payment of Commercial Debts (Interest) Act 1998 (which at present is 8% per annum above the official dealing rate) from the date of the invoice to the date of payment whether before or after judgment;
- 14.8.2 the cost of time spent pursuing payment and any travelling expenses incurred; and
- 14.8.3 the amount of any legal costs incurred by the Supplier in connection with the recovery of the whole or part of any monies due to the Supplier (on a full indemnity basis) whether or not proceedings are commenced or the court can award costs.
- 14.9 All monies due to the Supplier are payable in full notwithstanding any rights of set off all which rights are excluded.
- 14.10 If any monies due to the Supplier are not paid on the due date the Supplier may retain any goods belonging to the Customer in our possession. If any monies are more than 3 months overdue the Supplier may sell any goods belonging to the Customer in the Supplier's possession and use the proceeds to reduce the sums due to the Supplier.

15. CUSTOMER'S RESPONSIBILITIES

- 15.1 The Customer shall:
- 15.1.1 ensure that the terms of the Order and any information it provides in the Brief are complete and accurate;
- 15.1.2 co-operate with the Supplier in all matters relating to the Services;
- 15.1.3 ensure that all materials or components provided to the Supplier for the purposes of the Supplier performing the Services (including the Materials) are suitable for the proposed Works.
- 15.1.4 provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services and ensure that such information is accurate in all material respects.
- 15.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

- 15.2.1 the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- 15.2.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 15.2; and
- 15.2.3 the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.
- 15.2.4 You are responsible for ensuring the Deliverables comply with all local laws (whether consumer, public or civil), regulations and codes in all countries in which use of the Deliverables is intended. You are also responsible for ensuring that the Deliverables carry all appropriate disclaimers, warnings and public information. The Supplier will not be liable for any loss arising out of your use of the Deliverables.

16. LIABILITY

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

- 16.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- 16.1.2 fraud or fraudulent misrepresentation; or
- 16.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- 16.1.4 any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

16.2 The Customer acknowledges and accepts that the Services carry risk to the Materials dependent upon such factors as manufacturing history, size and sections for which the Customer accepts full responsibility and the Customer enters into any Contract on such basis. Subject to clause 16.1, the Supplier shall not be liable to the Customer if:

- 16.2.1 any such liability arises due to the Deliverables being imperfect because of defects or unsuitability of Materials supplied by the Customer;
 - 16.2.2 such liability arises as a result of the Supplier following any drawing, design or specification (included in the Specification or otherwise) supplied by the Customer; or
 - 16.2.3 the Customer alters or repairs the Materials without the written consent of the Supplier;
 - 16.2.4 the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or indirect or consequential loss arising under or in connection with the Contract (including any losses that may result from a deliberate breach of the Contract by the Supplier, its employees, agents or subcontractors); and
 - 16.2.5 the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed the lesser of 2 x the price of the Services for the applicable component set out in the Order, or £500 whichever is highest,
- 16.3 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

This clause 16 shall survive termination of the Contract.

17. FORCE MAJEURE

17.1 For the purposes of this Contract, Force Majeure Event means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

17.2 The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

17.3 If the Force Majeure Event prevents the Supplier from providing any of the Services for more than 12 weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

18. CONFIDENTIAL INFORMATION

18.1 Neither party shall divulge any confidential information which is supplied to it about the other party in the course of this agreement other than information forming part of the public domain otherwise through a breach of this clause or any other obligation of confidence.

19. TERMINATION

19.1 An Order once accepted by the Supplier cannot be cancelled by the Customer;

19.1.1 except with the prior consent in writing of the Supplier and on terms that the Customer will be responsible for the following costs at the relevant stage of the Order:

Where an Order has been placed the Customer will incur either a £40.00 or 2% of the value of the Order (whichever is greater) administrative and restocking fee.

Where artwork visuals have been created by the Supplier but have not yet been approved by the Customer, the Customer will incur a £15.00 fee for each artwork visual or amendment.

Where artwork has been approved by the Customer and production on branded products has been started by the Supplier no refund will be given upon cancellation.

The Supplier reserves the right to charge a cancellation fee upon the cancellation of the Order by the Customer.

19.1.2 and except where the Supplier notifies the Customer that the Supplier will be unable to meet a specified delivery date.

19.2 If the Supplier finds at any time that the Materials are unsuitable for the Services at any stage it may withdraw its quotation and the Customer will thereupon pay all costs incurred together with a reasonable charge for any Materials.

19.3 If the Customer becomes subject to any of the events listed in clause 19.4, or the Supplier reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to the Supplier, the Supplier may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and the Supplier without incurring any liability to the Customer, and all outstanding sums in respect of Materials delivered to the Customer shall become immediately due.

19.4 For the purposes of clause 19.3, the relevant events are:

19.4.1 the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or

19.4.2 the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or

19.4.3 a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or 19.4.4 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer; or

19.4.4 (being a company) a floating charge holder over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver; or

- 19.4.5 a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer; or
- 19.4.6 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 19.4.1 to clause 19.4.5 (inclusive); or
- 19.4.7 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business; or
- 19.4.8 the financial position of the Customer deteriorates to such an extent that in the opinion of the Supplier the capability of the Customer adequately to fulfil its obligations under the Contract has been placed in jeopardy.
- 19.4.9 any Materials are not delivered on the date specified in the order or, if none, within a reasonable period;
- 19.4.10 the Customer fails to accept delivery of or to collect any finished Deliverables;
- 19.5 On termination of the Contract for any reason:
- 19.5.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- 19.5.2 the Customer shall return all of the Deliverables which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- 19.5.3 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- 19.5.4 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

20. ENTIRE AGREEMENT

- 20.1 The Customer's Order and the Brief set out the entire agreement between the parties in relation to the Works and the Deliverables and supersede all representations, communications and prior agreements between the parties in relation to the Works and the Deliverables and may not be modified except by an instrument in writing signed by the duly authorised representatives of the parties.

21. GENERAL

Assignment and other dealings.

The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

The Customer shall not, without the prior written consent of the Supplier, 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.

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 Supplier.

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.

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.

If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

Notices.

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 email.

A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.5(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 email, one Business Day after transmission.

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

Third parties.

A person who is not a party to the Contract shall not have any rights to enforce its terms.

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.

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 Contract or its subject matter or formation (including non-contractual disputes or claims).

No partnership or agency.

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.