

TCN Terms and Conditions for Purchase of Goods (From Suppliers)

1 INTERPRETATION

1.1 Definitions.

In these Conditions, the following definitions apply:

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

Commencement Date: has the meaning set out in clause 2.2.

Conditions: means these terms and conditions as amended from time to time in accordance with clause 16.8.

Confidential Information: means all confidential or proprietary information (however recorded or preserved) that is disclosed or made available whether before or after the date of these Conditions (in any form or medium), directly or indirectly, by the Disclosing Party to the Receiving Party including all business, affairs, customers, suppliers, operations, processes, product information, technical or commercial know-how, specifications, inventions and initiatives which are of a confidential nature and any information, findings, data or analysis derived from Confidential Information excluding information that:

- (a) is, or becomes, generally available to the public other than as a direct or indirect result of the information being disclosed by the Receiving Party; or
- (b) was lawfully in the possession of the Receiving Party before the information was disclosed by the Disclosing Party.

Contract: each contract made between the Supplier and the Customer for the supply of Goods in accordance with these Conditions.

Customer: Total Computer Networks Limited registered in England and Wales with company number 04958126 and whose registered office address is Newspaper House, Rothwell Road, Kettering, Northamptonshire, NN16 8GA.

Data Breach: means any unauthorised or unlawful processing of, disclosure of, use of, access to, theft of and/or any accidental or unlawful damage to, destruction of, loss of, alteration to or corruption of Personal Data.

Data Protection Legislation: means all legislation and regulatory requirements in force from time to time relating to the use of personal data, including without limitation, (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation, (for so long as and to the extent that the law of the European Union has legal effect in the UK) (ii) the Regulation and (iii) any other directly applicable European Union regulation relating to privacy.

Delivery Location: has the meaning set out in clause 4.2.

Force Majeure Event: has the meaning given to it in clause 16.1(a).

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

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Order: the Customer's order for the supply of Goods, as set out in the Customer's purchase order form.

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~ 1 ~

TCN Terms and Conditions for
Purchase of Goods.EN.NS.VS.1.01



Cloud
Services



Consulting
Services



Lifecycle
Services



Managed
Services



Modern Data
Centre



Modern
Workspace



Networking



Security, Access
& Identity



Service
Desk



Technology
Procurement

Quotation: means the quotation provided to the Customer by the Supplier for providing the Customer with the Goods.

Personal Data: means any personal data which is supplied, or in respect of which access is granted, to the Supplier by the Customer in connection with the provision of Goods by the Supplier under a Contract.

Regulation: means Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as and any legislation which amends, re-enacts or replaces it in England and Wales.

Sales Order Confirmation: the written confirmation provided to the Customer by the Supplier that the Order has been accepted by the Supplier (at which time a Contract is formed and comes into existence).

Supplier: the person or firm who supplies Goods to the Customer.

1.2 In these Conditions, the following rules apply :

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a **party** includes its personal representatives, successors or permitted assigns;
- (c) a reference to a **statute** or **statutory provision** is a reference to such statute or 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;
- (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) unless the context otherwise requires, words in the singular include the plural and in the plural include the singular; and
- (f) a reference to **writing** or **written** includes emails and faxes.

2 BASIS OF ENTERING INTO A CONTRACT

- 2.1 The provision of an Order constitutes an offer by the Customer to purchase the Goods set out therein in accordance with the provisions of these Conditions. To the extent that an Order contains any services, the Customer's terms and conditions for the supply of services shall apply in respect of those services instead of these Conditions.
- 2.2 An Order shall be considered accepted on the earlier of the Supplier confirming acceptance in writing or the Supplier commencing delivery of the Goods, at which point and on which date a Contract shall come into existence (the **Commencement Date**).
- 2.3 For the avoidance of doubt, the Customer is not required to purchase any minimum quantity of Goods under these Conditions.
- 2.4 Each Contract constitutes the entire agreement between the parties for the supply of the Goods in that Order (as applicable).
- 2.5 These Conditions apply to each 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.
- 2.6 If there is any conflict between these Conditions and the terms of an Order (being an Order accepted or deemed accepted in accordance with clause 2.2), the terms of the relevant Order (as applicable) shall prevail.
- 2.7 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions and/or the Order.



3 GOODS

3.1 The Supplier shall ensure that the Goods shall:

- (i) correspond with their description and any applicable Specification;
- (ii) 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, and in this respect the Customer relies on the Supplier's skill and judgement;
- (iii) where they are manufactured products, be free from defects in design, material and workmanship and remain so for no less than 12 months after delivery; and
- (iv) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and
- (v) have a sufficiently long shelf-life (in the Customer's sole opinion) to allow the Customer to sell the goods to its customers; and
- (vi) not be subject to any restrictions as to onward selling by the Customer to its customers;
- (vii) only be provided by authorised channels and tier 1 providers.

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 each Contract.

3.3 The Customer may inspect and test the Goods at any time before signing for the delivery at the Customer's premises (the **Customer's Premises**). The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under each Contract.

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 The Customer may conduct 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 a manner as to enable them to reach their destination in good condition;
- (b) each delivery of the Goods is accompanied by a delivery note which clearly refers to the Contract to which those Goods relate, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered under a Contract by instalments, the outstanding balance of Goods remaining to be delivered; and
- (c) if the Supplier reasonably requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. The Customer shall use commercially reasonable efforts make any such packaging materials available for collection at such times as the Supplier shall reasonably request, at the Supplier's expense.

4.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may subsequently agree in writing (**Delivery Location**) during the Customer's normal business hours or as otherwise instructed by the Customer.

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~ 3 ~

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- 4.3 Delivery of the Goods shall take place and be considered completed on the Goods' arrival at the Delivery Location.
- 4.4 Any dates quoted for delivery of the Goods are binding and the time of delivery shall be of the essence.
- 4.5 If the Supplier:
- (a) delivers less than 95% of the quantity of Goods ordered, the Customer may request that the missing Goods (the **Missing Goods**) are delivered to the Customer's Premises within 5 working days (unless agreed otherwise in writing) following notification to the Supplier of the Missing Goods or alternatively reject the Goods; or
 - (b) delivers more than 105% of the quantity of Goods ordered, the Customer may at its discretion reject the excess Goods (the **Excess Goods**) and such Excess Goods shall be returnable at the Supplier's risk and expense.
 - (c) If the Customer wishes to retain the Excess Goods, the Supplier shall issue an invoice for the Excess Goods which shall be subject to clause 8 of these Conditions. Where the Supplier has undersupplied Goods to the Customer and the Customer does not wish to receive the Missing Goods, the Supplier shall either (i) issue an amended invoice to only reflect the quantity of Goods received if the invoice has not already been settled by the Customer; or (ii) issue a credit note for the amount of the Missing Goods where the relevant invoice has been settled by the Customer.
- 4.6 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 but 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 5.

5 REMEDIES

- 5.1 If the Goods are not delivered on the Delivery Date, or do not comply with the undertakings set out in Clause 3.1, then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, the Customer may exercise any one or more of the following remedies:
- (a) to terminate the Contract;
 - (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.
- 5.2 The Customer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.
- 5.3 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.



- 5.4 If the Customer changes its mind about any of the Goods supplied then the Supplier may, at its discretion accept the return of the Goods and provided the Goods are returned in the same condition as when delivered and are fit for re-sale, then the Supplier will refund the Customer accordingly subject to any reasonable administration charges.

6 TITLE AND RISK

Title and risk in the Goods shall pass to the Customer on completion of delivery in accordance with clause 4.3. Where delivery is in batches, risk shall pass for the Goods delivered in each batch upon delivery of that batch.

7 CONFIGURATION OF THE GOODS

As part of its service offering, the Customer may configure the Goods purchased for its customers and where the Customer makes this known to the Supplier at the time of issuing an Order, the Supplier shall inform the Customer within 5 Business Days if such configuration will affect any warranty which the Goods benefit from. In the absence of such confirmation, it shall be deemed that the Supplier warrants that the configuration shall not affect any warranty that the Goods benefit from. The Supplier acknowledges that the Customer

8 CHARGES AND PAYMENT

- 8.1 The price for Goods under each Contract shall be the price set out in the relevant Order. The price for the Goods will include the costs for delivery, packaging and insurance of the Goods unless otherwise agreed between the parties.
- 8.2 No extra charges shall be effective unless agreed in writing with the Customer.
- 8.3 The Supplier may invoice the Customer for price of the Goods plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery. The Supplier shall ensure that the invoice includes the date of the Order, the invoice number, the Customer's order number (if applicable), the Supplier's VAT registration number and any supporting documents that the Customer may reasonably require or request.
- 8.4 The Customer shall pay correctly rendered invoices within 60 days of receipt of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier.
- 8.5 If a party fails to make any payment due to the other under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 1% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments the defaulting party disputes in good faith.
- 8.6 Time for payment shall not be of the essence and 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 to the Supplier.

9 CONFIDENTIALITY

- 9.1 Except as set out in clause 9.2, a party (**Receiving Party**) shall keep in strict confidence all Confidential Information that has been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors and shall implement adequate technical and security measures to protect the Confidential Information in the Receiving Party's possession or control (being at least as stringent as the measures applied by the Receiving Party to its own Confidential Information).
- 9.2 The Receiving Party may disclose Confidential Information:
- (a) to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under a Contract, and shall ensure that such employees, agents or



subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party; and

- (b) when required by law, a court of competent jurisdiction or any governmental or regulatory authority provided that the Receiving Party shall, to the extent permitted by law, use all reasonable endeavours to give the Disclosing Party as much notice of this disclosure as possible.

9.3 Except as set out in clause 9.2, the Receiving Party shall use the Disclosing Party's Confidential Information only to exercise its rights and perform its obligations under or in connection with these Conditions and/or any Contract.

9.4 Without prejudice to any other rights or remedies that each party may have, each party acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this clause 9 by the other party. Accordingly, each party shall be entitled to the remedies of injunctions, specific performance or other equitable relief for any threatened or actual breach of this clause 9.

9.5 This clause 9 shall survive termination of these Conditions.

10 DATA PROTECTION AND DATA PROCESSING

10.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

10.2 The parties agree that for the purposes of these Conditions and the Supplier's processing of the Personal Data in connection with the provision of the Goods, the Supplier (and each permitted sub-processor) shall be a data processor (where Data Controller and Data Processor have the meanings as defined in the Regulation). The table below sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject (both as defined in the Regulation).

Subject matter of processing	Provision of the Goods as more specifically set out in each Order.
Duration of processing	Duration of each Contract.
Nature and purpose of processing	Supply of Goods to the Customer at the Customer's employee home working locations and/or business address
Type of personal data	Employee name Employee address
Categories of Data Subjects	Customer employees.

10.3 Without prejudice to the generality of clause 10.1, the Customer will ensure that it has all necessary and appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of these Conditions

10.4 The Supplier shall, to the extent it is acting as Data Processor:

- (a) only process the Personal Data on the written instructions of Customer, including with regard to transfers of personal data to a third country or international organisation, and otherwise as necessary to perform its obligations under these Conditions or as required by any EU or member state law of which, before processing any Personal Data, the Supplier notifies the Customer (unless prohibited by that law from doing so on important grounds of public interest);
- (b) ensure that all staff or contractors who may have access to, or are authorised to process Personal Data are bound by appropriate obligations of confidentiality at least as protective as those set out in these Conditions or are under appropriate statutory obligations of confidentiality;

- (c) have in place and maintain all appropriate technical and organisational measures aimed at ensuring an appropriate level of security and preventing a Data Breach, which shall be compliant with all appropriate Data Protection Legislation regarding the security of the Personal Data;
- (d) assist Customer by appropriate technical and organisational measures for the fulfilment of Customer's obligation to respond to requests for exercising of data subject rights (including access requests) set out in Chapter III of the Regulation;
- (e) not transfer any Personal Data outside the EEA without appropriate safeguards in place as required by Data Protection Legislation;
- (f) subject to reasonable access arrangements and save for disclosure of information which is confidential, commercially sensitive or privileged the Supplier shall on reasonable request, provide to Customer, and / or its authorised representatives or auditors, all information required by Customer and / or allow for and contribute to audits and inspections to assess the Supplier's compliance with this Clause 10 and the Data Protection Legislation;
- (g) notify Customer in writing without undue delay after becoming aware of any Data Breach and shall provide Customer with reasonable assistance in investigating and responding to such Data Breach;
- (h) within 30 days of termination or expiry of these Conditions (or the relevant part of them) at the option of Customer either destroy or delete all Personal Data or transfer all Personal Data to Customer or a nominated third party other than to the extent that such Personal Data's ongoing retention is required by EU or member state law and only for such period as required by EU or member state law;
- (i) notify Customer in writing, as soon as reasonably practicable, if it receives from a Data Subject a communication, request or complaint which relates to the processing of the Personal Data by the Supplier on behalf of Customer or to either party's compliance with the Data Protection Legislation (save to the extent that such notification is prohibited by the relevant applicable laws) and, in each case, provide a copy of any such communication, request or complaint; and
- (j) participate in, and provide reasonable assistance with, a Privacy Impact Assessment, a data protection impact assessment or prior consultation under Article 35 (Data protection impact assessment) and Article 36 (Prior consultation) of the Regulation in respect of the new type of processing proposed by the Supplier.

10.5 Excluding any actions required by the Supplier for compliance with the Supplier's direct obligations under Data Protection Legislation, to the extent that any assistance provided by the Supplier under clause 10.4 requires a significant effort or time commitment then the Supplier shall be entitled to charge, and the Customer shall pay, the Supplier's reasonable costs of providing such assistance.

10.6 The Customer hereby provides its general written authorisation for the Supplier to appoint sub-processors. The Supplier shall notify the Customer in writing of any intended changes concerning the addition or replacement of sub-processors. If the Customer reasonably objects to any changes concerning sub-processors the Customer must notify the Supplier at least 4 weeks prior to the proposed engagement and the Supplier shall not engage, or shall cease to engage that sub-processor. If the Customer fails to notify the Supplier of any objections at least 4 weeks prior to the proposed engagement then the Customer shall be deemed to have consented to the change in sub-processor and shall have no further right to object. The Supplier confirms that it has entered or (as the case may be) will enter with each of the sub-processors a written agreement incorporating terms which are substantially similar to those set out in this clause 10. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any sub-processor appointed by the Supplier pursuant to this clause 10.



11 INDEMNITY

- 11.1 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, 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, 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.

11.2 This Clause 11 shall survive termination of each Contract and these Conditions.

12 INSURANCE

During the term of each Contract and for a period of two 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.

13 LIMITATION OF LIABILITY:

- 13.1 Nothing in these Conditions or any Contract shall limit or exclude liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
 - (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession);
 - (e) defective products under the Consumer Protection Act 1987; or
 - (f) any other liability which cannot be limited or excluded by applicable law.
- 13.2 The Customer's total liability to the Supplier in respect of all losses arising under or in connection with each Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount paid or to be paid for the Goods under that Contract.
- 13.3 This clause 11 shall survive termination of these Conditions.



14 TERMINATION

- 14.1 The Customer may terminate the Contract in whole or in part at any time before delivery with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.
- 14.2 Without limiting its other rights or remedies, each party may terminate these Conditions and/or any Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of its obligations under these Conditions and/or any Contract and (if such breach is remediable) fails to remedy that breach within 10 days after receipt of notice in writing informing of the breach;
 - (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - (c) the other party 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 a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - (d) 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 other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
 - (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
 - (f) a creditor or encumbrancer of the other party 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;
 - (g) 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 other party (being a company);
 - (h) a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.2(b) to clause 14.2(i) (inclusive);
 - (k) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or



- (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

15 CONSEQUENCES OF TERMINATION

15.1 On termination of these Conditions and/or any Contract for any reason:

- (a) in relation to any Confidential Information, the Receiving Party shall destroy or return to the Disclosing Party all documents and materials (and any copies) containing, reflecting, incorporating or based on the Disclosing Party's Confidential Information and erase all the Disclosing Party's Confidential Information from its computer and communications systems and devices used by it, or which is stored in electronic form and shall certify in writing to the Disclosing Party that it has complied with the requirements of this clause 15.1(b); the Customer shall return all of the Supplier materials, provided pursuant to these Conditions or the relevant Contract, 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;
- (b) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of contract which existed at or before the date of termination or expiry; and
- (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

16 GENERAL

16.1 Force Majeure:

- (a) For the purposes of these Conditions, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to act of God, war, riot, civil commotion, fire or flood.
- (b) The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under any Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents the Supplier from supplying any Goods under a Contract for more than two (2) weeks, the Customer shall, without limiting its other rights or remedies, have the right to terminate any such Contract immediately by giving written notice to the Customer.

16.2 Assignment and Subcontracting:

- (a) The Customer may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under these Conditions or any Contract and may subcontract or delegate in any manner any or all of its obligations under a Contract to any third party.
- (b) The Supplier shall not, without the prior written consent of the Customer, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under these Conditions or any Contract.

16.3 Notices:

- (a) Any notice or other communication required to be given to a party under or in connection with these Conditions or any Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business.
- (b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such addressor, if sent by prepaid first-class post or recorded delivery, at

9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

- (c) This clause 16.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice, given under these Conditions or any Contract shall not be validly served if sent by e-mail.

16.4 Waiver and Cumulative Remedies:

- (a) A waiver of any right under these Conditions or any Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under these Conditions or any Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (b) Unless specifically provided otherwise, rights arising under these Conditions or any Contract are cumulative and to not exclude rights provided by law.

16.5 Severance:

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

16.6 No Partnership:

Nothing in the these Conditions or any Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

16.7 Third parties:

A person who is not a party to these Conditions shall not have any rights under or in connection with it or any Contract.

16.8 Variation:

Any variation, including the introduction of any additional terms and conditions, to these Conditions or any Contract shall only be binding when agreed in writing and signed by the Supplier.

16.9 Governing Law and Jurisdiction:

These Conditions and each 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, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

