

Pocket London Guides Limited Terms & Conditions (January 2012 Edition)

1. INTERPRETATION

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

Advertisement: the publication of material promoting both the Customer's and/or third party goods and/or services.

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

Commencement Date: has the meaning set out in clause 2.1.

Conditions: these terms and conditions as amended from time to time in accordance with clause 15.8. including any special terms and conditions agreed in writing by us and attached hereto

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

Customer: is the person signing these conditions for himself or on behalf of the firm or company who is included jointly in the order to purchase the Goods and/or Services from the Supplier.

Customers films: the installation of the Customer's own film on the Customer's own London Video Guide Player and or the London Video Guide Player network.

Deliverables: the deliverables set out in the Order being the Multi Media Services and/or Pocket London Guide(s) and/or London Video Guides and/or Film Commissioning and/or Customer Films and/or Personalised Pocket London Smartphone App and/or Film Distribution and/or Advertising and/or Goods and/or Quickmailing.

Delivery Location: has the meaning set out in clause 5.2.

Film Commissioning: the creation of a film by the Supplier on behalf of the Customer.

Film Distribution: the distribution of films created for and on behalf of the Customer by the Supplier or supplied by the Customer to the Supplier for dissemination by the Customer and the Supplier via the London Video Guide platform.

Force Majeure Event: has the meaning given to it in clause 15.1(a).

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

License Period: the period that the use of the Deliverables expires, either through effluxion of time or as a result of the termination of this Contract. Unless otherwise agreed in writing, the Customer's order shall be for the minimum period stated on the order form calculated from the date shown on the order form, providing that any Contract will automatically be renewed for successive one year periods until and unless we receive at least three months' notice to terminate any Contract to expire on the anniversary of the original date of order.

London Video Guide: is an internet video player that is designed to sit within or linked to from the customer's website and other agreed online locations. The London Video Guide contains both editorial and advertorial video content at the sole discretion of the supplier. The player may from time to time and under agreement of the parties include the online version of the Pocket London Guide and links to advertising again at the sole discretion of the Supplier.

Multi Media Service: This is an amalgamation of the Pocket London Guide products which when bought together under this product name usually attracts a discount to the cost of buying all the products separately. This service includes all or some of these products as set out on the order form Personalised Pocket London Guides (quantities as set out on the order), an online version of the Pocket London Guide, a bespoke London Video Guide player and a personalised Pocket London Smartphone App.

Order: the Customer's order for the supply of Goods and/or Services, as set out above.

Order Form: the order form supplied to the Customer by the Supplier and signed or e-signed by the Customer confirming the Order.

Personalised Pocket London Smartphone App: This is a Customer branded version of the Pocket London App. We do not make bespoke apps; the app we make for the Customer will be based on the Supplier template App and will include buttoned links and eBooks the Supplier will supply and deliver/embedded into the Customer's App from time to time. The Customer agrees when accepting the Personalised Pocket London Smartphone App to use best endeavours to promote it to all its current and on-going users.

Pocket London Guide: paper and/or online guides to London which is produced and updated quarterly for the Customer by the Supplier. All orders are split over 4 quarterly issues so should the customer or 1000 copies per annum they will receive 250 copies per quarter. Quarter dates are first week in January, April, July and October.

Quickmailing: the email marketing service which allows the Customer to email contacts and track usage within an email campaign whose services are detailed further at www.quickmailing.co.uk and is subject to separate terms and conditions as detailed at www.quickmailing.co.uk.

Services: the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Order Form.

Service Specification: the description or specification for the Services as detailed on the Order Form.

Supplier: Pocket London Guides Limited registered in England and Wales with company number 7081592.

Supplier Materials: any and all materials used by the Supplier in connection with creating the Goods or providing the Services other than those belonging to the Customer at the start of the Contract.

1.2 **Construction.** 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; and
- (e) a reference to writing or written includes faxes and e-mails.

2. BASIS OF CONTRACT

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

2.2 The Order shall only be deemed to be accepted when the Customer signs the Order Form and the Supplier despatches confirmation of its acceptance to the Customer (Commencement Date).

2.3 The Contract, the Order Form(s) and any other documents agreed by the Supplier and the Customer constitute the entire agreement between the parties. The Customer acknowledges that it has not relied on any other statement, promise or representation made or given by or on behalf of the Supplier.

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

2.5 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.

2.6 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 10 Business Days from its date of issue.

2.7 All of these Conditions shall apply to the supply of both Goods and/or Services as appropriate.

2.8 Each Order Form shall constitute a separate Contract. Failure by the Supplier to deliver any Goods or Services detailed in an Order Form or instalment shall not entitle the Customer to treat the Contract as repudiated

2.9 The Customer undertakes and warrants that it will where appropriate sell or distribute all Goods or Services in its possession to customers before the date that the Supplier is due to send the Customer any updated versions of the Products.

2.10 For the avoidance of doubt no competing products or services will be advertised by the Supplier on any Advertisement placed in the Customer's version of the Products..

3. ORDERS AND SPECIFICATION

3.1 The Customer shall be responsible for ensuring the accuracy of the terms of any Order submitted, and for giving the Supplier any necessary information relating to the Goods or Services within a sufficient time to enable the Supplier to perform the Contract in accordance with these Conditions.

3.2 If the Advertisement is to be prepared by the Supplier in accordance with a specification submitted by the Customer, the Customer shall indemnify the Supplier against all loss, damages, costs and expenses awarded against or incurred by the Supplier in connection with or paid or agreed to be paid by the Customer in settlement of any claim for infringement

of any patent, copyright, design right, trade mark or other intellectual property rights of any other person which results from the Supplier's use of the Customer's specification. We reserve the right to make changes in the specification or positioning of the Advertisement which are required as a result of the Customer's failure to give us full or timely instructions or to conform to any applicable statutory or EU requirements.

- 3.3 No Order which has been accepted by the Supplier may be cancelled except with the Supplier's prior written consent and on terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit for the minimum period specified on the order), costs (including the cost of all labour and material used), damages, charges and expenses incurred by the Supplier as a result of cancellation.
- 3.4 The Supplier may cancel an Order and shall refund to the Customer 120% of any monies paid for undelivered Goods or Services, and the Supplier shall have no further liability to the Customer. The Supplier may also postpone or suspend delivery of any Good or Service or publication of any Advertisement for no more than 3 months (subject to cl. 5.3 and 11.1).
- 3.5 Unless otherwise agreed in writing, the Order shall be for the minimum period stated on the Order Form calculated from the date shown on the Order Form, providing that any Order will automatically be renewed for successive one year periods until and unless three months notice to terminate any Contract to expire on the anniversary of the original date of the Order is received by the Supplier.
- 3.6 The Supplier cannot guarantee to match exactly corporate and artwork colours as print tolerances vary with each print run. In addition, up to ten per cent of any print run may have unavoidable blemishes due to paper feed, ink flow and plate slippage. The Supplier shall not be liable for such variations or blemishes and the Customer shall not be entitled to reject Goods or Services based thereon.
- 3.7 The Customer must supply in good time all material required to produce the Advertisement. If the correct materials are not provided in good time the Supplier reserves the right to reproduce or alter previously supplied artwork to fit the space required or in the absence of suitable copy the Supplier reserves the right to produce a suitable advertisement for inclusion in the products. Artwork charges will apply at rates being charged at the time.

4. GOODS

- 4.1 To the extent that the Customer has ordered any Goods and the Goods are to be manufactured in accordance with a Goods specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Goods Specification. This clause 4.1 shall survive termination of the Contract.
- 4.2 The Supplier reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

5. DELIVERY

- 5.1 The Supplier shall ensure that:
- (a) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, 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 Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- (b) if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.
- 5.2 The Supplier shall deliver the Deliverables (to the extent capable of physical delivery) to the location set out in the Order or such other location as the parties may agree (Delivery Location) at any time after the Supplier notifies the Customer that the Goods are ready.
- 5.3 Any dates quoted for delivery of the Deliverables are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Deliverables 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 Deliverables.
- 5.4 If the Supplier fails to deliver the Deliverables, its liability shall be limited to the 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 Goods. The Supplier shall have no liability for any failure to deliver the Deliverables to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions for the Deliverables or any relevant instruction related to the supply of the Deliverables.
- 5.5 If the Customer fails to accept or take delivery of the Deliverables within 2 Business Days of the Supplier notifying the Customer that they are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:
- (a) delivery shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and
- (b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 5.6 If four (4) Business Days after the Supplier notified the Customer that the Deliverables were ready for delivery the Customer has not accepted or taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Deliverables, if possible.

6. TITLE

- 6.1 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for:
- (a) the Goods; and
- (b) any other goods that the Supplier has supplied to the Customer in respect of which payment has become due.
- 6.2 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) hold the Goods on a fiduciary basis as the Supplier's bailee;
- (b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
- (e) notify the Supplier immediately if it becomes subject to any of the events listed in clause 13.1(b) to clause 13.1(l); and
- (f) give the Supplier such information relating to the Goods as the Supplier may require from time to time, but the Customer may resell or use the Goods in the ordinary course of its business.
- 6.3 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 13.1(b) to clause 13.1(l), or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

7. SUPPLY OF SERVICES

- 7.1 The Supplier shall provide the Services to the Customer in accordance with the Service Specification in all material respects.
- 7.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order Form but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.3 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.
- 7.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

8. CUSTOMER'S OBLIGATIONS

- 8.1 The Customer shall:
- (a) ensure that the terms of the Order and (if submitted by the Customer) the Services Specification are complete and accurate;
- (b) co-operate with the Supplier in all matters relating to the Services;
- (c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
- (d) provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
- (e) be ready for the provision of the Services;

- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
 - (g) keep and maintain all materials, equipment, documents and other property of the Supplier (Supplier Materials) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation.
- 8.2 If the Supplier's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):
- (a) 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;
 - (b) 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 8.2; and
 - (c) 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.
- 8.3 The Customer undertakes and warrants to the supplier to comply with the Trade Descriptions Act 1968, the British Codes of Advertising and Sales Promotion (as amended) and any additional regulations or guidelines published from time to time to the extent that they apply to the Products and the Advertisement, and the Customer shall indemnify us in respect of any and all claims arising from the Customer's failure to comply therewith.

9. CHARGES AND PAYMENT

- 9.1 The price for Deliverables 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 as at the date of delivery. The price of the Goods is exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be paid by the Customer when it pays for the Goods.
- 9.2 All Deliverables are licensed only by the Supplier to the Customer (apart from the Pocket London Guide(s) in paper form and any commissioned film) for the License Period. At the end of the License Period all rights in the Deliverables will revert to the Supplier (apart from the Pocket London Guide(s) in paper form and any commissioned film and the deliverables in the Supplier's entire discretion. Supplier is then at liberty to use or dispose of the .
- 9.3 The Supplier reserves the right, by giving notice to the Customer at any time before delivery, to automatically increase the price of the Goods and Services by inflation or 7% whichever is the greater to reflect any increase in the cost to the Supplier which is due to any factor beyond its reasonable control, any change in delivery dates, quantities or specifications for the Goods and/or Services which are requested by the Customer, or any delay caused by the Customer instructions or the Customer's failure to give us adequate information or instructions.
- 9.4 Except as otherwise agreed in writing by the Supplier, all prices are given by the Supplier on an ex works basis, and where the Supplier agrees to deliver the Goods or Services otherwise than at the Supplier's premises, the Customer will be liable to pay the Supplier's charges for transport, packaging and insurance.
- 9.5 Any price charged is exclusive of any applicable value added tax which shall be due additionally.
- 9.6 Invoices may be despatched to Customers at any time after acceptance of the Order..
- 9.7 The Customer undertakes and warrants to pay the price of the Order (without deduction or set off) within 14 days of the date of the invoice. The time of payment shall be of the essence of the Contract.
- 9.8 Any failure to make any payment on the due date affords the Supplier the right to:
- (a) cancel the Contract or suspend further deliveries to the Customer;
 - (c) charge interest (as well after as before any judgement) on the amount unpaid, at the rate of 4% per annum above National Westminster Bank plc base rate from time to time, until payment is made in full, accruing pro-rata on a daily basis.
- 9.9 The Supplier may offer discount on a discretionary basis on condition that no Deliverable within that series shall be cancelled. If one or more Deliverables are cancelled, the full rack rate or rate card amount for each Deliverable not cancelled shall fall due for payment.
- 9.10 The signatory of the Contract under which payment is due is primarily liable for payments to the Supplier.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.
- 10.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.
- 10.3 All Supplier Materials are the exclusive property of the Supplier.
- 10.4 In the event of any Film Commissioning the Customer agrees and undertakes to obtain all necessary clearances and to indemnify the Supplier on a full and continuing basis against any breach of this provision.

11. CONFIDENTIALITY

- 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 or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause shall survive termination of the Contract.

12. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- 12.1 Nothing in these Conditions shall limit or exclude the Supplier's 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); or
 - (e) defective products under the Consumer Protection Act 1987.
- 12.2 Subject to clause 12.1:
- (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence) breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract ; and
 - (b) 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 in no circumstances exceed £500
- 12.3 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 12.4 This clause 12 shall survive termination of the Contract.

13. TERMINATION

- 13.1 Without limiting its other rights or remedies, each party may terminate the 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 this Contract and (if such breach is remediable) fails to remedy that breach within five (5) days after receipt of notice in writing 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) 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.
- 13.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract:
- (a) by giving the Customer one months' written notice;
 - (b) with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 13.3 The Customer may terminate the Contract by giving the Supplier not less than months' written notice.
- 13.4 Without limiting its other rights or remedies, the Supplier shall have the right to suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if:
- (a) the Customer fails to make pay any amount due under this Contract on the due date for payment; or
 - (b) the Customer becomes subject to any of the events listed in clause 13.1(b) to clause 13.1(i), or the Supplier reasonably believes that the Customer is about to become subject to any of them.
14. **CONSEQUENCES OF TERMINATION**
On termination of the Contract for any reason:
- (a) 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 yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - (b) the Customer shall return all of the Supplier Materials and any 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;
 - (c) 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 the Contract which existed at or before the date of termination or expiry; and
 - (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.
15. **GENERAL**
- 15.1 Force majeure:
- (a) 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 party 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.
 - (b) 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.
 - (c) If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Goods for more than 26 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.
- 15.2 Assignment and subcontracting:
- (a) The Supplier may at any time assign, transfer, 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.
 - (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 15.3 Notices:
- (a) Any notice or other communication required to be given to a party under or in connection with this 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, or sent by fax to the other party's main fax number.
 - (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, or if sent by fax, on the next Business Day after transmission.
 - (c) This clause 15.3 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 this Contract shall not be validly served if sent by e-mail.
- 15.4 Waiver and cumulative remedies:
- (a) A waiver of any right under the 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 the 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 the Contract are cumulative and to not exclude rights provided by law.
- 15.5 Severance:
- (a) If a court or any other competent authority finds that any provision of the 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 the Contract shall not be affected.
 - (b) If any invalid, unenforceable or illegal provision of the 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.
- 15.6 No partnership: Nothing in the 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.
- 15.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 15.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the Supplier.
- 15.9 Governing law and jurisdiction: This 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