

## **TERMS AND CONDITIONS FOR THE SUPPLY OF CSAS 360 PRODUCTS**

## 1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

### 1.1 Definitions:

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

**Business Hours:** the period from 9.00 am to 5.00 pm on any Business Day.

**Charges:** means any charges paid under the applicable Order Form.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 18.8.

**Contract:** the contract between the Supplier and the Customer for the supply of Products and/or Services in accordance with these Conditions, consisting of these Conditions, any Order Form accepted by the Supplier in accordance with clause 2.2 and any associated EULA between the Customer and the Supplier.

**Contract Year:** means the 12-month period commencing on the Effective Date and each successive 12-month period thereafter.

**Controller:** has the meaning given to it under Data Protection Law.

**Customer:** the person or firm who purchases the Products and/or Services from the Supplier.

**Data Protection Law:** applicable laws and regulations relating to the processing, privacy, and use of Personal Data in force from time to time, including Regulation (EU) 2016/679 (“GDPR”), the UK General Data Protection Regulation (as defined in The Data Protection Act 2018, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019) (“UK GDPR”), the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and any laws or regulations implementing or replacing the above.

**Data Subject:** has the meaning given to it under Data Protection Law.

**Deliverables:** the deliverables set out in the Order Form produced by the Supplier for the Customer.

**Device:** an electronic device, e.g. PC, laptop, tablet or mobile smartphone owned or within the exclusive control of the Customer, and capable of executing the Software Product in a timely fashion.

**Effective Date:** the effective date of the Contract as set out in the Order Form.

**EULA:** The end user licence agreement as between the Supplier and the Customer in respect of the Products provided under these Conditions.

**Force Majeure Event:** has the meaning given to it in clause 17.

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

**IPR Claim:** means any actual claim by a third party in relation to an actual or potential breach by the Supplier or the Customer of third-party Intellectual Property Rights.

**Order Form:** The Customer's order for the supply of Products or Services.

**Optional Services:** the optional services purchased by the Customer as set out in the Order Form.

**Personal Data:** has the meaning given to it under Data Protection Law.

**Processor:** has the meaning given to it under Data Protection Law.

**Products:** the products (or any part of them) set out in the Order Form.

**Products Specification:** any specification for the Products, including any relevant plans or drawings, that is agreed in writing by the Customer and the Supplier or referred to in the applicable Order Form.

**Services:** the services, including the Deliverables, the Support Services and any Optional Services, supplied by the Supplier to the Customer as set out in the Order Form.

**Service Commencement Date:** the date on which the Services commence as outlined in the Order Form.

**Service Term:** the term in which the relevant Services are being provided (if different to the Licence Period), as outlined in the Order Form.

**Software Audit:** the process for ensuring compliance with fair use as outlined in clause 12.

**Supplier:** Forensic Analytics Ltd registered in England and Wales with company number 08606475.

**Supplier Materials:** has the meaning given in clause 8.1(g).

**Support Services:** those maintenance and support services set out in the Order Form.

**Warranty Period:** has the meaning given in clause 5.1.

## 1.2 Interpretation:

- (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 and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** includes email.

## 2. Basis of contract

- 2.1 The signed Order Form constitutes an offer by the Customer to purchase Products or Services in accordance with these Conditions.
- 2.2 The Order Form shall only be deemed to be accepted when the Customer signs and returns the Order Form to the Supplier and the Contract shall come into effect when the Supplier issues written acceptance of the Order Form. Each Order Form shall constitute a separate 'Contract' between the parties.
- 2.3 If requested by the Supplier, the Customer shall enter into a EULA in relation the Products.
- 2.4 These Conditions and if applicable, any EULA between the Customer and the Supplier, apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

- 2.5 All of these Conditions shall apply to the supply of both Products and Services except where application to one or the other is specified.
- 2.6 Any applicable EULA should be read alongside these Conditions. In the event of an inconsistency or conflict between the Order Form, these Conditions and any EULA, they shall be applied in the following order of precedence:
- (i) the Order Form
  - (ii) the Conditions
  - (iii) any EULA (if applicable)

### **3. Products**

- 3.1 The Products are described in the Supplier's catalogue as modified by any applicable Products Specification.
- 3.2 To the extent that the Products are to be manufactured in accordance with a Products 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 costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or 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 Products Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Supplier reserves the right to amend the Products Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

### **4. Delivery of Products**

- 4.1 The Supplier shall use reasonable endeavours to deliver and where applicable install the Product on the Customer's Device, on the date specified in the Order Form, but shall not be liable for any cost or damage caused by late or non-delivery. For the avoidance of doubt, dates and times for the delivery of Products are estimates only, and time shall not be of the essence for the delivery of Products.
- 4.2 If the Supplier fails to deliver the Products, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement Products of similar

description and quality in the cheapest market available, less the price of the Products. The Supplier shall have no liability for any failure to deliver the Products to the extent that such failure is caused by the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.

## **5. Quality of Products**

5.1 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (**Warranty Period**),] the Products shall:

- (a) conform in all material respects with their description and/or any applicable Products Specification; and
- (b) be free from material defects in design, material and workmanship.

5.2 Subject to clause 5.3, if:

- (a) the Customer gives notice in writing to the Supplier during the Warranty Period within a reasonable time of discovery that some or all of the Products do not comply with the warranty set out in clause 5.1;
- (b) the Supplier is given a reasonable opportunity of examining such Products; and
- (c) the Customer (if asked to do so by the Supplier) returns such Products to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Products, or refund the price of the defective Products in full provided that the Customer provides written confirmation that any Products containing software have been removed from all Devices.

5.3 The Supplier shall not be liable for the Products' failure to comply with the warranty set out in clause 5.1 if:

- (a) the Customer makes any further use of such Products after giving a notice in accordance with clause 5.2;
- (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the use or maintenance of the Products or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of the Supplier following any specification supplied by the Customer;

- (d) the Customer alters or repairs such Products without the written consent of the Supplier; or
- (e) the defect arises as a result of negligence, or abnormal working conditions.

5.4 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Products' failure to comply with the warranty set out in clause 5.1.

5.5 These Conditions shall apply to any repaired or replacement Products supplied by the Supplier.

## **6. Title and risk**

6.1 The risk in the Products shall pass to the Customer on completion of delivery and/or installation (where applicable).

6.2 Subject to Clause 6.4, title to the Products shall not pass to the Customer until the Supplier receives payment in full (in cleared funds) for the Products in respect of which payment has become due.

6.3 Until title to the Products has passed to the Customer, the Customer shall:

- (a) store the Products separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Products;
- (c) maintain the Products in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery.

6.4 Title in any Products containing software shall in no event pass to the Customer and shall remain with the Supplier.

6.5 The Customer's rights in such Products containing software and restrictions on use are specified in the EULA.

## **7. Supply of Services**

7.1 The Supplier shall supply the Services to the Customer in accordance with the Order Form 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 reserves the right to amend the Order Form if necessary to comply with any applicable law or regulatory requirement, or if the amendment will 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.
- 7.5 Where Support Services and Optional Services are being provided by the Supplier, the provisions of the addendum on Support Services will apply.

## **8. Customer's obligations**

- 8.1 The Customer shall:
- (a) ensure that the terms of the Order Form and any information it provides to the Supplier 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 in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
  - (e) 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;
  - (f) comply with all applicable laws, including health and safety laws; and
  - (g) keep 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 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**):
- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall 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 in each case 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 in the circumstances 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 warrants to the Supplier that, save where expressly agreed in writing by the Supplier, the Customer shall use no more than the number of user subscriptions purchased under the applicable Order Form.
- 9. Charges and payment**
- 9.1 The Charges for the Products and/or the Services:
- (a) shall be the Charges set out in the Order Form; and
  - (b) in relation to the Products, shall be exclusive of all costs and Charges of packaging, insurance and transport of the Products.
- 9.2 The Supplier reserves the right to increase the Charges for the Services on an annual basis with effect from each anniversary of the Service Commencement Date in line with the percentage increase in the Consumer Prices Index in the preceding 12-month period and the first such increase shall take effect on the first anniversary of the Service Commencement Date and shall be based on the latest available figure for the percentage increase in the Consumer Prices Index.
- 9.3 In respect of the Products, the Supplier shall invoice the Customer as set out in the applicable Order Form.
- 9.4 The Customer shall pay each invoice submitted by the Supplier:

- (a) within 30 days of the date of the invoice unless otherwise agreed by the Supplier in writing; and
- (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and

time for payment shall be of the essence of the Contract.

- 9.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**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 or Products at the same time as payment is due for the supply of the Services or Products.
- 9.6 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 15, the Customer may charge interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 9.7 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **10. Intellectual property rights**

- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.
- 10.2 Where applicable, the Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding materials provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business.
- 10.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 10.2.

- 10.4 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to the Supplier until termination of the Contract for the purpose of providing the Services to the Customer.
- 10.5 If any third party makes a claim (including an IPR Claim), or notifies an intention to make an IPR Claim, against the Customer (including due to an act or omission of the Customer) which may reasonably be considered likely to give rise to a liability of the Supplier, the Customer shall:
- (a) as soon as reasonably practicable, give written notice of the claim to the Supplier, and in no more than 21 days of receipt of such notice;
  - (b) not make any admission of liability, agreement or compromise in relation to the claim without the prior written consent of the Supplier (such consent not to be unreasonably withheld or delayed);
  - (c) give the Supplier and its professional advisers access at reasonable times on reasonable prior notice to its premises and its officers, directors, employees, agents, representatives, advisers, any documentation or materials relevant to the claim, and anything else reasonably requested for the purpose of assessing the claim.
- 10.6 If any claim is successful, or in the Supplier's reasonable opinion is likely to be made against the Customer, the Supplier shall in its sole discretion and at its expense:
- (a) procure for the Customer the right to continue using, developing, modifying or maintaining the Product (or any part thereof) in accordance with these Conditions;
  - (b) modify the Product so that it does not infringe the Intellectual Property Rights of any third party without materially affecting from its overall performance;
  - (c) replace the Product with non-infringing software having a capability materially equivalent to the infringing Product; or
  - (d) terminate this Contract immediately by notice in writing to the Customer and refund any Charges paid by the Customer as at the date of termination (less a reasonable sum in respect of the Customer's use of the Product to the date of termination) on return of the Product and all copies thereof.
- 10.7 This clause constitutes the Customer's exclusive remedy and the Suppliers only liability in respect of claims.

## **11. Data protection**

- 11.1 Both parties will always comply with all applicable requirements of Data Protection Law during the term of the Contract. This clause 11 shall apply in addition to, and does not relieve, remove or replace, a party's obligations or rights under Data Protection Law.
- 11.2 The data processing agreement from time to time (“**DPA**”) shall be deemed incorporated into the Contract. If there is any conflict or inconsistency between these Conditions and the DPA, the DPA will take precedence to the extent necessary to resolve such conflict or inconsistency.
- 11.3 The Supplier and the Customer acknowledge and agree that the Supplier is a Processor, and the Customer is a Controller of the Personal Data described in the DPA and processed by the Supplier.
- 11.4 Without prejudice to the generality of clause 11.1, the Customer shall ensure that it has all necessary authority, rights, notices, and (where applicable) appropriate consents in place to enable lawful transfer of Personal Data to, and processing of Personal Data by, the Supplier for the duration and purposes of the Contract.

## **12. Audit**

- 12.1 The Customer shall permit the Supplier and/or its authorised agent upon reasonable advance notice to access to any books, computers, records or other information that relate to the use of the Product for the purposes of ensuring that the Customer is complying with the terms of the Contract, provided that the Supplier provides reasonable advance notice to the Customer of such inspections, which shall take place at reasonable times. If an audit reveals the use of the Product is not in accordance with the terms of the Contract, and in addition to such other rights and remedies that the Supplier may have under the Contract, the Customer shall:
- (a) reimburse the Supplier for the reasonable cost of the audit; and
  - (b) immediately pay to the Supplier such Charges due for any usage by the Customer over and above what is set out in the Order Form.

## **13. Confidentiality**

- 13.1 Each party undertakes that it shall not at any time during the Contract, and for a period of two (2) years after disclosure of the Confidential Information, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 13.2.

- 13.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 13; and
  - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

- 13.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

#### **14. Limitation of liability**

- 14.1 References to liability in this clause 14 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

- 14.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Products Act 1979 or section 2 of the Supply of Products and Services Act 1982 (title and quiet possession); and
- (d) for any other act, omission or matter, liability for which may not be legally excluded or limited.

- 14.3 Notwithstanding anything to the contrary in the EULA, subject to 14.2 of these Conditions, the Supplier's total aggregate liability arising under or in connection with each Contract, including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise shall in all circumstances be limited:

- (a) in the first Contract Year, to one hundred per cent (100%) of the Charges received by the Supplier;

- (b) during any subsequent Contract Year during the term of the Contract, an amount equal to one hundred per cent (100%) of the Charges received by the Supplier in the Contract Year immediately preceding that Contract Year; and
- (c) following expiry or termination of the Contract, an amount equal to one hundred per cent (100%) of the Charges received by the Supplier in the last Contract Year.

14.4 This clause 14.4 sets out specific heads of excluded loss:

- (a) Subject to clause 14.2, clause 14.4(b) excludes specified types of loss.
- (b) The following types of loss are wholly excluded:
  - (i) loss of profits;
  - (ii) loss of sales or business;
  - (iii) loss of agreements or contracts;
  - (iv) loss of anticipated savings;
  - (v) loss of use or corruption of software, data or information;
  - (vi) loss of or damage to goodwill; and
  - (vii) indirect or consequential loss.

14.5 The Supplier has given commitments as to compliance of the Products and Services with relevant specifications in clause 5 and clause 7. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Products Act 1979 and sections 3, 4 and 5 of the Supply of Products and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

14.6 This clause 14 shall survive termination of the Contract.

## **15. Termination**

15.1 Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party not less than one month of written notice.

15.2 Save where these Conditions have been terminated as a result of non-payment by Customer and subject to clause 15.3, these Conditions will continue to remain in effect with respect to ongoing Contracts that are in effect prior to the termination of these Conditions. Upon termination of this Contract, the Supplier may terminate upon written notice any Contracts that are still in force upon the date of such termination.

- 15.3 Any Contract shall be effective as of the Effective Date and shall, unless terminated in accordance with these Conditions, continue in effect until expiry of such Licence Period or Service Term (as applicable).

## **16. Consequences of termination**

### **16.1 On termination of the Contract:**

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Products 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;
- (b) the Customer shall return all of the Supplier Materials and any Deliverables or Products 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.

- 16.2 Termination of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

- 16.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination shall continue in full force and effect.

## **17. Force majeure**

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 1 month, the party not affected may terminate the Contract by giving 30 days written notice to the affected party.

## **18. General**

### **18.1 Assignment and other dealings.**

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

## 18.2 Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
  - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
  - (ii) sent by email to the email address specified in the Order Form (or an address substituted in writing by the party to be served).
- (b) Any notice shall be deemed to have been received:
  - (i) if delivered by hand, at the time the notice is left at the proper address;
  - (ii) 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; or
  - (iii) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

**18.3 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause **18.3** the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

**18.4 Waiver.** A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.



- 18.5 **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, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 18.6 **Entire agreement.**
- (a) The Contract constitutes the entire agreement between the parties.
  - (b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.
- 18.7 **Third party rights.**
- (a) The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
  - (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 18.8 **Variation.**
- (a) The Supplier shall (at its sole discretion) update these Conditions from time to time.
  - (b) Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 18.9 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 18.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.