

**TERMS AND CONDITIONS FOR THE SUPPLY OF PRODUCTS AND
SERVICES**

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 federal holiday in the United States.

Business Hours: the period from 9.00 am to 5.00 pm ET 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.

Confidential Information: means any trade secrets or other information of a party, whether of a technical, business, or other nature (including, without limitation, information relating to a party's technology, software, products, services, designs, methodologies, business plans, finances, marketing plans, prospects, or other affairs), that is disclosed to a party during the term of this Contract and that the party knows or has reason to know is confidential, proprietary, or trade secret information of the disclosing party. Confidential Information also includes all information related to the design, specifications, and workings of the Hardware. Confidential Information does not include any information that: (1) was known to the receiving party prior to receiving the same from the disclosing party in connection with this Contract; (2) is independently developed by the receiving party without use of or reference to the Confidential Information of the disclosing party; (3) is acquired by the receiving party from another source without restriction as to use or disclosure; or (4) is or becomes part of the public domain through no fault or action of the receiving party.

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.

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,.

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

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

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

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

Excluded Claims: a party's gross negligence, willful misconduct, violation of applicable law, or Customer's indemnification obligations.

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

Intellectual Property Rights / IPR: patents, rights to inventions, copyright and related rights, moral rights, trademarks, business names and domain names, rights in 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: means personal data or personally identifiable information, as each is defined 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 License 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 Inc., a Delaware corporation.

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.

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) 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 arising out of or in connection with the Supplier's use or reliance on the Products Specifications, including 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 commercially reasonable efforts 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 The remedies in this clause 5 are Customers sole and exclusive remedy for the Supplier's only 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.

- 5.1 EXCEPT AS EXPRESSLY SET FORTH IN THIS CONTRACT, THE PRODUCTS AND ALL OTHER SERVICES AND MATERIALS ARE PROVIDED BY SUPPLIER "AS IS". NEITHER SUPPLIER NOR ITS LICENSORS MAKES ANY OTHER WARRANTIES, CONDITIONS OR UNDERTAKINGS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. EXCEPT AS EXPRESSLY SET FORTH IN THIS CONTRACT, ALL OTHER CONDITIONS, WARRANTIES OR OTHER TERMS WHICH MIGHT HAVE EFFECT BETWEEN THE PARTIES OR BE IMPLIED OR INCORPORATED INTO THIS CONTRACT OR ANY COLLATERAL CONTRACT, WHETHER BY STATUTE, COMMON LAW OR OTHERWISE, ARE HEREBY EXCLUDED AND DISCLAIMED, INCLUDING THE IMPLIED CONDITIONS, WARRANTIES OR OTHER TERMS AS TO SATISFACTORY QUALITY, FITNESS FOR PURPOSE OR THE USE OF REASONABLE SKILL AND CARE.

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 commercially reasonable efforts 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 modify the Services if necessary to comply with any applicable law or regulatory requirement, or if the modification 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 licenses, 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 authorization.

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, except where expressly agreed in writing by the Supplier, the Customer shall use no more than the number of License Keys 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 sales, use, GST, value-added, withholding, or similar taxes or levies that apply (**Taxes**), whether domestic or foreign, which Customer shall pay in addition, other than Taxes on Supplier's income .

- 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 at a rate of 1.5% per month.

- 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 license 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 license 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 an IPR Claim or notifies an intention to make an IPR Claim, against the Customer which arises out of any Product (other than any such claim for which Customer is required to indemnify Supplier pursuant to Section 3.2), Supplier shall indemnify, defend and hold Customer harmless from such IPR claim; provided, that 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 such IPR 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 IPR Claims.

11. Data protection

11.1 To the extent applicable, both parties will comply with all applicable requirements of Data Protection Law at all times during the term of the Contract. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Data Protection Law. For the avoidance of doubt, the provisions of this This clause 11 shall control over any obligations in Section 13 with respect to Personal Data (and Personal Data shall not be considered Confidential Information for the purposes of interpretation of Section 13).

11.2 Without prejudice to the generality of clause 11.1, to the extent applicable, the Customer shall ensure that it has all necessary authority, rights, notices, and (where applicable) appropriate consents in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of the Contract.

11.3 The Customer represents and warrants that any documentation, data, materials or other information provided to the Supplier in connection with the provision of the Services shall not contain any Personal Data and that any such documentation, data, materials or other information that identifies an individual shall be fully anonymized, aggregated and/or redacted so as to not constitute Personal Data prior to its disclosure to the Supplier.

12. Audit

12.1 The Customer shall permit the Supplier and/or its authorized 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 shall, during the Contract and for a period of two (2) years after disclosure of the Confidential Information, (1) use the other party's Confidential Information solely for the purpose for which it is provided; (2) not disclose the other party's Confidential Information to a third party, except as permitted by clause 13.2; and (3) protect the other party's Confidential Information from unauthorized use and disclosure to the same extent (but using no less than a reasonable degree of care) that it protects its own Confidential Information of a similar nature

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) if either party is required by law to disclose the other party's Confidential Information, the disclosing party must give prompt written notice of the requirement before the disclosure and assist the non-disclosing party in obtaining an order protecting the Confidential Information from public disclosure.

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 EXCEPT FOR EXCLUDED CLAIMS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY (NOR ITS LICENSORS) WILL HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS CONTRACT FOR ANY LOSS OF USE, LOST DATA, LOST PROFITS, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF INFORMED OF THEIR POSSIBILITY IN ADVANCE.

14.2 EXCEPT FOR EXCLUDED CLAIMS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SUPPLIER'S TOTAL AGGREGATE LIABILITY ARISING UNDER OR IN CONNECTION WITH THIS CONTRACT, REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM ARISES IN CONTRACT, TORT (INCLUDING NEGLIGENCE), UNDER AN INDEMNITY OBLIGATION, OR OTHERWISE SHALL IN ALL CIRCUMSTANCES BE LIMITED IN AGGREGATE TO AN AMOUNT EQUAL TO THE CHARGES PAID BY CUSTOMER TO SUPPLIER IN THE 12 (TWELVE) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE CAUSE OF ACTION AROSE.

14.3 This clause 14 shall survive termination of the Contract.

15. Termination

15.1 Save where these Conditions have been terminated as a result of non-payment by Customer and subject to clause 15.2, 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.

15.2 Any Contract shall be effective as of the Effective Date and shall, unless terminated in accordance with these Conditions, continue in effect until expiration of such License 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

Except with respect to Customer's payment obligations hereunder, 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, such as a strike, blockade, war, pandemic, act of terrorism, riot, Internet or utility failures, refusal of government license, or natural disaster (a **Force Majeure Event**), so long as the so long as the non-performing party uses all commercially reasonable efforts to avoid or remove the causes of non-performance.. 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, transfer, or subcontract, any or all of its rights and obligations under the Contract.
- (b) The Customer shall not assign, transfer, or subcontract 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 mail or other next working day delivery service at its principal place of business; 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 mail 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 authorize 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 third-party rights 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 Amendment.

- (a) The Supplier may (at its sole discretion) update or change these Conditions from time to time. Please check these Conditions periodically for changes. Changes will be effective immediately except that, for existing Customers, material revisions will be effective 30 days after posting or notice to Customer of the revisions unless otherwise stated. Supplier may require that Customer accept modified Conditions in order to continue to use the Services. If you do not

agree to the modified Conditions, then you should discontinue your use of the Services.

- (b) Except as set out in these Conditions, no amendment of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorized 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 Delaware without regard to any conflicts of law provisions that would require the application of another state's law.

18.10 **Jurisdiction.** Each party irrevocably agrees that the courts of the state and federal courts in Wilmington, Delaware 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.