

The Customer's attention is particularly drawn to the provisions of clause 14.

1. Interpretation

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

"Business Day"	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
"Commencement Date"	has the meaning set out in clause 2.2
"Conditions"	these terms and conditions as amended from time to time in accordance with clause 17.7.
"Contract"	the contract between the Workspace Technology and the Customer for the supply of Equipment and/or Services in accordance with these Conditions.
"Customer"	the person or firm who purchases the Equipment and/or Services from the Workspace Technology.
"Deliverables"	all products and materials developed by the Workspace Technology in relation to the Project in any media, including, without limitation, computer programs, data, diagrams, reports and specifications (including drafts).
"Delivery Location"	has the meaning set out in clause 4.3
"Equipment"	the equipment agreed in the Contract to be purchased by the Customer from the Workspace Technology (including without limitation any part or parts of it).
"Equipment Specification"	any specification for the Equipment, including any relevant plans or drawings, that is agreed in writing by the Customer and the Workspace Technology.
"Force Majeure Event"	has the meaning given to it in clause 16.1
"Intellectual Property Rights"	patents, utility models, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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

"Order"	the Customer's order for the supply of Equipment and/or Services, as set out in the Customer's written acceptance of the Workspace Technology's quotation.
"Project"	
"Project Plan"	the project as described in the Project Plan
	the detailed plan describing the Project and setting out the estimated timetable and responsibilities for the provision of the Services by the Workspace Technology in accordance with the Contract.
"Services"	the services, including the Deliverables, supplied by the Workspace Technology to the Customer as set out in the Service Specification below.
"Service Specification"	the description or specification for the Services provided in writing by the Workspace Technology to the Customer.
"Workspace Tecnology"	Workspace Technology Limited registered in England and Wales with company number 5302612.
"Supplier Materials"	has the meaning set out in clause 8.1.7.

1.2 "Construction". In these Conditions, the following rules apply :

- 1.2.1 a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.2.2 a reference to a party includes its personal representatives, successors or permitted assigns;
- 1.2.3 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.2.4 any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- 1.2.5 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 Equipment and/or Services in accordance with these Conditions.
- 2.2 The Order will be considered accepted upon receipt of a written acceptance from Workspace Technology. The date of such acceptance will mark the commencement of the Contract ("Commencement Date").
- If the Order includes alterations that Workspace Technology deems to be incorrect, or deviates from the quotation provided to the customer or is not in compliance with industry standards or regulations, Workspace Technology will furnish a revised quotation with the appropriate price variation.
- During the execution of the contract, if additional works or changes are required, Workspace Technology Ltd will provide the customer with a variation quotation.
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Workspace Technology which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by Workspace Technology and any descriptions of the Equipment or illustrations or descriptions of the Services contained in Workspace Technology's catalogues or brochures or on Workspace Technology's website are issued or published for the sole purpose of giving an approximate idea of the Services and/or Equipment described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 No Order which has been acknowledged by Workspace Technology may be cancelled by the Customer, except with the agreement in writing of Workspace Technology and provided that the Customer indemnifies Workspace Technology in full against all loss (including without limitation loss of profit), costs (including without limitation the cost of all labour and materials used), damages, charges and expenses incurred by Workspace Technology as a result of cancellation.
- 2.6 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.
- 2.7 Any quotation given by Workspace Technology shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.
- 2.8 All of these Conditions shall apply to the supply of both Equipment and Services except where application to one or the other is specified.

3. Equipment

- 3.1 The Equipment is described in the Equipment Specification.
- 3.2 To the extent that the Equipment is to be manufactured in accordance with an Equipment Specification supplied by the Customer, the Customer shall indemnify

Workspace Technology 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 Workspace Technology in connection with any claim made against Workspace Technology for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Workspace Technology's use of the Equipment Specification. This clause 3.2 shall survive termination of the Contract.

- 3.3 Workspace Technology reserves the right to amend the Equipment Specification if required by any applicable statutory or regulatory requirements. Workspace Technology reserves the right (but does not assume the obligation) to make any changes in the specification of the Equipment which are required to conform with any applicable legislation or, where the Equipment is to be supplied to the Customer's specification, which do not materially affect their quality or performance. Where Workspace Technology is not the manufacturer of the Equipment, Workspace Technology shall use reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee given by the manufacturer to Workspace Technology.

4. Delivery of Equipment

- 4.1 Delivery shall be ex works from the relevant manufacturer's premises or, if relevant, Workspace Technology's premises in Sutton Coldfield.
- 4.2 Any dates quoted for delivery of the Equipment are approximate only, and the time of delivery is not of the essence. Workspace Technology shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure Event, or any consequences arising as a result of or in connection with the UK's withdrawal from the EU, or the Customer's failure to provide Workspace Technology or any carrier with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.
- 4.3 If Workspace Technology fails to deliver the Equipment, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement Equipment of similar description and quality in the cheapest market available, less the price of the Equipment. Workspace Technology shall have no liability for any failure to deliver the Equipment to the extent that such failure is caused by a Force Majeure Event the Customer's failure to provide Workspace Technology with adequate delivery instructions for the Equipment or any relevant instruction related to the supply of the Equipment.
- 4.4 Any claims for loss or damage of Equipment in transit must be notified to Workspace Technology within three days of receipt or, in the case of non-delivery, within 14 days of the date of Workspace Technology's advice note. Subject to receipt of such notification, Workspace Technology will take reasonable steps to assist the Customer's claim against the carrier for such loss or damage.
- 4.5 Workspace Technology may deliver the Equipment by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract.

Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5. Quality of Equipment

5.1 Workspace Technology warrants that on delivery, and for a period of 12 months from the date of delivery ("**warranty period**"), the Equipment shall:

5.1.1 conform in all material respects with its description in the Equipment Specification;

5.1.2 be free from material defects in design, material and workmanship;

5.2 Subject to clause 5.3, if:

5.2.1 the Customer gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Equipment does not comply with the warranty set out in clause 5.1;

5.2.2 Workspace Technology is given a reasonable opportunity of examining such Equipment; and

5.2.3 the Customer (if asked to do so by the Workspace Technology) returns such Equipment to Workspace Technology's place of business at the Customer's cost,

Workspace Technology shall, at its option, repair or replace the defective Equipment, or refund the price of the defective Equipment in full.

5.3 Workspace Technology shall not be liable for the Equipments' failure to comply with the warranty in clause 5.1 if:

5.3.1 the Customer makes any further use of such Equipment after giving a notice in accordance with clause 5.2;

5.3.2 the defect arises because the Customer failed to follow Workspace Technology's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment or (if there are none) good trade practice;

5.3.3 the defect arises as a result of Workspace Technology or the relevant manufacturer following any drawing, design or Equipment Specification supplied by the Customer;

5.3.4 the Customer alters or repairs such Equipment without the written consent of Workspace Technology;

5.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;

5.3.6 the Equipment differs from the Equipment Specification as a result of changes made to ensure it complies with applicable statutory or regulatory standards.

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

5.5 The terms of these Conditions shall apply to any repaired or replacement Equipment supplied by the Workspace Technology under clause 5.2.

6. Title and risk

6.1 The risk in the Equipment shall pass to the Customer on completion of delivery.

6.2 Title to the Equipment shall not pass to the Customer until:

6.2.1 Workspace Technology receives payment in full (in cash or cleared funds) for the Equipment and any other Equipment that Workspace Technology has supplied to the Customer in respect of which payment has become due, in which case title to the Equipment shall pass at the time of payment of all such sums.

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

6.3.1 hold the Equipment on a fiduciary basis as Workspace Technology's bailee;

6.3.2 store the Equipment separately from all other Equipment held by the Customer so that it remains readily identifiable as Workspace Technology's property;

6.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment;

6.3.4 maintain the Equipment in satisfactory condition and keep it insured against all risks for their full price on Workspace Technology's behalf from the date of delivery;

6.3.5 notify Workspace Technology immediately if it becomes subject to any of the events listed in clause 15.1.2 to clause 15.1.13; and

6.3.6 give Workspace Technology such information relating to the Equipment as Workspace Technology may require from time to time.

6.4 If before title to the Equipment passes to the Customer the Customer becomes subject to any of the events listed in clause 15.1.2 to clause 15.1.13, then, without limiting any other right or remedy Workspace Technology may have:

6.4.1 the Customer's right to resell Equipment or use it in the ordinary course of its business ceases immediately; and

6.4.2 Workspace Technology may at any time:

6.4.2.1 require the Customer to deliver up all Equipment in its possession which has not been resold, or irrevocably incorporated into another product; and

6.4.2.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Equipment is stored in order to recover it.

6.5 Workspace Technology may appropriate payments by the Customer to such Equipment as it thinks fit, notwithstanding any purported appropriation by the Customer to the contrary, and may make such appropriation at any time.

7. Supply of Services

7.1 Workspace Technology shall provide the Services to the Customer in accordance with the Service Specification in all material respects.

7.2 Workspace Technology shall use all reasonable endeavours to meet any performance dates for the Services specified in the Project Plan, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services. Workspace Technology shall not be liable for any costs or delays to the Project arising from events which could not have been reasonably known, foreseen or assessed at the time of the preparation of the Project Plan but which result in additional unplanned costs or delays to the Project.

7.3 Workspace Technology 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 Workspace Technology shall notify the Customer in any such event.

7.4 Workspace Technology warrants to the Customer that the Services will be provided using reasonable care and skill.

8. Customer's obligations

8.1 The Customer shall:

8.1.1 ensure that the terms of the Order and (if submitted by the Customer) the Equipment Specification are complete and accurate;

8.1.2 co-operate with Workspace Technology in all matters relating to the Services;

8.1.3 provide Workspace Technology, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Workspace Technology to provide the Services;

8.1.4 provide Workspace Technology with such information and materials as Workspace Technology may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;

- 8.1.5 prepare the Customer's premises for the supply of the Services;
 - 8.1.6 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;
 - 8.1.7 keep and maintain all materials, equipment, documents and other property of Workspace Technology ("**Supplier Materials**") at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to Workspace Technology, and not dispose of or use the Supplier Materials other than in accordance with Workspace Technology's written instructions or authorisation;
- 8.2 If Workspace Technology'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**"):
- 8.2.1 Workspace Technology 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 Workspace Technology's performance of any of its obligations;
 - 8.2.2 Workspace Technology shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Workspace Technology's failure or delay to perform any of its obligations as set out in this clause 8.2; and
 - 8.2.3 the Customer shall reimburse Workspace Technology on written demand for any costs or losses sustained or incurred by Workspace Technology arising directly or indirectly from the Customer Default.
- 9. Change Control**
- 9.1 If either party wishes to change the scope of the Services, it shall submit details of the requested change to the other in writing.
 - 9.2 If either party requests a change to the scope or execution of the Services, Workspace Technology shall, within a reasonable time, provide a written estimate to the Customer of:
 - 9.2.1 the likely time required to implement the change;
 - 9.2.2 any variations to Workspace Technology's charges arising from the change;
 - 9.2.3 the likely effect of the change on the Project Plan; and
 - 9.2.4 any other impact of the change on the terms of the Contract.

- 9.3 If Workspace Technology requests a change to the scope of the Services, the Customer shall not unreasonably withhold or delay consent to it. In the event of an emergency endangering life or property Workspace Technology shall have authority, in its discretion, to prevent threatened damage, injury or loss.
- 9.4 If the Customer wishes Workspace Technology to proceed with any change, Workspace Technology has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to its charges, the Project Plan and any other relevant terms of the Contract to take account of the change. Workspace Technology shall not be liable for any delays to the Contract arising from such circumstances.

10. Charges and payment

- 10.1 The price for Equipment shall be the price set out in the Order or, if no price is quoted, the price set out in Workspace Technology's published price list as at the date of delivery. The price of the Equipment is inclusive of all costs and charges of packaging, insurance, transport of the Equipment, which shall be paid by the Customer when it pays for the Equipment.
- 10.2 The charges for Services provided where there is no specific Project Plan or quotation, for example, fault finding, shall be on a time and materials basis:
- 10.2.1 the charges shall be calculated in accordance with Workspace Technology's standard daily fee rates;
 - 10.2.2 Workspace Technology's standard daily fee rates for each individual person are calculated on the basis of an eight-hour day from [8.00 am to 5.00 pm] worked on Business Days;
 - 10.2.3 Workspace Technology shall be entitled to charge an overtime rate of [PERCENTAGE] per cent of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 10.2.2; and
 - 10.2.4 Workspace Technology shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Workspace Technology engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Workspace Technology for the performance of the Services, and for the cost of any materials.
- 10.3 Where the Services are provided for a fixed price the total price for the Services shall be the amount set out in the Project Plan. The total price shall be paid to Workspace Technology in instalments based on three week valuations of work completed as certified by Workspace Technology.
- 10.4 Workspace Technology reserves the right to:

- 10.4.1 increase its standard daily fee rates for the charges for the Services, provided that such charges cannot be increased more than once in any 12 month period. If such increase is not acceptable to the Customer, it shall notify Workspace Technology in writing within four weeks of the date of Workspace Technology's notice and Workspace Technology shall have the right without limiting its other rights or remedies to terminate the Contract by giving four weeks' written notice to the Customer; and
- 10.4.2 increase the price of the Equipment, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Equipment to Workspace Technology that is due to:
 - 10.4.2.1 any factor beyond the control of Workspace Technology (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - 10.4.2.2 any request by the Customer to change the delivery date(s), quantities or types of Equipment ordered, or the Equipment Specification; or
 - 10.4.2.3 any delay caused by any instructions of the Customer in respect of the Equipment or failure of the Customer to give Workspace Technology adequate or accurate information or instructions in respect of the Equipment.
- 10.5 In respect of Equipment, Workspace Technology shall invoice the Customer on or at any time after completion of delivery. In respect of Services, Workspace Technology shall invoice the Customer monthly in arrears.
- 10.6 The Customer shall pay each invoice submitted by Workspace Technology:
 - 10.6.1 within 30 days of the end of the month of invoice; and
 - 10.6.2 in full and in cleared funds to a bank account nominated in writing by Workspace Technology, andtime for payment shall be of the essence of the Contract.
- 10.7 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 Workspace Technology to the Customer, the Customer shall, on receipt of a valid VAT invoice from Workspace Technology, pay to Workspace Technology such additional amounts in respect of VAT as are chargeable on the supply of the Services or Equipment at the same time as payment is due for the supply of the Services or Equipment.
- 10.8 If the Customer fails to make any payment due to Workspace Technology under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 2.5% per month or such other rate as may be notified to the Customer from time to time. Such interest shall accrue on a daily basis from

the due date until actual payment of the overdue amount, whether before or after judgment and shall be compounded monthly. The Customer shall pay the interest together with the overdue amount.

- 10.9 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. Workspace Technology may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Workspace Technology to the Customer.
- 10.10 The Customer shall be responsible for the payment (either by way of addition to the prices or adjustment of the list price of the products as applicable) of all trade tariffs (or changes to such trade tariffs) imposed after the date on which this contract was entered into upon any products supplied by Workspace Technology Ltd under this contract which are a duty, tax or levy imposed on imports or exports into or out of the EU or the European Economic Area or Switzerland, or any country with which the EU enjoys the benefit of a free trade agreement, of the products or any raw materials or components used by Workspace Technology Ltd to provide the products or any other products into which the products are to be incorporated or in conjunction with which the products are to be commercially exploited.
- 10.11 Workspace Technology Ltd shall be entitled to revise the prices applicable to this contract as follows (a) by one (1) weeks' notice in writing to The Customer in the event of (i) any fluctuation in the currency exchange rates applicable at the date of this contract; (ii) any increases in the cost of raw materials, transport or labour; (iii) any changes in legislation; (iv) any changes connected to or arising out of the UK (or part of it) ceasing to be a member state of the EU whether such change occurs before, during or after the date on which the UK ceases to be a member state of the European Union or, where a transition period has been agreed, the date on which the transition period expires; or (v) other events beyond its reasonable control that affect Workspace Technology Ltd.'s ability to perform or the cost of performance under this contract; or (b) by two (2) months' notice in writing to The Customer in all other cases. The new prices shall take effect upon expiration of afore-mentioned notice period, or, if a later date is specified in such notice, on the date so specified. All orders accepted by Workspace Technology Ltd prior to such revisions taking effect shall be processed by Workspace Technology Ltd at the prices in effect at the time the order is accepted.

11. Export Terms

- 11.1 Where the Equipment is supplied for export from the United Kingdom, the provisions of this clause 5 shall (subject to any contrary terms agreed in writing between the Customer and Workspace Technology) override any other provision of these conditions.
- 11.2 The Customer shall be responsible for complying with any legislation governing:
- 11.2.1 the importation of the Equipment into the country of destination; and
 - 11.2.2 the export and re-export of the Equipment,

and shall be responsible for the payment of any duties on it.

- 11.3 Payment of all amounts due to Workspace Technology shall be made by irrevocable letter of credit opened by the Customer in favour of Workspace Technology and confirmed by a bank in England as acceptable to Workspace Technology.

12. Intellectual property rights

- 12.1 All Intellectual Property Rights and all other rights in the Deliverables shall be owned by Workspace Technology. Workspace Technology hereby licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Deliverables and the Services as is envisaged by the parties. If Workspace Technology terminates the Contract under clause 15.1, this licence will automatically terminate.
- 12.2 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 Workspace Technology obtaining a written licence from the relevant licensor on such terms as will entitle Workspace Technology to license such rights to the Customer
- 12.3 If Workspace Technology manufactures the Equipment, or applies any process to it, in accordance with a specification submitted or prepared by the Customer or any other information provided by the Customer, the Customer shall indemnify and keep indemnified Workspace Technology against all losses, damages, costs, claims, demands, liabilities and expenses (including without limitation consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) awarded against or incurred by Workspace Technology in connection with, or paid or agreed to be paid by Workspace Technology in settlement of, any claim for infringement of any third party Intellectual Property Rights which results from Workspace Technology's use of the Customer's specification or such other information. The indemnity shall apply whether or not the Customer has been negligent or at fault and does not limit any further compensation rights of Workspace Technology.
- 12.4 The Customer acknowledges that all Intellectual Property Rights used by or subsisting in the Equipment are and shall remain the sole property of Workspace Technology or (as the case may be) third party rights, owner.
- 12.5 Workspace Technology shall retain the property and copyright in all documents supplied to the Customer in connection with the Contract and it shall be a condition of such supply that the contents of such documents shall not be communicated either directly or indirectly to any other person, firm or company without the prior written consent of Workspace Technology.
- 12.6 Workspace Technology's Intellectual Property Rights in and relating to the Equipment shall remain the exclusive property of Workspace Technology, and the Customer shall not at any time make any unauthorised use of such Intellectual Property Rights, nor authorise or permit any of its agents or contractors or any other person to do so.

12.7 In relation to the Software:

- 12.7.1 the Customer acknowledges that it is buying only the media on which the software is recorded and the accompanying user manuals;
- 12.7.2 nothing contained in these conditions shall be construed as an assignment of any Intellectual Property Rights in the Software or user manuals; and
- 12.7.3 the Customer shall be subject to the rights and restrictions imposed by the owner of the Intellectual Property Rights in the Software and user manuals, and shall comply with all licence Contracts, terms of use and registration requirements relating to them.

12.8

- 12.8.1 Workspace Technology will indemnify the Customer against any claim for alleged infringement of any patents of the United Kingdom or the Republic of Ireland by the normal use or possession of any part of the Equipment, provided that Workspace Technology is given immediate and complete control of any such claim, that the Customer does not prejudice in any manner Workspace Technology's conduct of such claim and that the alleged infringement does not arise from Workspace Technology following any instruction given by or on behalf of the Customer and is not based upon the use of the Equipment in combination with any equipment or devices not supplied by Workspace Technology.
- 12.8.2 If a final injunction is obtained in any such claim, Workspace Technology shall, at its option, procure for the Customer the right to continue to use the Equipment or modify the Equipment so that it becomes non-infringing.

13. 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, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 3 shall survive termination of the Contract.

14. Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

14.1 Nothing in these Conditions shall limit or exclude Workspace Technology's liability for:

14.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

14.1.2 fraud or fraudulent misrepresentation;

14.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);

14.1.4 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or

14.1.5 defective products under the Consumer Protection Act 1987.

14.2 Subject to clause 14.1:

14.2.1 Workspace Technology 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

14.2.2 Workspace Technology'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 any amounts paid by the Customer to Workspace Technology under the Contract.

14.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

14.4 This clause 14 shall survive termination of the Contract.

15. Termination

15.1 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:

15.1.1 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 7 days after receipt of notice in writing to do so;

15.1.2 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 or limited liability partnership) 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;

- 15.1.3 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];
- 15.1.4 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;
- 15.1.5 the other party (being an individual) is the subject of a bankruptcy petition or order;
- 15.1.6 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;
- 15.1.7 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);
- 15.1.8 the holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 15.1.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- 15.1.10 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.1.2 to clause 15.1.9 (inclusive);
- 15.1.11 the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;
- 15.1.12 the other party's financial position deteriorates to such an extent that in Workspace Technology's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

- 15.1.13 the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 15.2 Without limiting its other rights or remedies, Workspace Technology may terminate the Contract 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.
- 15.3 Without limiting its other rights or remedies, Workspace Technology may suspend the supply of Services or all further deliveries of Equipment under the Contract or any other contract between the Customer and Workspace Technology if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 15.1.2 to clause 15.1.13, or Workspace Technology reasonably believes that the Customer is about to become subject to any of them.
- 15.4 On termination of the Contract for any reason:
 - 15.4.1 the Customer shall immediately pay to Workspace Technology all of Workspace Technology's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, Workspace Technology shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - 15.4.2 the Customer shall return all of Workspace Technology's Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then Workspace Technology 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;
 - 15.4.3 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
 - 15.4.4 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

16. Force majeure

- 16.1 For the purposes of this Contract, "**Force Majeure Event**" means an event beyond the reasonable control of Workspace Technology including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Workspace Technology 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.

- 16.2 Workspace Technology 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.
- 16.3 If the Force Majeure Event prevents Workspace Technology from providing any of the Services and/or Equipment for more than 90 days, Workspace Technology shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

17. General

17.1 Assignment and other dealings.

- 17.1.1 Workspace Technology may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
- 17.1.2 The Customer shall not, without the prior written consent of Workspace Technology, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

17.2 Notices.

- 17.2.1 Any notice or other communication given to a party under or in connection with this Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, fax [or e-mail].
- 17.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- 17.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action

17.3 Severance.

- 17.3.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this

clause shall not affect the validity and enforceability of the rest of the Contract.

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

17.4 **Waiver.** A waiver of any right under the Contract or law 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 prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

17.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

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

17.7 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by Workspace Technology.

17.8 **Mediation.** If a dispute arises in connection with this agreement, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) model mediation procedures. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. No party may commence any court proceedings in relation to any dispute arising out of this agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by delay.

17.9 **Governing law.** This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

17.10 **Jurisdiction** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).