

TERMS AND CONDITIONS FOR THE PROVISION OF HARDWARE MAINTENANCE SERVICES

Master terms and conditions dated _____ (“**Commencement Date**”) between:

Blue Chip Customer Engineering Limited (Company number 02146732) ("Company")	<Registered Company Subcontractor Name> (Company number <Company Registration>) ("Subcontractor")
Registered Address Franklin Court Priory Business Park Bedford MK44 3JZ	Registered Address <Address> <Address> <Address> <Post Code>
Address for Correspondence and Notices Franklin Court Priory Business Park Bedford MK44 3JZ	Address for Correspondence and Notices <Address> <Address> <Address> <Post Code>
Service Provider Contact: <Service Provider Contact>	Company Contact: <Company Contact>

IN WITNESS WHEREOF the Parties have executed these Conditions on the date set out above

Signed for and on behalf of Blue Chip Customer Engineering Limited	Print Name:
	Position:
	Date:

Signed for and on behalf of <Registered Company Subcontractor Name>	Print Name:
	Position:
	Date:

1. DEFINITIONS

As used in an Agreement, the following terms shall have the meanings set forth below:

'Agreement' means a contract for the provision of the Services pursuant to these Conditions including relevant Purchase Orders and (unless the context otherwise requires) includes any additional terms and conditions agreed in writing between the Parties and attached to a relevant Purchase Order;

'Change of Control' means an event triggered by a sale of more than fifty percent (50%) of a party's voting stock, a sale of substantially all the assets of a party or a change in a majority of the voting board members of a party;

'Commencement Date' means the date on which the Conditions shall become effective as set out in the signature page;

'Conditions' means the terms and conditions set out in this document;

'CRU' or **"Customer Replaceable Unit"** means a hardware component which can be replaced by a non-technical person from the Company or End User without specialist tools;

'Data Protection Legislation' means (i) for as long as it remains directly applicable in the UK, EU Regulation 2016/679 ("**GDPR**"), and any national implementing laws and secondary legislation, as amended or updated from time to time and (ii) any successor legislation to the GDPR in the UK, as amended, consolidated, re-enacted or replaced from time to time relating to the Processing of Personal Data;

'End User' means a separate entity as set out on a Purchase Order and recognised by the Parties as a client of the Company, and with which the Subcontractor has no direct contractual or other responsibilities under an Agreement;

'Equipment' means the hardware as set out in a Purchase Order and such additions and changes thereto as shall from time to time be agreed or authorised in accordance with the terms of an Agreement;

'Initial Term' means an initial period of three (3) years from the Commencement Date;

"Party" means either the Subcontractor or the Company and **"Parties"** shall mean both of them;

'Purchase Order' means a separate schedule to which these Conditions apply that includes; (i) the name of any End User; (ii) the Equipment Schedule (including the related Cover and Sites); (iii) the start date for the

Services (the **"PO Start Date"**); (iv) the period for delivery of the Services (the **"PO Term"**); (v) the payment frequency; (vi) the Service Charges; and (vii) any special terms for the End User;

'RPI' means the general index of retail prices measure of inflation which is published monthly in the United Kingdom by the Office for National Statistics;

'Site(s)' means either (i) the premises at which the Equipment is installed as set out in a Purchase Order; or (ii) where no such premises is set out, the address of the Company and/or End User as set out in a Purchase Order;

'Service Charges' means the agreed Maintenance Fees in respect of each item of Equipment as set out in a Purchase Order payable in advance at the intervals set out in a Purchase Order;

'Services' means the services to be provided by the Subcontractor as set out in Clause 4.

For the purposes of the Agreement (i) reference to legislation is, except as otherwise specifically referenced, to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it; (ii) reference to a document or provision thereof is to that document or provision as amended, supplemented, replaced or novated; (iii) where the words "include", "includes", "including" or "in particular" (or similar derivatives) are used, they are deemed to be followed by the words "without limitation"; (iv) "will" and "shall" are expressions of command, not merely expressions of future intent or expectation; (v) use of the singular imports the plural and vice versa; and (vi) headings in are for the purposes of reference only and will not in any way limit or affect the interpretation of any of the terms herein and references to any clause in any document that forms part of the Agreement refer to the applicable clause of that document, unless expressly stated otherwise.

2. ENGAGEMENT

a) The Subcontractor is engaged to provide the Services related to certain of the Company's Equipment and/or Equipment of the End Users as detailed on an appropriate equipment schedule (the **"Equipment Schedule"**) and the Company desires to purchase, and the Subcontractor desires to provide, the Services subject to these Conditions and any modifications made in an accepted Purchase Order for a particular End User.

b) On receipt of a proposed Equipment Schedule from the Company, the Subcontractor shall supply a quote (**"Quotation"**) within five (5) days for the provision of Services. Each Quotation shall specify the

proposed fees (the “**Maintenance Fees**”) for each item of Equipment based on the term and payment frequency stated by the Company and include details of any Equipment the Subcontractor cannot provide Services for, stating the reasons for such.

c) For the avoidance of doubt the Maintenance Fees detailed on any Quotation shall be exclusive of any applicable value added tax or other sale related taxes.

d) The Services will only be provided by the Subcontractor subject to the provision of a Purchase Order by the Company.

3. DURATION

a) The Conditions shall commence on the Commencement Date and shall continue for three (3) years (the “**Term**”), and (subject to early termination in accordance with these Conditions) thereafter from year to year until terminated by the Subcontractor giving the Company or the Company giving the Subcontractor not less than ninety (90) days prior written notice to expire on the last day of the Initial Term or any subsequent anniversary thereof.

b) Each Purchase Order shall commence on the PO Start Date and shall (subject to early termination in accordance with the Agreement) continue for the PO Term and (unless specified otherwise on the Purchase Order) thereafter from year to year until terminated by the Company giving the Subcontractor not less than thirty (30) days prior written notice to expire on the last day of the PO Term or any date thereafter. A full pro-rata credit shall be issued by the Subcontractor for any Service Charges or other recurring charges paid in advance by the Company.

4. THE SERVICES

During the continuance of an Agreement and each PO Term the Subcontractor shall provide the Company and/or End User (as applicable) with the following support and assistance in respect of the Equipment (the “**Services**”):

a) **Corrective Maintenance:** Upon receipt of notification from the Company or End User (as applicable) that the Equipment has failed or is malfunctioning (an “**Incident**”) the Subcontractor shall during the period of Cover for the item of Equipment (i) rectify a breakdown or failure of any hardware component(s) of the Equipment causing stoppage of its functions and requiring repair to or replacement before the Equipment can resume working; and/or (ii) repair or replace any hardware component(s) of the Equipment not causing stoppage of its functions but which are identified as a result of a diagnostic check as requiring the Equipment be taken out of use for repair

or replacement. Such corrective maintenance shall include supply of loan or replacement items of Equipment.

b) **Remote Monitoring:** Unless specified in a relevant Purchase Order and subject to Clause 10 b), the Subcontractor may use an electronic service agent software (“**ESA**”) to continually remotely monitor the Equipment to ensure it is in good operating condition. The Subcontractor will provide the ESA or configure the ESA provided by the manufacturer of the Equipment and ensure it is configured to directly contact the Subcontractor for all detected incidents or impending incidents for immediate response, with supplementary alerts being sent to the Company where possible. The ESA shall be continually monitored by the Subcontractor and Incidents will be reported promptly to the Company’s nominated service control (as notified to the Subcontractor in writing from time to time) with sufficient information and recommendations to permit commencement of any required remedial actions.

c) **Response:** On receipt of an Incident, and unless agreed otherwise with the Company or End User, the Subcontractor undertakes to dispatch a suitably qualified service engineer or (where applicable) a CRU to the relevant Site for corrective maintenance within any Response Time (as defined herein) for the item of Equipment as set out in a Purchase Order.

d) **Fix:** On receipt of an Incident, and unless agreed otherwise with the Company or End User, the Subcontractor undertakes to dispatch a suitably qualified service engineer and any required replacement items to the relevant Site and complete corrective maintenance, allowing the Equipment to resume working, within any Fix Time (as defined herein) for the item of Equipment as set out in a Purchase Order.

e) For the avoidance of doubt where the Cover includes a Fix Time the Subcontractor shall (i) not be subject to any Response Time measurement; and (ii) any delays outside of the Company’s reasonable control after the suitably qualified service engineer and any required replacement items are at the relevant Site shall not be counted when measuring the Company’s performance against the Fix Time.

f) Emergency corrective maintenance will be provided as soon as is practicable after receipt of a request by the Company or End User (as applicable), and in any event no longer than the relevant Response Time or Fix Time as set out in a Purchase Order.

g) **Reporting:** The Subcontractor will provide monthly reports as agreed with the Company relating to the Services including details of Incidents itemised by

End User, and also attend meetings relating to the Services as may be reasonably requested by the Company.

5. **COVER**

a) The Subcontractor shall perform the Services during the hours of cover and within the response or fix period ("**Cover**") as specified against each item of the Equipment on a Purchase Order. Each Cover specification shall be broken down as follows:

- (1) the hours of cover: (A) Mon-Fri, 09:00-17:30, excl. Bank Hols, (B) Mon-Fri, 08:00-19:00, excl. Bank Hols, or (D) 24 x 7, 365 days; and
- (2) the applicable period for response as described in Clause 4 c) (the "**Response Time**"): (2) two hours, (4) four hours, (6) six hours, or (8) eight hours; or
- (3) the applicable period for fix as described in Clause 4 d) (the "**Fix Time**"): (2) two hours, (4) four hours, (6) six hours, or (8) eight hours.

b) For the avoidance of doubt, where a corrective maintenance action other than the onsite presence of a service engineer is agreed pursuant to Clause 4, the applicable Response Time or Fix Time measure shall not apply to the Services for that Incident.

6. **EXCEPTIONS**

a) The Services do not include any maintenance of the Equipment which is necessitated as a result of any cause other than fair wear and tear or the Subcontractor's neglect or fault including:

- (1) failure or fluctuation of electrical power, air conditioning, humidity control or other environmental conditions;
- (2) accident, transportation, neglect, misuse or default of the Company, End User, their employees, agents or any other third party;
- (3) any fault in any attachments or associated equipment (whether or not supplied by the Subcontractor) which does not form part of the Equipment including but not limited to telecommunications equipment;
- (4) act of God, fire, flood, war, act of violence, or any other similar occurrence;
- (5) any attempt by any person other than the Subcontractor's personnel to adjust, repair, convert or maintain the Equipment;
- (6) software faults (including faults within the operating system) or viruses;

(7) use of the Equipment other than for the purposes for which it was designed; or

(8) use of consumables which result in repetitive service calls or abnormal wear and tear.

b) Furthermore the Services do not include:

- (1) service other than at the Site(s) (or such other premises as the Subcontractor shall have approved in writing);
- (2) repair or replacement of SSD Hardware (as defined herein) where the conditions in Clause 9 b) have not been met;
- (3) repair or renewal of all consumables as specified by the manufacturer of the equipment including but not limited to tapes, print cartridges, print heads, laser consumables or mice;
- (4) maintenance or support of the operating system and the loading or uninstalling software, applications or data or any other software support services;
- (5) electrical or other environmental work external to the Equipment;
- (6) maintenance of any attachments or associated equipment (whether or not supplied by the Subcontractor) which do not form part of the Equipment, including un-jamming or fitting of consumable supplies;
- (7) recovery or reconstruction of any data or programs lost or spoiled as a result of any breakdown of or fault in the Equipment;
- (8) painting, refurbishing, changes to or alteration of the Equipment or installation, moving or removal of the Equipment other than for repair.

7. **SERVICE CHARGES**

a) In consideration of the Services the Company shall pay the Service Charges periodically in advance and in accordance with the payment terms as set out in a Purchase Order and stated on each correctly rendered invoice (the "**Due Date**"). The Service Charges shall be paid without deduction, set off or prior demand and no payment shall be considered made until it is received by the Subcontractor. For the avoidance of doubt the Company shall not be entitled to a refund in the event that it does not make use of the Services at its disposal.

b) Any charges payable by the Company hereunder in addition to the Service Charges shall be paid within sixty (60) days after receipt of the Subcontractor's invoice therefore without any deduction or set off.

c) Subject to this sub-clause, the Subcontractor shall be entitled from time to time to increase the Service Charges by giving to the Company not less than ninety (90) days prior written notice. Such increase shall not exceed the percentage increase in the RPI for preceding twelve (12) months. The Subcontractor shall not be entitled to increase the Service Charges or other recurring charges for any Purchase Order within the first twelve (12) months of the PO Term, or within the PO Term where the latter is shorter than twelve (12) months. The Subcontractor shall not increase any Service Charges relating to any particular Purchase Order more than once in any twelve (12) month period.

d) Within thirty (30) days of being notified of an increase in Service Charges or other recurring charges pursuant to this Clause 7 (the “**Increase Notice Period**”) the Company may give written notice to the Subcontractor to terminate the relevant Purchase Order(s) and receive a full pro-rata credit for any payments made in advance, unless such increase is imposed by legal requirements when the Company shall have no right to terminate. If the Company does not terminate within the Increase Notice Period the Company shall be deemed to have accepted the increased Service Charges or other recurring charges.

e) The Subcontractor shall be entitled to recover the Service Charges, notwithstanding that performance of the Services may not have taken place. The time of payment of the Service Charges shall be of the essence of the Agreement. Receipts for payment will be issued only upon request.

f) Subject to sub-clause 7 g), any item of Equipment may be removed from the Agreement by the Company at any time during the PO Term by giving the Subcontractor thirty (30) days written notice. A full pro-rata credit, without penalty, will be issued by the Subcontractor for the removed items.

g) During the PO Term, the net effect of any additions and/or removals to/from the Agreement must not at any time cause the value of the Agreement to fall below eighty (80) percent of the Agreement’s original annual value as at the PO Start Date.

h) If the Company fails to make any undisputed payment within thirty (30) days of the Due Date for payment then, without prejudice to any other right or remedy available to the Subcontractor, the Subcontractor shall be entitled to:

- (1) appropriate any payment made by the Company as the Subcontractor may think fit (notwithstanding any purported appropriation by the Company); and

- (2) charge the Company interest (both before and after any judgement) on the amount unpaid, at the rate of three (3) per cent per annum above the base rate of Barclays Bank plc from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

- i) If the Company fails to make any undisputed payment within sixty (60) days of the Due Date for payment then, without prejudice to any other right or remedy available to the Subcontractor, the Subcontractor shall be entitled to cancel the relevant Purchase Order or suspend further performance of the Services until any undisputed payment is made.

- j) The Service Charges and any additional charges are exclusive of any applicable value added tax, which the Company shall be additionally liable to pay to the Subcontractor.

8. ADDITIONAL CHARGES

a) The Subcontractor shall make an additional charge, to be agreed in advance with the Company, and in accordance with its standard scale of charges from time to time in force, for service visits, repairs or replacements made at the request of the Company or End User (as applicable):

- (1) by reason of any fault in the Equipment due to causes not covered by the Services;
- (2) if the Subcontractor is able to repair or replace any part of the Equipment which has failed due to a cause other than fair wear and tear or due to the Subcontractor’s neglect or fault; or
- (3) made at the request of the Company or End User but which the Subcontractor finds are frivolous or not necessary;
- (4) for corrective maintenance of equipment not covered by this Agreement which the Subcontractor agrees to provide provided always that it shall not be obliged to carry out such works.

9. REPLACEMENT EQUIPMENT

a) The Subcontractor reserves the right to replace the whole of the Equipment or any part or parts thereof which may be found to be faulty or in need of investigation. If identical Equipment is not available for replacement the Subcontractor will install replacement Equipment of a higher specification provided always that if the permanent replacement Equipment is materially different the Subcontractor reserves the right to increase the Service Charges by not less than thirty (30) days notice in writing to the Company in

accordance with the Subcontractor's standard charges from time to time.

b) Subject to the terms in this sub-clause b) corrective maintenance for solid state based (flash) hard drives and solid state based (flash) I/O cards ("**SSD Hardware**") is provided as part of the Services. SSD Hardware is not covered by the Services if (i) it has not been explicitly declared by the Company and included as an item in the Purchase Order on a chargeable or non-chargeable basis; and/or (ii) it is considered a consumable as set forth in the manufacturer's documentation. For SSD Hardware requiring replacement that has reached its maximum supported lifetime and/or the maximum usage limits (collectively "**End of Life**") as set forth in the manufacturer's documentation, corrective maintenance may be subject to additional fees at the Subcontractor's sole discretion over and above any Service Charges, subject to confirmation at the time an Incident is logged. The Subcontractor is under no obligation to replace any End of Life SSD Hardware until any additional fees are approved by the Company in writing. The Subcontractor reserves the right to audit any hardware containing SSD Hardware at a date and time agreed with the Company.

c) If the permanent replacement parts or equipment is not equipment which is identical in all material respects to the Equipment replaced the Subcontractor shall inform the Company in writing.

d) Within five (5) business days of being informed of replacement of non-identical equipment the Company or End User shall have the right to request that the replacement equipment or any part or parts thereof be removed and either the Equipment be put back or other equipment materially identical to the Equipment be installed and the Subcontractor shall comply with such request as soon as reasonably possible.

e) The replacement equipment shall become the property of the owner of the Equipment. With the exception of any defective parts containing Company or End User data which may be retained at the Company or End User's discretion, defective parts shall be returned to and become the property of the Subcontractor.

f) Where the Equipment or any part or parts thereof removed become the property of the Subcontractor in accordance with sub-clause e) or as stated elsewhere in the Agreement, the Company warrants that either it or the End User (as applicable) shall have a free and unencumbered title to such replaced parts or (where the Equipment is leased or charged) that it shall have obtained all necessary

consents and authorities to part with possession and give good title to the replaced parts.

g) The provisions of the Agreement shall apply to all replacements and renewals of any part or parts of the Equipment made by the Subcontractor.

h) Subject to the warranty set out herein the Subcontractor reserves the right to supply new, second-hand or reconditioned parts in the performance of its duties

10. COMPANY OBLIGATIONS

a) **Incident Logging:** The Company shall ensure the Subcontractor is informed by notification to the Subcontractor's nominated service control (as notified to the Company in writing from time to time), in a reasonable period of time, of Equipment failure or potential failure, and shall as applicable permit or arrange with the End User for the Subcontractor to have necessary access to the Equipment and use of necessary tools, machines and devices in the Company's or End User's possession. The Company shall maintain or take reasonable efforts to ensure the End User maintains accurate and current logs and records concerning the operation of the Equipment.

b) **ESA Set-Up:** Where applicable the Company shall permit or use reasonable efforts to arrange with the End User to allow Installation, configuration and testing of any ESA provided by the Subcontractor. The Company shall also provide or use reasonable efforts to ensure that the End User provides the necessary access rights, connectivity and other required facilities to enable the Subcontractor to remotely detect and resolve Incidents on items of Equipment that support the ESA functionality. The Company will also (where required) be responsible for ensuring its own service control is able to receive any alerts generated by the ESA and forwarded by the Subcontractor.

c) **Use and Care of the Equipment:** During the continuance of an Agreement the Company shall, or as applicable take reasonable measures to, ensure any End User shall:

- (1) ensure proper environmental conditions are maintained for the Equipment and shall maintain in good condition the accommodation of the Equipment, the cables and fittings associated therewith and the electricity supply thereto;
- (2) not make any modification to, tamper with, wrongfully operate, repair or maintain the Equipment without the Subcontractor's prior written consent or authorise anyone other than the Subcontractor to carry out any adjustments, repairs or maintenance of the Equipment;

- (3) keep and operate the Equipment in a proper and prudent manner in accordance with the manufacturer's operating instructions and ensure that only competent trained employees (or persons under their supervision) are allowed to operate the Equipment;
- (4) ensure that the external surfaces of the Equipment are kept clean and in good condition and carry out any minor maintenance recommended by the manufacturer from time to time;
- (5) use on the Equipment only such operating supplies as recommended by the manufacturer in writing and if such use results in repetitive service calls or abnormal wear and tear then the Subcontractor will be entitled to make an additional charge for the Services provided as a result;
- (6) notify the Subcontractor in writing if any of the Equipment is to be moved and or has been moved from Site or if any of the Equipment has been removed from service;
- (7) not use in conjunction with the Equipment any accessory, attachment or additional equipment other than that which has been supplied by or approved in writing by the Subcontractor;
- (8) not to use the Equipment other than for the purpose for which it was designed and take reasonable precautions to avoid damage to the Equipment.

d) **Access to the Equipment:** During the continuance of an Agreement the Company shall ,or as applicable take reasonable measures to, ensure any End User shall:

- (1) provide the Subcontractor with full and safe access to the Equipment for the purposes of the Agreement;
- (2) provide adequate working space around the Equipment for the use of the Subcontractor's personnel and shall make available such reasonable facilities as may be requested from time to time by the Subcontractor for the storage and safekeeping of test equipment and spare parts;
- (3) where practicable, provide a suitable vehicle parking facility for use by the Subcontractor's personnel which is free from any legal restrictions and is close to the relevant Site;
- (4) ensure in the interest of health and safety that the Subcontractor's personnel, while at the relevant Site for the purposes of the Agreement,

are at all times accompanied by a member of the Company's or End User's (as applicable) staff familiar with the Site and safety procedures.

e) **Notification and Information:** During the continuance of the Agreement the Company shall, or as applicable take reasonable measures to, ensure any End User shall:

- (1) promptly notify the Subcontractor if the Equipment needs maintenance or is not operating correctly;
- (2) make available to the Subcontractor such programs (including manufacturer supplied recovery media), operating manuals and information as may be necessary to enable the Subcontractor to perform its obligations hereunder and shall, if requested by the Subcontractor, provide staff familiar with the Company's or End User's (as applicable) software and operations, which staff shall co-operate fully with the Subcontractor's personnel in the diagnosis of any malfunction of the Equipment;
- (3) make available to the Subcontractor, free of charge, all facilities and services reasonably required by the Subcontractor to enable the Subcontractor to perform the Services including computer runs, memory dumps, print-outs, data preparation, office accommodation and photocopying;
- (4) provide such telecommunication facilities as are reasonably required by the Subcontractor for testing and diagnostic purposes at the Company's expense;
- (5) keep full security copies of the Company's or End User's (as applicable) software, programs and computer records and carry out appropriate system management functions in accordance with best computing practice. The master copies of software or programs are not to be released by the Company or End User and the Subcontractor is to be given only copies thereof if it requests.

11. **COMPANY WARRANTIES**

a) The Company warrants and undertakes to the Subcontractor that it or the End User is the owner of the Equipment and that it has full power and authority to enter into the Agreement and permit the Subcontractor to perform its services.

b) The Company undertakes to indemnify and hold harmless the Subcontractor against any loss or damage

that the Subcontractor may suffer as a result of a breach by the Company of sub-clause 11 a) above.

c) The Company warrants to the Subcontractor that it has prior to the making of the Agreement made reasonable efforts to collate and disclose to the Subcontractor all known faults or defects in the Equipment or operating system which exist at or immediately prior to each PO Start Date.

d) The Company shall indemnify the Subcontractor and keep the Subcontractor fully and effectively indemnified on demand against any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or wilful misconduct of the Company, its employees, agents or sub-contractors, by any defect in the design or workmanship of the Equipment or any breach of its warranty at sub-clause 11 c) or breach of its obligation under these Conditions.

e) The Company hereby warrants to the Subcontractor that the Company has not been induced to enter into the Agreement by any prior representations or warranties, whether oral or in writing, except as specifically contained in the Agreement and the Company hereby irrevocably and unconditionally waives any right it may have to claim damages for any misrepresentation not contained in the Agreement or for breach of any warranty not contained herein (unless such misrepresentation or warranty was made fraudulently) and/or to rescind the Agreement.

12. SUBCONTRACTOR WARRANTIES

a) Subject to sub-clause 12 b) The Subcontractor warrants that it will use reasonable skill and diligence in performing the Agreement and that it shall have free and unencumbered title to any replacement parts which will be of satisfactory quality. The Subcontractor does not warrant that the Services or any additional services will cause the Equipment to operate without interruption or error.

b) For the avoidance of doubt the warranty in sub-clause 12 a) is given by the Subcontractor subject to the following conditions:

- (1) the Subcontractor shall be under no liability in respect of any defect in the Services arising from any information or instruction supplied by the Company or End User;
- (2) the Subcontractor shall be under no liability in respect of any defect in the Services arising from wilful damage, negligence, abnormal working conditions, failure to follow the Subcontractor's written instructions, misuse or alteration or

repair of the Equipment without the Subcontractor's approval;

(3) the Subcontractor shall be under no liability if the Service Charges have not been paid by the due date for payment;

c) Any replacement equipment or parts provided by the Subcontractor as part of the Service are supplied without warranty save for the benefit of such warranty or guarantee as is given by the manufacturer or supplier to the Subcontractor.

d) Subject as expressly provided in these Conditions all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

13. LIABILITIES

a) Where any valid claim in respect of the Services is notified to the Subcontractor in accordance with these Conditions, the Subcontractor shall be entitled to re-perform the Services in which event the Subcontractor shall have no further liability to the Company.

b) The Parties accept that nothing in an Agreement limits or excludes any liability for: (i) fraud or fraudulent misrepresentation (ii) death or personal injury resulting from their negligent acts or omissions in connection with the Agreement; (iii) the Subcontractor's breach of the obligations implied by, as applicable, Section 12 of the Sale of Goods Act 1979, Section 2 of the Supply of Goods and Services Act 1982 or Section 8 of the Supply of Goods (Implied Terms Act) 1973; or (iv) any liability which cannot by applicable law be limited or excluded

c) Subject to sub-clause b) the liability of the Subcontractor under the Agreement in respect of each event or series of connected events shall not exceed two hundred percent (200%) of the aggregate value of all Service Charges received from the Company by the Subcontractor for all Purchase Orders. If a number of events give rise to substantially the same loss then they shall be regarded as giving rise to only one claim under this Agreement.

d) The Subcontractor shall not be liable for any loss or damage sustained or incurred by the Company or any third party (including any loss of use of the Equipment or loss of or spoiling of the Company's or End User's (as applicable) software, programs or data) resulting from any breakdown of or, fault in the Equipment except to the extent such breakdown or fault is caused by any omission or negligence on behalf of the Subcontractor.

e) The Subcontractor shall not be liable to the Company for any loss arising out of any failure by the

Company or End User to keep full and up-to-date security copies of the software, programs or data it uses, in accordance with best computing practice.

f) The Subcontractor shall not be liable for any delay in performing its obligations hereunder if any recommended spare parts become obsolete.

g) Notwithstanding anything else contained in these Conditions, the Subcontractor shall not be liable to the Company for loss of profits or contracts or other indirect or consequential loss whether arising from negligence, breach of contract or howsoever (including loss or damage suffered by the Company as a result of an action brought by a third party) even if such loss was reasonably foreseeable or the Subcontractor had been advised of the possibility of the Company incurring the same.

14. CONFIDENTIALITY

Each Party shall treat as confidential all information obtained from the other pursuant to these Conditions and any Agreement and shall not divulge such information to any person (except to such Party's own employees and then only to those employees who need to know the same) without the other Party's prior written consent provided that this Clause 14 shall not extend to information which was rightfully in the possession of such Party prior to the Commencement Date or the commencement of negotiations leading to any Agreement, which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this Clause 14) or which is trivial or obvious. Each Party shall ensure that its employees are aware of and comply with the provisions of this Clause 14.

15. DATA PROTECTION

a) Both Parties shall comply with the Data Protection Legislation in so far as they are relevant in respect of the provision and use of the Services. For the purposes of the Agreement, the terms Data Controller, Data Processor, Personal Data, Sensitive Personal Data and Processing shall be as defined in the Data Protection Legislation.

b) The Parties acknowledge that the Company is a Data Controller and that the Subcontractor is not considered a Data Processor in providing the Services. The Subcontractor further acknowledges that it has not been given any remit by the Company to make any attempt to access any data on the Equipment and confirms that it shall not do so.

c) The Parties further acknowledge that it may be necessary to exchange Personal Data relating to their respective employees, workers, agents, representatives, subcontractors and/or the End User(s)

in order to receive the benefit or delivery of (as applicable) the Services. Where a Party receives any such Personal Data from the other Party it shall ensure that it fully complies with the Data Protection Legislation.

16. NON-SOLICITATION

During the PO Term and for twelve (12) months thereafter, neither Party may solicit, directly or indirectly, any employee of the other Party who was involved in the provision or receipt of the Services. This Clause 16 shall not restrict a Party from hiring employees of the other Party who apply unsolicited in response to a general advertising or recruitment campaign.

17. TERMINATION

a) If in its opinion the Subcontractor considers that all or part of the Equipment needs reconditioning it will notify the Company together with its estimate of the cost thereof. If the Company does not accept the quote to recondition the Equipment within thirty (30) days of receipt thereof the Subcontractor may by not less than thirty (30) days prior written notice cancel that part of the Agreement insofar as it relates to the Equipment which requires reconditioning.

b) If any part of the Equipment can no longer be maintained in good working order by the provision of replacement spare parts or the whole of the Equipment is destroyed or damaged beyond economic repair otherwise than through the Subcontractor's fault (as to whether either of which events has occurred the Subcontractor's decision shall be final and binding on the Company) the Subcontractor reserves the right to terminate the relevant Purchase Order, by giving not less than thirty (30) days written notice to the Company, in respect of the whole or any part of the Equipment which can no longer be maintained, in which case the Subcontractor's sole liability shall be to repay to the Company a fair proportion in accordance with sub-clause 17 c) of the Service Charges which has been paid in advance by the Company.

c) On termination of an Agreement in accordance with the provisions of sub-clauses 17 a) and b) the Company shall be entitled to reimbursement of a pro-rata part of the Service Charges paid in advance calculated on a time basis and item by item basis.

d) Notwithstanding anything else contained herein, an Agreement and all Purchase Orders may be terminated:

- (1) by either Party forthwith on giving notice in writing to the other if the other commits any breach of any term of the Agreement (other

than any failure by the Company to make any payment hereunder in which event the provisions of sub-clause 7 h) above shall apply) and (in the case of a breach capable of being remedied) shall have failed, within thirty (30) days after the receipt of a request in writing from the other Party so to do, to remedy the breach (such request to contain a warning of such Party's intention to terminate); or

(2) by either Party forthwith on giving notice in writing to the other if the other Party shall have a receiver or administrative receiver appointed over it or over any part of its undertaking or assets or shall pass a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a Court of competent jurisdiction shall make an order to that effect, or if the other Party shall become subject to an administration order or shall enter into any voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business; or

(3) by the Company immediately on written notice if the Subcontractor if there is a Change of Control of the Subcontractor where the person, firm or company taking control of the Subcontractor is either (i) a direct competitor of the Company or (ii) has before the date of the Change of Control been rejected by the Company as a supplier to it for any reason whatsoever; or

(4) by the Company immediately on written notice if the Subcontractor declares a Force Majeure event and is unable to cure the root cause of the Force Majeure declaration within ten (10) days, and the Company may acquire an alternate service in replacement of the Services, without penalty. For the avoidance of doubt the Company shall also be entitled to a pro rata refund of any Service Charges paid in advance.

e) For the avoidance of doubt a breach of Party's obligations under Clauses 19 and 20 shall be deemed a material breach not capable of remedy and the non-breaching Party may terminate the Conditions and all Purchase Orders in writing with immediate effect without penalty, and in the event of such breach by the Subcontractor a full pro-rata credit shall be issued by the Subcontractor for any Service Charges or other recurring charges paid in advance by the Company).

f) Any termination of the Conditions or an Agreement howsoever occasioned shall not affect any accrued rights or liabilities of either Party nor shall it

affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

g) For the avoidance of doubt the expiration of these Conditions at the end of the Term or termination in accordance with Clause 3 a) shall not affect any unexpired Purchase Orders and both parties shall continue to meet their respective obligations in accordance with the terms of any Agreement(s) until completion of the relevant PO Term or termination by a party in accordance with these Conditions or those of the Purchase Order.

18. FORCE MAJEURE

a) Neither Party hereto shall be liable for any breach of its obligations hereunder resulting from causes beyond its reasonable control including but not limited to fires, strikes (of its own or other employees) insurrection or riots, embargoes, container shortages, wrecks or delays in transportation, inability to obtain supplies and raw materials requirements or regulations of any civil or military authority.

b) Each of the parties hereto agrees to give notice forthwith in writing to the other upon becoming aware of an event of force majeure and such notice shall contain details of the circumstances giving rise to the event of force majeure.

19. ANTI-BRIBERY

a) Both parties agree to comply with all applicable laws, regulations, legally binding codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Anti-Bribery Law**").

b) In the event that a Party is found not to comply with the Anti-Bribery Law or has reasonable grounds for suspecting the other Party of not being in compliance, it shall as soon as reasonably practicable notify the other Party in writing of the particulars of such non-compliance and/or suspicions.

20. MODERN SLAVERY

a) Both Parties shall comply with all applicable laws, statutes, regulations legally binding codes and sanctions relating to the Modern Slavery Act 2015 (the "**Slavery Rules**") and the Subcontractor shall comply with any reasonable written request received from the Company for the purposes of any annual reporting requirements under the Slavery Rules.

b) In the event that a Party is found not to comply with the Slavery Rules or has reasonable grounds for suspecting the other Party of not being in compliance, it shall as soon as reasonably practicable notify the

other Party in writing of the particulars of such non-compliance and/or suspicions.

21. NOTICES

All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in a Purchase Order or such other address in England as the recipient may designate by notice given in accordance with the provisions of this Clause 21. Any such notice may be delivered personally or by first class pre-paid letter and shall be deemed to have been served if by hand when delivered, if by first class post forty eight (48) hours after posting.

22. GENERAL

a) The Subcontractor's employees or agents are not authorised to make any representations concerning the Services unless confirmed in writing

b) The Subcontractor shall not assign the Agreement without the prior written consent of the Company.

c) No failure or delay by either Party in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right, and no waiver by the Subcontractor of any breach of the Agreement by the Company shall be considered as a waiver of any subsequent breach of the same or any other provision.

d) The Agreement shall be governed by the laws of England and Wales, and the Parties agree to submit to the exclusive jurisdiction of the courts of England and Wales.

e) Where the Subcontractor is a member of a group of companies the Subcontractor may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of the Subcontractor.

f) The Subcontractor shall provide and the Company shall accept the Services subject to the terms of the Agreement, which shall govern the Services to the exclusion of any other terms and conditions.

g) The Company shall with fifteen (15) Business Days from a request by the Subcontractor provide the applicable Purchase Order relevant to the Services to be included on any invoice submitted by the Subcontractor.

h) No variation to the Conditions or the Agreement shall be binding unless agreed in writing between the authorised representatives of the Company and the Subcontractor.

i) The Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement and no rights or benefits expressly or impliedly conferred by it shall be enforceable under that Act against the parties to it by any other person.

j) Notwithstanding that the whole or any part of any provision of the Agreement may prove to be illegal or unenforceable the other provisions of the Conditions and the remainder of the provision in question shall remain in full force and effect.