

## NETBOP CUSTOMER SERVICE CHARTER AND STANDARD TERMS & CONDITIONS OF BUSINESS

## NetBop Customer Service Charter

The management and staff at NetBop understand the importance of excellent customer service. The values to which they subscribe are truthfulness, openness, honesty, accountability, professionalism and confidentiality. The company will ensure that all employees uphold the highest standards of ethical behaviour. It will, furthermore, ensure that all staff are well trained and committed to this.

**Our charter** sets out our commitment and the standards of service we aim to provide. Our charter applies to everyone who has contact with NetBop, including:

- Clients
- Partners
- Employees
- Media
- Members of the public
- Other organisations
- Potential clients
- Sponsors and Advertisers

### Our Commitment

As NetBop staff we are committed to:

- maintaining a professional manner
- using plain or easy to understand language
- being courteous and helpful
- listening carefully
- providing clear and accurate information
- responding to enquiries and requests promptly being transparent and accountable
- apologising if we make a mistake
- being accessible
- advising of all relevant timescales
- continuously striving to improve or exceed our service standards

### Our Service Standards

**If you telephone us, we will:**

- be polite and helpful;
- give our name;
- offer to call you back at a suitable time if we can't deal with your enquiry immediately;

**If you write to us by letter or fax, we will:**

- thank you for your correspondence;
- reply to your enquiry in full within five working days;
- make sure that we have answered all of your questions, and tell you who to contact if you want more information;
- let you know when you will get a reply, if our answer to your enquiry will take longer than five working days

**If you contact us by email, we will:**

- thank you for your enquiry within one working day;
- reply to your enquiry in full within three working days;
- make sure that we have answered all of your questions, and tell you who to contact if you want more information;
- let you know when you will get a reply, if our answer to your enquiry will take longer than three working days

**If you visit our website, we will:**

- make sure that information on our website ([www.netbop.co.uk](http://www.netbop.co.uk)) is accurate, up to date and useful;
- make sure all information is presented in easily accessible software
- avoid using jargon and abbreviations

**What we would like you to do:**

- provide information quickly so we can undertake your projects
- promptly; let us know if you are unable to make an appointment;
- act in a polite and considerate way, so we can give you and other customers the standard of service you expect

**How to help us give you a good service:**

- tell us how we can improve our services by giving us your comments and
- ideas; fill in any survey forms when asked;
- tell us if you have a complaint.

You can complain over the phone, in person, in writing, by email or fax. We will answer your complaint in full within five working days.

**To write to us:**

NetBop Technologies Ltd  
1 Princess Way  
Swansea  
SA1 3LQ

**Telephone:** 01792 588277\*

**Fax:** 07006 082643

**Email:** [support@netbop.co.uk](mailto:support@netbop.co.uk)

\* Monday to Friday 9.00am - 5.30pm, For all urgent enquiries outside of these times, please contact: [Support@NetBop.co.uk](mailto:Support@NetBop.co.uk)

STANDARD TERMS & CONDITIONS OF BUSINESS  
Of  
NETBOP TECHNOLOGIES LTD ("The Company")

## 1. Definitions

In these Standard Terms & Conditions where the context otherwise requires the following expressions shall have the following meanings.

**Data Protection Legislation:** the UK Data Protection Legislation and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to privacy.

**UK Data Protection Legislation:** any data protection legislation from time to time in force in the UK including the Data Protection Act 1998 or 2018 or any successor legislation.

**"Change Request"** - a written request by the Customer for a change to the Services.

**"Confidential Information"** - shall include, but not necessarily be limited to, all information which is not publicly known including the business, finances, technology (including without limitation any third party software, the Software the IT Systems and the Documentation) trade secrets, and any other commercially sensitive information of either party regardless of its nature.

**"Contract"** - the contract between the Company and the Customer for the provision of the Services which includes these Terms & Conditions and Schedules.

**"Customer"** - the sole trader, individual, partnership, organisation or body corporate who enters into this Contract with the Company as detailed on the Order Form, Agreement or schedule hereto.

**"Documentation"** - the documentation set out in Schedule 1.

**"Specification"** - the Company's specification appearing at Schedule 1 for the Software, IT system or Services.

**"Intellectual Property Rights"** - all copyright and other intellectual property rights, howsoever arising and in whatever media, whether or not registered, including (without limitation) patents, trade marks, service marks, trade names, registered design and any applications for the protection or registration of these rights and all renewals and extensions thereof throughout the world.

**"IT System"** - collectively the Specified Equipment and the Software.

**"Licence"** - the licence granted by the Company to the Customer pursuant to Clause 8.

**"Payment Schedule"** - the payment schedule set out in Schedule 2.

**"Price"** - the price for the provision of the Services, the Licence and the Documentation set out in Schedule 2.

**"Project"** - the development, testing and delivery of the Software, the IT System, Specified Equipment, the Documentation and the Services.

**"Rates"** - the rates set out in Schedule 2

**"Recurring Services"** - those services that are subject to ongoing and recurring services, as agreed between the Customer and Company at the outset

**"Services"** - the web design (including, drafting, scripting and forwarding) web development, e-commerce sites, database development, web hosting, domain registration, software development, procurement, consulting, maintenance, support training and computer programming services, production of the Software and/or IT System for the Customer as set out in Schedule 1. The Services provided under this contract may from time to time be amended so as to in writing between the parties.

**"Software"** - the software being developed or customised by the Company for the Customer, details of which are set out in Schedule 1, including any enhancements and modifications made.

**"Specified Equipment"** - the configuration of computer(s) and ancillary equipment, including operating systems and system software on which the Software is to function as specified in Schedule 1.

## 2. The Project

- 2.1. The Company shall provide the Customer with the Services as detailed in the Schedule 1 and carry out any other Services agreed by the parties in accordance with its standard operating business hours (currently 9am to 5pm weekdays save for public holidays). Out of hours work can be arranged if agreed in writing. These Services may be altered in writing between the parties from time to time.
- 2.2. The Company shall license the Software to the Customer in accordance with Clause 8.
- 2.3. The Company reserves the right to cancel or suspend the Services at any time and, in particular, to prevent the following content from being stored in Software or on any Server:
  - 2.3.1. illegal material including copyrighted works, commercial audio, video or music files or anything that would breach national or international rules and regulations;
  - 2.3.2. adult material including pornographic, lewd or obscene material as the Company in its absolute and sole discretion considers the same;
  - 2.3.3. other inappropriate material as determined by the Company in its absolute and sole discretion.

## 3. The Customer's Obligations

The Customer Shall:

- 3.1. Make available to the Company, free of charge, such computer facilities (including but not limited to unhindered access to the Specified Equipment), all technical and other information office and secretarial services as are required to enable the Company to carry out the Services and its other obligations under this Contract.

- 3.2. Take all reasonable precautions to protect the health and safety of the Company, its servants or agents.
- 3.3. Ensure that its employees and other independent contractors co-operate reasonably with the Company and its employees servants or agents in carrying out the Services.
- 3.4. Ensure that the Specified Equipment is available and operated by the Customer in accordance with the Company's specification therefor and that all of the Customer's employees are properly trained and authorised in respect of the same.
- 3.5. Promptly furnish the Company with such information and documents as it may reasonably request for the proper performance of its obligations under this Contract.
- 3.6. Ensure that its representative is available as reasonably required by the Contract.
- 3.7. Ensure that its servants and agents shall not alter, move or attach anything to, repair or adjust the Specified Equipment, the Software or any part thereof without the prior written consent of the Company.
- 3.8. Not use any part of the Services for inappropriate purposes.
- 3.9. Not re-sell, store or supply web-hosting services using any part of the Specified Equipment, Software or Services without the Company's written consent.
- 3.10. Not to monopolise the resources available to the Company by its high use of the same as defined by the Company in its high user policy in force from time to time.
- 3.10. Not to undertake any personal maintenance or adaptation for example, but not exclusively updating or amending a website personally, in a way that could jeopardise the stability of the platform or the ability of the Company to perform the Services.

#### **4. Recurring Services**

- 4.1. For those clients that are receiving Recurring Services as delineated in the Schedules to this Agreement, their attention is specifically drawn to this clause.
- 4.2. Recurring Services include those services as from time to time offered by the Company and displayed on our website or on request from the Company. Each of the Recurring Services have a specific renewal date attached to them which is stated on the website or on request from the Company.
- 4.3. Automatic renewal takes place in relation to Recurring Services which is, in the absence of any specific agreement between the Company and Customer, on a bi-annual basis in the case of domains and annually in the case of hosting services. In the event that the recurring services are not to be renewed at the relevant renewal date, this needs to be notified in writing by the Customer to the Company, not less than 30 days before the date of renewal.
- 4.4. Payment for the Recurring Services are made at the outset of the term in accordance with the Fees as noted in Schedule 2.

- 4.5. Any additional services that are not part of the Recurring Services will be dealt with in line with the terms and conditions contained within this Agreement or as agreed between the parties.

- 4.6. When registering or renewing a .uk domain, a contract is entered with the .UK Registrar; Nominet UK Ltd (Company Registration:#03203859). For more information about the terms of this contract please visit their website at <http://www.nominet.uk/go/terms>

#### **5. Change Control**

- 5.1. If the Customer identifies a requirement for a change, a Change Request will be sent to the Company detailing the change requirements. The receipt of the Change Request by the Company will constitute a request to the Company to state in writing the effect such a change shall have on the Services. The Company shall use all reasonable endeavors to supply the necessary details within fourteen working days from receipt of the Change Request or such other period as may be agreed.
- 5.2. Where a change to the Price is required, the rates used as the basis for the additional cost for the Change Request shall be the Rates as detailed in Schedule 2. The parties will then decide whether or not to implement the change. If the change is implemented, the amended services shall then become the contractual Services for the purpose of this Contract.

#### **6. Acceptance**

- 6.1. The Customer shall accept the Software IT System and/or Services immediately upon receipt of the agreement in writing or otherwise that the project is ready to go live or has in some way been completed as by agreement between the parties.
- 6.2. If at any time the Customer shall commence live running of the whole or any part of the software then the Customer shall be deemed to have accepted the Software and IT System.

#### **7. The Company's Obligations**

- 7.1. The Company shall use its best endeavours to ensure that it and its servants, agents and sub-contractors take all reasonable precautions in performance of the Services and to ensure that no known viruses for which detection and antidote software is generally available are introduced into the Software.
- 7.2. If the Company wishes to use material (in any medium) owned by third parties as part of the Software, it shall obtain at the Customer's expense from those third parties such written assignments, releases, waivers, permissions and licences as necessary to permit such use and to enable the Customer to exploit any program containing that material in the Software in all present and future media. The Company shall deliver copies of any documentation relevant to third party clearances to the Customer upon written request. Products supplied by the Company are sold subject to the manufacturers warranty only and liability therefor is limited to the terms of such warranty.

## **8. Licence**

- 8.1. On payment in full of the Price, the Company grants to the Customer a non-exclusive, perpetual, non-transferrable right to use the Software, web scripts and graphics and the Documentation on any processor or IT System owned by the Customer.
- 8.2. The Customer may not disclose or make available the Software to any person or entity nor permit others to use it except the Customer's employees and agents who may use it only on the Customer's behalf within the limits of this licence and who have agreed to such terms.

## **9. Proprietary Rights**

- 9.1. The Intellectual Property Rights in the Software web material, scripting, graphics, Project, Services and Documentation shall be and remain vested in the Company and subject to any of the terms of the Licence herein granted.
- 9.2. If the Customer's use or possession of the Software or any part of the Software in accordance with this Agreement, is held by a Court of competent jurisdiction to constitute an infringement of a third party's Intellectual Property Rights, then the Company shall use all reasonable endeavors to:
  - 9.2.1. procure for the Customer the right to continue using the Software or the infringing part; or
  - 9.2.2. modify or replace the Software (or part thereof) without where possible detracting from the overall performance of the Software, so as to avoid the infringement.
- 9.3. If the remedies set out in Clause 9.2 above are not in the Company's opinion reasonably available, then the Customer shall return the Software which is the subject of the intellectual property claim and/or the Company shall terminate the Services and the Company shall refund to the Customer the corresponding portion of the Price, as depreciated (on a standard accountancy basis) but shall be entitled to be paid or retain such sums as are due to it for the Services carried out to that date.

## **10. Charges and Expenses**

- 10.1. In consideration of the Company carrying out the Project, the Customer shall pay to the Company the Price which shall be invoiced to the Customer in the specified proportions at the specified time and in the specified instalments set out in Schedule 2 and subject to Clause 10.4.
- 10.2. In consideration of any further work or attendance required by the Customer of the Company not referred to in Schedule 1, the Customer shall pay to the Company the amounts invoiced by the Company to the Customer based on the Rates set out in Schedule 2.
- 10.3. The Customer shall also pay to the Company all reasonable travelling and other out of pocket expenses incurred in the course of the Project subject to a maximum amount of £200 per day.

- 10.4. The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Company may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 10.5. Payment of sums due by the Customer to the Company shall be made within fourteen days of the receipt of an invoice from the Company. If payment of any sum due to the Company is delayed in addition to its other rights under the Contract, the Company shall be entitled to charge interest thereon at a rate of 4% above Barclays Bank Plc base rate until payment, such interest to accrue both before and after any monetary Judgment of any Court.
- 10.6. Where payment of a sum due is not made within fourteen days of being due the Company is entitled to cease to provide any services under this Agreement, without being in breach of contract. Upon payment all reasonable efforts will be made to re-start work so as to reduce overall delay, however any subsequent delay directly due to the failure of the Customer to pay some or all of the amounts due in a timely fashion will not amount to a breach of this Agreement by the Company.

## **11. Liability and Insurance**

- 11.1. The Company will indemnify the Customer for direct damage to tangible property caused by the negligence of its employees in connection with the performance of their duties under this Contract or by defects in any product supplied pursuant to this Contract. The Company's total liability under this Clause shall be limited to £1,000 for any one event or series of connected events.
- 11.2. The Company accepts no responsibility for losses directly or indirectly incurred as a result of the Customer's actions or omissions in relation to this Contract. This includes, but is not limited to the use of third party software to update the Customer's website or a failure by the Customer to maintain the website in anyway. The Company further reserves the right to charge the Customer additional charges in order to rectify any errors as a direct result of the Customer's actions outside of the scope of this contract.
- 11.3. Save in respect of claims for death or personal injury arising from the Company's negligence, in no event will the Company be liable for any damage resulting from loss of data or use, lost profits, loss of anticipated savings, loss of business nor for any damage that is an indirect or secondary consequence of any act or omission of the Company whether such damage was reasonably foreseeable or actually foreseen.
- 11.4. Except as provided above in the case of personal injury, death and damage to tangible property, the Company's maximum liability to the Customer under this Contract or otherwise for any cause whatsoever (whether in the form of additional cost of remedial services or otherwise) will be for direct costs and damages only and will be limited to a sum equivalent to the price paid to the Company for the Services that are the subject of the Customer's claim.

- 11.5. The parties acknowledge and agree that the limitations contained in this Clause 11 are reasonable in the light of all of the circumstances particularly in respect of the size and nature of the Company compared with the size and nature of the Customer, the Customer's ability to obtain its own insurance and on the basis that this clause has been considered by the parties when agreeing the Price for the Services.
- 11.6. The Customer's statutory rights as a consumer (if any) are not affected.
- 11.7. All liability that is not expressly assumed in this Contract is excluded.
- 11.8. These limitations will apply regardless of the form of action, whether under statute, in contract or tort including negligence or any other form of action.
- 11.9. For the purposes of this Clause 11, the "Company" includes its employees, sub-contractors and suppliers who shall all have the benefit of the limits and exclusions of liability set out above in terms of the Contracts (Rights of Third Parties) Act 1999.
- 11.10. Nothing in this Agreement shall exclude or limit liability for fraudulent misrepresentations.

## **12. Termination**

- 12.1. This Contract shall continue until completion of the Services unless the Contract is terminated in accordance with any of the provisions of this Clause 12 or any other clause of this Contract
- 12.2. Either party shall be entitled to terminate this Contract forthwith at any time by written notice to the other party if;
  - 12.2.1. the other party commits a breach of any of the terms of this Contract and (if the breach is capable of remedy) fails to remedy the breach within 30 days after receipt of notice in writing to do so; or
  - 12.2.2. the other party becomes subject to an Administration Order, a Receiver or Administrative Receiver or similar appointment, or if an encumbrance takes possession of any of the other party's property or assets, the other party enters into an agreement or composition with its creditors, ceases or threatens to cease to carry on business, becomes insolvent or ceases to be able to pay its debts as they fall due.
- 12.3. Any termination of the Licence or this Contract (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.

## **13. Confidentiality**

- 13.1. Both during this Contract and after its termination, the parties shall treat as confidential and shall procure that its personnel and each of them treat as confidential and shall not (and shall procure that their personnel and each of them does not) other than in the proper provision of the Services required to fulfil the Project, use or disclose to any person, firm or company, any Confidential Information belonging to the other party or its clients, suppliers or customers, not permit its use or disclosure.
- 13.2. The provisions of this Clause 13.1 shall not apply where Confidential Information is divulged to:
  - 13.2.1. either party's own employees and then only to those employees who need to know the same;
  - 13.2.2. either party's auditors, an officer of HM Revenue & Customs, a Court of competent jurisdiction, governmental body or applicable regulatory authority and any other persons or bodies having a right, duty or obligation to know the business of the other party and then only in pursuance of such right, duty or obligation.
- 13.3. Both parties undertake to ensure that persons and bodies referred to in Clause 13.2 are made aware before the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to the other party.
- 13.4. Each party to this Contract shall promptly notify the other party if it becomes aware of any breach of confidence by any person to whom it divulges all or any part of the Confidential Information and shall give the other party all reasonable assistance in connection with these proceedings which the other party may institute against such person for breach of confidence.
- 13.5. The provisions of this Clause shall survive the termination of this Contract but the restrictions contained in Clause 13.1 shall cease to apply to any information which may come into the public domain otherwise than through unauthorised disclosure.
- 13.6. Nothing in this Clause 13 shall prevent the Company from exploiting any inventions or software that it develops during the term of this Contract.



## 14. Data Protection

- 14.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 14 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this clause 14, **Applicable Laws** means (for so long as and to the extent that they apply to the Provider) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK.
- 14.2. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Company is the data processor (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation).
- 14.3. Without prejudice to the generality of clause 14.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Company for the duration and purposes of this agreement.
- 14.4. Without prejudice to the generality of clause 14.1, the Company shall, in relation to any Personal Data processed in connection with the performance by the Company of its obligations under this agreement:
- 14.4.1. process that Personal Data only on the written instructions of the Customer unless the Company is required by Applicable Laws to otherwise process that Personal Data. Where the Company is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Company shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Company from so notifying the Customer;
- 14.4.2. Ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 14.4.3. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 14.4.4. not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the customer has been obtained and the following conditions are fulfilled:
- 14.4.4.1. the Customer or the Company has provided appropriate safeguards in relation to the transfer;
- 14.4.4.2. the data subject has enforceable rights and effective legal remedies;
- 14.4.4.3. the Company complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- 14.4.4.4. the Company complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- 14.4.5. assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 14.4.6. notify the Customer without undue delay on becoming aware of a Personal Data breach;
- 14.4.7. at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and

14.4.8. maintain complete and accurate records and information to demonstrate its compliance with this clause 14.

14.5. the Customer does not consent to the Company appointing any third party processor of Personal Data under this agreement. As between the Customer and the Provider, the Company shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 14.

14.6. either party may, at any time on not less than 30 days' notice, revise this clause 14] by replacing it with any applicable controller to processor standard clauses or similar terms.

## **15. Interpretation**

15.1. In this Contract unless the context otherwise requires:

15.1.1. words importing the singular number include the plural number and vice versa;

15.1.2. words importing persons include firms, companies and corporations and vice versa;

15.1.3. references to numbered clauses and schedules are references to the relevant clause in or schedule to this Contract;

15.1.4. reference to any schedule to this Contract to numbered paragraphs relate to the numbered paragraphs of that schedule;

15.1.5. the headings to the clauses, schedules and paragraphs of this Contract will not affect the interpretation;

15.1.6. any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment;

15.1.7. any obligation on any party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;

15.1.8. any party who agrees to do something will be deemed to fulfil that obligation if that party procures that it is done.

15.2. In the case of conflict or ambiguity between any provision contained in the body of these Terms & Conditions and any provision contained in any schedule, the provision in the body of these Terms & Conditions shall take precedence.

## **16. Agency, Partnership**

This Contract shall not constitute or imply any partnership, joint venture, agency fiduciary relationship or other relationship between the parties other than

the contractual relationship expressly provided for in this Contract.

## **17. Amendments**

This Contract may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties.

## **18. Assignment**

18.1. This Contract is personal to the parties and, subject to Clause 18.2 below, neither this Contract nor any rights, licences or obligations under it may be assigned by either party without the prior written approval of the other party.

18.2. Notwithstanding the foregoing, either party may assign this Contract to any acquirer of all or of substantially all of such party's equity, securities, assets or business relating to the subject matter of this Contract or to any entity controlled by, that controls, or is under common control with a party to this Contract. Any attempted assignment in violation of this clause will be void and without effect.

## **19. Entire Agreement**

This Contract supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties relating to the subject matter of this Contract. However, the obligations of the parties under any pre-existing non-disclosure agreement shall remain in full force and effect insofar as there is no conflict between the same. The parties confirm that they have not entered into this Contract on the basis of any representations that is not expressly incorporated into this Contract.

## **20. Force Majeure**

Notwithstanding anything else contained in this Contract, the Company shall not be liable for any delay in performing its obligations under this Contract if such delay is caused by circumstances beyond its reasonable control (including without limitation any delay caused by any act or omission of any other party). Subject to the Company notifying the Customer of the reasons for the delay, the performance of the Company's obligations shall be suspended during the period that the said circumstances persist and the Company shall be granted an extension of time for performance equal to the period of the delay. Save where such delay is caused by the act or omission of the Customer (in which event the rights, remedies and liabilities of the Company shall be those conferred and imposed by the other terms of this Contract or by law):

20.1. any costs arising from such delay shall be borne by the party incurring the same;

20.2. either party may, if such delay continues for more than 10 weeks, terminate this Contract forthwith giving notice in writing to the other save that the Customer shall pay the Company a reasonable sum in respect of any work carried out by it prior to such termination and for that purpose the Company may deduct such sum from any amounts previously paid by the Customer under this Contract (the balance (if any) of which shall be refunded to the Customer whether paid by way of deposit or otherwise).

**21. Notices**

All notices under this Contract shall be in writing and shall be deemed to have been duly given:

- 21.1. when delivered, if delivered by hand during normal business hours of the recipient; or
  - 21.2. when sent, if transmitted by fax or e-mail and a successful transmission report or
  - 21.3. return receipt is generated; or
  - 21.4. in the second business day following mailing, if mailed by national ordinary mail, postage pre-paid;
- in each case addressed to the most recent address or facsimile number notified to the other party.

**22. Schedules**

The provisions of Schedules 1- 2 shall form part of this Contract as if set out here.

**23. Severance**

If any provision of this Contract is prohibited by law or judged by a Court to be unlawful, void or unenforceable the provision shall, to the extent required, be severed from this Contract and rendered ineffective as far as possible without modifying the remaining provisions of this Contract and shall not in any way affect any other circumstances of or the validity or enforcement of this Contract.

**24. Successors and Assignees**

- 24.1. This Contract shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assignees and references to the party in this Contract shall include its successors and permitted assignees.
- 24.2. who for the time being is entitled by assignment, novation or otherwise) to that party's rights under this Contract (or any interest in those rights); or
- 24.3. who, as administrator, liquidator or otherwise, is entitled to exercise those rights, and, in particular, those references include a person to whom those rights (or any interest in those rights) are transferred or pass as a result of a merger, division, reconstruction or other reorganisation involving that party. For this purpose, references to a party's rights under this Contract include

any similar rights to which another person becomes entitled as a result of a novation of this Contract.

**25. Waiver**

No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of this Contract shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this Contract. No right, power or remedy in this Contract conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party.

**26. Time**

- 26.1. The Company will use all reasonable endeavors to achieve completion of the Services in accordance with any time specified in Schedule 1 or otherwise but each date and time appearing in the said Schedule or other document is to be treated as an estimate only and time shall not be of the essence in respect of the whole or any part of the Services.
- 26.2. The Customers' obligations to pay sums under this Contract are absolute and time shall be of the essence in respect of the same.

**27. Sub-Contracting**

The Company may perform any or all of its obligations under this Contract through agents or subcontractors, provided that the Company shall remain liable for such performance and shall indemnify the Customer against any reasonably incurred loss or damage suffered by the Customer arising from any act or omission of such agents or sub-contractors but subject to the limitations set out in this Contract.

**28. Third Parties**

The parties confirm their intent (subject to Clause 11.8) not to confer any rights on any third parties by virtue of this Contract and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Contract.

**29. Proper Law and Jurisdiction**

- 29.1. This Contract and all matters arising from it and any dispute referred to below shall be governed by and construed in accordance with the law of England and Wales.
- 29.2. Each party recognises that the other party's business relies upon the protection of its Intellectual Property Rights ("IPR") and that in the event of a breach or threatened breach of IPR the other party will be caused irreparable damage and such other party may therefore be entitled to injunctive or other equitable relief in order to prevent a breach or threatened breach of its IPR.

- 29.3. With respect to all other dispute which are not IPR related pursuant to Clauses 29.1 and 29.2 above and its special rules the following procedures in Clauses 29.3 to 29.6 shall apply. Where there is a dispute the aggrieved party shall notify the other party in writing of the nature of the dispute with as much detail as possible about the deficient performance of the other party. A representative from senior management of each of the parties ("representatives") shall meet in person or communicate by telephone within 5 business days of the date of the written notification in order to reach an agreement about the nature of the deficiency and the corrective action to be taken by the respective parties. The representatives shall produce a report about the nature of the dispute in detail to their respective boards and if no agreement is reached on corrective action, then a representative of each party shall meet in person or communicate by telephone to facilitate an agreement within 5 business days of a written notice by one to the other. If the dispute cannot be resolved at board level within a further 5 business days, or if the agreement upon completion dates in any written plan of corrective action are exceeded, either party may seek its legal remedies as provided below.
- 29.4. If the parties cannot resolve a dispute in accordance with the procedure in Clause 28.3 above then they shall seek to resolve the dispute or difference amicably by using an Alternative Dispute Resolution ("ADR") procedure acceptable to both parties before pursuing any other remedies available to them. If either party fails or refuses to agree to or participate in the ADR procedure or if in any event the dispute or difference is not resolved to the satisfaction of both parties within 30 days after it has arisen, the matter shall be settled in accordance with the procedure below.
- 29.5. If the parties cannot resolve the dispute by the procedures set out above, the parties shall irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales for the purposes of hearing and determining any dispute arising out of this Contract.
- 29.6. While the dispute resolution procedure above is in progress and any party has an obligation to make a payment to another party or to allow a credit in respect of such payment, the sum relating to the matter in dispute shall be paid into an interest bearing deposit account to be held in the names of the relevant parties at a clearing bank and such payment shall be a good discharge of the parties' payment obligations under this Contract. Following resolution of the dispute, whether by mediation or legal proceedings, the sum held in such account and any interest accrued shall be payable as determined in accordance with the mediation or legal proceedings.