

**IMCI (SERVICES) LTD &
CONTEXT PLUS LTD
PURCHASING**

**GENERAL
TERMS AND CONDITIONS**

General Conditions of Purchase ("The Conditions")

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the words below have the meanings next to them unless the context requires otherwise:

Affiliate

In relation to a body corporate:

- any subsidiary of that body corporate
- any holding company of that body corporate
- any subsidiary of that holding company

and the terms "**holding company**" and "**subsidiary**" shall have the meanings given to them by section 1159 of the Companies Act 2006.

Background IPR

Any and all IPR controlled or owned by a party prior to the date of commencement of a Contract, any IPR generated by any of the parties independently of a Contract and any IPR generated by the Seller which is not generated by the Seller specifically for the Buyer in connection with an Order.

Business Day

Monday to Friday inclusive excluding Public Holidays in England.

Buyer

The person, firm or company so named in an Order.

Buyer Brand

Any brand, logo or trade mark which:

- has been developed by the Seller or a third party for the Buyer
- incorporates the Buyer's brand
- is a brand already owned by the Buyer
- is being or has been used by the Buyer without reference to the Seller
- is developed at the Buyer's cost (whether directly or indirectly)
- is developed by the Seller jointly with the Buyer or is otherwise intended by the parties as being a brand to be owned by the Buyer for the Buyer's exclusive use

Confidential Information

All information or data (whether oral, visual, recorded in writing, in any other medium or by any other method) disclosed to or obtained by one party from the other or from a third party, including any information relating to a party's operations, processes, plans, intentions, price lists, pricing structures, know-how, design rights, trade secrets, software, market opportunities, customers and business affairs and shall also include the Specification and the Technology

Contract

The contract for the Supplies between Buyer and Seller consisting of the Order, these Conditions, any Special Conditions, the SLA and any other documents (or parts thereof) agreed between the parties to form part of the contract

Foreground IPR

Any IPR generated by the Seller specifically for the Buyer in connection with an Order

Goods

All goods covered by an Order, whether raw materials, processed materials, tools, jigs, equipment, fabricated products, parts, sub-assemblies, finished goods or otherwise

IPR

Any patent, copyright, registered design, design right, trade mark, database right, software, other industrial or intellectual property right whether registerible or not anywhere in the world

Order

A Buyer's purchase order

Price

The purchase price for the Goods and/or Services as set out in the Order

Seller

The person, firm or company to whom an Order is issued

Services

All services covered by an Order

SLA

A service level agreement agreed between the parties, which sets out further, specific terms and conditions and forms part of the Contract

Special Conditions

Any additional conditions referred to in an Order

Specification

The quantity, quality and description of the Goods and/or Services to be provided by the Seller and any applicable plans, drawings, artwork, samples, testing regimes, certification requirements, data or other information relating to the Goods and/or the Services supplied by the Buyer or agreed in writing by the Buyer

Supplies

Goods and/or Services

Technology

Any of the following: artwork, samples, testing regimes, certification requirements, methods, techniques, discoveries, inventions (whether patentable or not), formulae, formulations, technical and product specifications, equipment descriptions, plans, layouts, drawings, computer programs, assembly, quality control, installation and operating procedures, operating manuals, technical and marketing information, designs, data, know-how and other information

1.2 The Contract shall contain the complete and final agreement between the Buyer and the Seller notwithstanding anything to the contrary in the Seller's standard conditions or in any tender, quotation, acknowledgement, advice note, invoice, letter or any other document issued or sent by the Seller. No variation to the Contract shall apply except with the written agreement of the Buyer.

1.3 In the event of any conflict between the provisions of the documents comprising the Contract, such documents shall have the following priority:

1. Special Conditions
2. the SLA
3. the Order
4. the Conditions

where the Special Conditions take the highest (no.1) priority

- 1.4 For the purposes of this Contract, time of delivery shall be of the essence of the Contract.
- 1.5 Subject to the priority referred to in Condition 1.3 and subject to any written agreement signed on behalf of both parties, these Conditions shall apply to all Orders for Supplies placed by the Buyer with the Seller, notwithstanding anything to the contrary contained in a quotation, catalogue, price list, order, acknowledgement or any other document, including any terms or conditions which the Seller may purport to apply.
- 1.6 The headings in these Conditions are included for ease of reference only and do not affect their interpretation or construction.

2. AUTHORITY

The Buyer shall not be liable for any order, order amendment or instructions to proceed with orders unless and until authorised or confirmed on the Buyer's printed Order/Order amendment documentation.

3. PURCHASE PRICE

- 3.1 Unless otherwise stated in the Order, the Price for the Goods and/or Services stated in an Order shall be fixed and shall exclude VAT or other sales tax. All other indirect charges such as packing, freight, insurance, export duties, import duties and all other similar charges shall be shown separately on the invoice. No increase, imposts or levies whatsoever in the Price may be made without the prior written consent of the Buyer.
- 3.2 In the event of any Price variation requests by the Seller, the Seller shall supply to the Buyer such evidence as may be reasonably requested by the Buyer to support the changes and variations. The Buyer shall be under no obligation to agree to any Price variation request made by the Seller. If the Buyer does not agree to a Price variation request, the Price of the Supplies shall be the Price stated in the Order.

4. DELIVERY

- 4.1 The Seller will deliver the Goods to and/or perform the Services at the address and on the date or within the delivery period stated in the Order and, unless otherwise stated in the Order, during the Buyer's usual business hours. Delivery takes place when the Seller, its carrier or agent hands over Goods to the Buyer or its carrier or agent ("**Delivery**').
- 4.2 Where the date of delivery of the Goods or performance of the Services is to be specified after the placing of the Order, the Seller will notify the Buyer of the proposed delivery date. The Buyer may accept or reject the proposed delivery date. If the Buyer accepts the proposed delivery date, the Seller shall deliver the Goods or perform the Services on that date. If the Buyer rejects the proposed delivery date, the Buyer reserves the right to cancel the order at any time before delivery of the goods and services by the seller or the buyer shall propose an alternative delivery date and the Seller shall deliver the Goods or perform the Services on the date specified by the Buyer.
- 4.3 The Buyer reserves the right to defer the date of delivery of the Goods or performance of the Services if the Buyer is not ready to accept delivery of the Goods or performance of the Services on the delivery date. If the Buyer defers the date of delivery of the Goods or performance of the Services, the Seller shall store any Goods at the Seller's sole risk and expense and shall deliver the Goods or perform the Services on the date specified by the Buyer.
- 4.4 The Goods shall not be delivered and the Services shall not be performed in instalments without the Buyer's prior written consent. If the Goods are to be delivered or the Services are to be performed by instalments the Order will be treated as a single Order and not severable. Where it is agreed that the Goods may be delivered or the Services may be performed by instalments, each instalment may be invoiced and paid for

separately. However, failure by the Seller to deliver or perform any one instalment on time or any defect in any one instalment shall entitle the Buyer to the remedies set out in the Contract in respect of the whole Order.

4.5 Any time or period for Delivery, despatch, completion and/or performance of the Services ("Performance") shall be of the essence. Where the Delivery, despatch, completion and/or Performance does not occur on the stated delivery date or within the stated delivery period, the Buyer shall be entitled to reimbursement from the Seller of all losses, damages and expenses suffered and, without prejudice to any other remedy, the Buyer may:

4.5.1 in writing, (and without affecting its rights under Condition 9 Warranty) cancel the Order without liability to the Seller and/or reject the Goods and/or Services and the Seller will promptly collect any Goods that have been delivered and repay the Buyer any part of the Price that it has paid. The Buyer shall store any Goods pending collection by the Seller at the Seller's sole risk and expense; or

4.5.2 require the Seller promptly, and in any event within seven days, to deliver sufficient replacement Goods and/or Services which correspond to the Order and the quantity required.

4.6 If the Seller:

4.6.1 delivers less than the quantity of Goods ordered, the Buyer may accept the Goods or reject the Goods. If the Buyer accepts the Goods, the Seller shall make a pro-rata adjustment to the invoice for the Goods to reflect the under delivery;

4.6.2 delivers more than the quantity of Goods ordered, the Buyer may accept the Goods, reject the Goods or reject the excess Goods.

4.7 If the Buyer rejects any Goods under Condition 4.6, the Seller shall at its own cost promptly collect the rejected Goods from the Buyer. The Buyer shall store any Goods pending collection by the Seller at the Seller's sole risk and expense.

4.8 All Goods supplied against an Order must be adequately packed and protected against damage and deterioration in transit (in accordance with any instructions provided by the Buyer) and delivered to the Buyer's nominated delivery address, or as otherwise notified in writing to the Seller and must bear the Buyer's Order number on the packages thereof. Unless otherwise provided in the Order all containers and packing materials supplied by the Seller shall be considered non-returnable and their costs shall be included in the Price unless the use of reusable containers has been agreed

4.9 All packages must be clearly marked with the country of origin of the Goods, name and address of sender, and show the Order number, gross tare, net weight and/or quantity.

4.10 The Seller will supply the Buyer in good time with any instructions or other information required to enable the Buyer to accept Delivery of the Goods and Performance of the Services.

4.11 The Seller must before and on Delivery advise the Buyer of any special requirements or hazards relating to the transportation and/or storage of the Goods and must attach any related warnings and instructions in a clearly visible manner on the outside of their packaging.

4.12 The Seller is liable for any damage, cost, expense and any direct or consequential loss (including loss of income, profit, bargain, saving, goodwill, economic loss or otherwise),

which the Buyer may suffer due to the supply of Goods and/or Services to it not conforming to the Contract.

- 4.13 The Buyer has the right to reject any Goods or Services that do not comply with the Contract, and any rejected Goods shall be promptly collected by the Seller at the Seller's own cost. The Buyer shall store any Goods pending collection by the Seller at the Seller's sole risk and expense. The Buyer is not to be taken as having accepted any Goods and/or Services until it has had a reasonable time to inspect them following Delivery and/or Performance, or if later, within a reasonable time after any latent defects in the Goods and/or Services have become apparent.
- 4.14 This Condition 4 shall apply to the supply of any replacement Goods and to the performance of any replacement Services provided by the Seller under the Contract.

5. ACCEPTANCE OF SUPPLIES

- 5.1 Where acceptance tests are defined in the Contract, acceptance of the Supplies delivered shall be subject to completion of the acceptance tests to the satisfaction of the Buyer. Where no acceptance tests are defined in the Contract the Buyer is not to be taken as having accepted any Supplies until it has had a reasonable time to inspect them following Delivery or Performance (as appropriate), or, if later, within a reasonable time after any latent defects in the Supplies have become apparent.

6. SUB-CONTRACTING, ASSIGNMENT AND SIGNIFICANT CHANGES

- 6.1 None of the work covered by the Order shall be sub-contracted without the prior written permission of the Buyer (such permission not to be unreasonably withheld or delayed). The Seller shall remain responsible for the performance of the Order and shall not assign the Order (or any part of it) or his right to payment hereunder.
- 6.2 The Seller shall give the Buyer not less than 90 days prior written notice (in reasonable detail) of any organisational, operational or other changes which may affect the Seller's performance of the Order, including but not limited to any of the below matters being referred to as a "**Significant Change**":
- 6.2.1 the relocation of any of the Seller's plant which is involved in the manufacture or supply of the relevant Supplies;
 - 6.2.2 the transfer of any significant part of the relevant process or manufacturing operations from one plant to another;
 - 6.2.3 any significant changes to or affecting the workforce employed in relation to the relevant goods Supplies; or
 - 6.2.4 the refusal, suspension, withdrawal or revocation of a relevant quality or capability system or approval.
- 6.3 On receipt of such notice or otherwise the Buyer shall be entitled to review the likely effect(s) of any Significant Change(s) upon the performance of the Order and/or the Buyer's relevant business or operations and/or the quality of the Supplies to be supplied (each a "**Relevant Matter**"). The Seller agrees to promptly provide all reasonable assistance to the Buyer in order to assist the Buyer in its said review and to address the Buyer's concerns arising there from.
- 6.4 The Buyer shall be entitled to suspend the Order for a reasonable period of time without liability where it considers that a Significant Change has or is likely to have a material effect on any Relevant Matter (a "**Material Impact**"). Also, at any time during or after its said review the Buyer may notify the Seller in writing of the reason(s) it considers the

Significant Change to have or be likely to have a Material Impact. The Buyer may terminate (without prejudice to any of its other rights) the Order forthwith without liability to the Seller if the Seller fails i) to demonstrate (within 30 days of such notification) to the Buyer's satisfaction that the Significant Change does not and/or will not have a Material Impact, or ii) to conclude (in such period) alternative arrangements acceptable to the Buyer.

6.5 The Seller shall use all its reasonable endeavours to include provisions substantially similar to conditions 6.2 to 6.5 inclusive in its contracts with such of its suppliers as are relevant to the Order ("**Relevant Suppliers**"). The Seller shall promptly:

6.5.1 inform the Buyer if any Relevant Supplier(s) resist(s) the said inclusion of such provisions and/or

6.5.2 notify the Buyer of any matters notified to it pursuant to such provisions, and the Seller shall afford the Buyer all reasonable assistance in order to resolve such matters to the Buyer's satisfaction

7. NEW MATERIALS

7.1 Unless specifically agreed otherwise all materials to be supplied under the Order are to be new.

8. RIGHTS OF ACCESS

8.1 Upon the Buyer providing reasonable notice, the Seller shall (and procure that its sub-contractors shall) allow the Buyer and persons authorised by the Buyer (which may include the Buyer's customers) access to the Seller's premises (and those of its sub-contractors) as are being used to carry out work on the Supplies in order to inspect the facilities, processes and procedures used in manufacturing the Supplies. The Seller shall provide all reasonable assistance (including, where appropriate, access to office accommodation, telephone and fax facilities) to enable the rights set out in this condition to be exercised fully. Such inspection does not relieve the Seller of any liability nor does it imply acceptance of the Supplies which are the subject matter of the Order.

9. WARRANTY

9.1 The Seller warrants that:

9.1.1 the Supplies conform in all respects with the Specification referred to in the Order or otherwise agreed by the Buyer;

9.1.2 the Goods are free from defects (whether actual or latent) in design, materials and workmanship;

9.1.3 the Goods will be of satisfactory quality and fit for any purpose made known by the Buyer to the Seller expressly or by implication;

9.1.4 the design, manufacture, construction, supply, use and quality of Goods and performance of the Services comply in all respects with any relevant statute, statutory rule, order, directive, regulation or statutory licence, consent, standards or permit or other legal requirement which may be in force at the time;

9.1.5 the Goods, all supporting literature and documentation and all packaging and labelling used in connection with the Goods comply with all statutory requirements and regulations relating to the sale of Goods;

- 9.1.6 the Goods have all necessary export and/or import licences and comply with all relevant government export and/or import regulations;**
- 9.1.7 the Services will be performed by appropriately qualified and trained personnel with due care and diligence and to such standard of high quality and performance as it is reasonable for the Buyer to expect from a fully qualified and experienced provider of the Services; and**
- 9.1.8 all representations, statements or warranties made or given by the Seller, its servants and agents (whether orally, in writing or in any of the Seller brochures, catalogues and advertisements) regarding the quality and fitness for purpose of the Goods or any of the Services will be deemed to be an express condition of the Order.**
- 9.2 The warranty in Condition 9.1 shall, in respect of each item of the Supplies, continue for twenty-four (24) calendar months from the date of acceptance of such item of the Supplies, unless an extended warranty period is agreed between the parties.**
- 9.3 Without affecting any other remedy (whether offered by the Seller or a third party or otherwise), if within twenty-four months of Delivery and/or Performance or, if longer, within the stated shelf life of the Goods, it is discovered that the Goods supplied and/or Services performed do not comply with the Contract, then the Buyer has the right (at the Buyer's sole option) to require the Seller, within thirty (30) days, to remedy any defect in the Goods and/or Services or to supply replacement Goods and/or re-perform the Services in accordance with the Contract at no cost to the Buyer. This right includes replacement of all Goods and/or re-performance of the Services, which because of this breach of Contract are not reasonably capable of being used by the Buyer. Alternatively, and if the defects are not remedied, the Buyer may treat the Contract as repudiated and may require the repayment of the Price, or any part of it, that the Buyer has paid.**
- 9.4 The warranty at Condition 9.1 shall apply to the Supplies or any part of them replaced or re-performed in accordance with these Conditions so that the warranty shall continue for twenty-four (24) calendar months from the date of acceptance by the Buyer of such replaced or re-performed item of the Supplies.**
- 9.5 If a breach of warranty by the Seller causes any of the Supplies not to be available for the Buyer's use within the warranty period for the Supplies then the warranty period for the Supplies shall be extended by the period during which they were not available for use by the Buyer.**
- 9.6 The Seller agrees that all warranties attaching to the Supplies shall be capable of being assigned to a customer of the Buyer or other user by the Buyer without prior written notice to the Seller.**
- 9.7 The Seller will investigate defective items upon request by the Buyer and will provide the Buyer with a written report describing the cause or causes of such defects and setting out details of corrective action which will prevent recurrence.**
- 9.8 If any Goods are rejected by the Buyer as not conforming with the Contract, or if any Goods are to be returned to the Seller to enable the Seller to investigate any alleged defect in the Goods, the Seller shall at its own cost promptly collect the Goods from the Buyer. The Buyer shall store any Goods pending collection at the Seller's sole risk and expense.**
- 9.9 If the Services are to be performed at the Buyer's premises, the Seller shall comply with all health and safety and security requirements notified by the Buyer to the Seller which apply to the premises**

9.10 This Condition 9 shall apply in addition and without prejudice to any other rights and remedies available to the Buyer.

10. RIGHT TO DISPOSE OF GOODS

10.1 If the Seller does not, within thirty days of notification from the Buyer that the Goods are ready for collection, collect from the Buyer any Goods rejected by the Buyer under the Contract or any Goods to be returned to the Seller under the Contract, the Buyer may sell, destroy or otherwise dispose of the Goods without liability to the Seller. The Seller shall indemnify the Buyer in full against all costs and expenses incurred by the Buyer as a result of destroying or otherwise disposing of the Goods. For the avoidance of doubt the Buyer shall not be liable to pay the Seller the Price for any Goods which the Buyer sells, destroys or otherwise disposes of under this Condition 10.

11. PASSING OF PROPERTY AND RISK

11.1 Without affecting its rights to reject the Goods, risk in the Goods passes to the Buyer on Delivery and property in the Goods passes to the Buyer at the earlier of payment, Delivery or the appropriation of the Goods to the Order.

11.2 Where the Goods are delivered in instalments, risk in each instalment of the Goods passes to the Buyer on Delivery of the instalment and property in each instalment of the Goods passes to the Buyer at the earlier of payment, Delivery or appropriation of the Goods to the Order relating to the particular instalment.

12. PAYMENT

12.1 The payment provisions are set out in the SLA and both parties agree to comply with such provisions.

12.2 Inattention to the following details by the Seller may mean delay in payment but no prompt payment discount shall be forfeited by the Buyer on account of the Seller's failure to comply with the following requirements:

12.2.1 invoices will be submitted to the Buyer showing clearly the Buyer's Order number and part numbers;

12.2.2 prices which are net shall be shown on the invoices and any discounts stated;

12.2.3 value added tax (or other sales tax), where applicable, shall be shown separately on all invoices;

12.2.4 to send a monthly statement of account by the 10th of the month quoting the invoice;

12.2.5 to mark clearly the Order number on the consignment package, packing notes, advice notes, invoices, monthly statements and all other correspondence;

12.2.6 to provide any certificate or other documentation required under the Order; and

12.2.7 all payments made shall be without prejudice to the Buyer's rights should the Supplies prove unsatisfactory or not in accordance with the Buyer's order or instructions.

12.3 The Buyer may set off any amounts owed to the Seller by the Buyer against any amounts owed by the Seller to the Buyer. The Seller shall not be entitled to set off any amounts owed to the Buyer by the Seller against any amounts owed by the Buyer to the Seller. The parties agree that this Condition is fair and reasonable and has been taken into consideration in determining the Price.

12.4 If the Buyer fails to make any payment on the due date for payment, the Seller may charge the Buyer interest on such sum from the due date until the date that payment is made at the annual rate of 2% above the base rate from time to time of the Bank of England.

13. Anti-bribery Clause

13.1 The Seller will

13.1.1 Comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including, but not limited to:

- (a) Local and national laws in the territories in which it operates
- (b) The UK Bribery Act 2010
- (c) The US Foreign Corrupt Practices Act 1977
- (d) The UN Convention Against Corruption

13.1.2 comply with the Code of Conduct relating to bribery and corruption which may be found on the UK Bribery Government website

13.1.3 have in place its own policies and procedures to ensure compliance with this condition 13;

13.1.4 ensure that all parties with which it is associated or who are providing goods or services in connection with the contract (including subcontractors, agents, consultants and other intermediaries) are aware of and comply with the requirements of this condition 13;

13.1.5 maintain complete and accurate records of all transactions and payments related to the Contract and, on reasonable request, disclose details of those transactions and payments to the Buyer;

13.1.6 on reasonable request confirm in writing to the Buyer that it has complied with the requirements of this condition 13 and, if so requested, allow the Buyer to verify this compliance by way of an audit of its records; and

13.1.7 immediately inform the Buyer if it suspects or becomes aware of any breach of this condition 13 by one of its employees, subcontractors, agents, consultants or other intermediaries and provide detailed information about the breach.

13.2 The Seller will indemnify, keep indemnified and hold harmless (on a full indemnity basis) the Buyer against all costs, expenses and losses that the Buyer incurs or suffers as a result of any breach by the Seller of any of its obligations under this condition 13. This indemnity will not apply to any fine levied on the Buyer as a result of the Buyer's criminal liability.

13.3 If the Seller breaches this condition 13 the Buyer shall have the right to terminate the Contract without notice and with immediate effect and will be in no way liable to the Seller in respect of such termination for payment of damages or any other form of compensation.

14. TERMINATION

14.1 Termination for Default

- 14.1.1 If the Seller is in breach of the Contract (including, without limitation, the warranty at Condition 9.1) the Buyer may give the Seller a written notice specifying the breach;
- 14.1.2 if the breach is not capable of remedy the Buyer shall be entitled to terminate the Contract and/or any affected Order immediately; or
- 14.1.3 if the breach is capable of remedy, the Seller shall at its own expense rectify the breach within twenty eight (28) calendar days of the date of the notice. If the Seller does not rectify the breach within twenty eight (28) calendar days (or such other period as may be agreed in writing) the Buyer may give written notice to the Seller immediately terminating the Contract and/or any affected Order.

14.2 Termination for Insolvency

- 14.2.1 The Buyer shall be entitled at any time by notice in writing to terminate this Contract or suspend any Order without compensation to the Seller in respect of the terminated/suspended portion in the event that the Seller makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt, or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction), or an encumbrancer takes possession, or a receiver is appointed of any of the property or assets of the Seller, or the Seller ceases or threatens to cease to carry on business, or the Seller becomes unable to pay its debts as they fall due, or any analogous event occurs in any other jurisdiction or the Buyer reasonably apprehends that any of the events mentioned in this Condition is about to occur (and notifies the Seller accordingly).
- 14.2.2 The provisions of this Condition 14 shall at all times be subject to and without prejudice to the remaining provisions of the Contract. Where the Contract is terminated, unless the parties otherwise agree in writing, all Orders forming part of such Contract will automatically be terminated.

14.3 Cancellation

- 14.3.1 An Order may be cancelled (in whole or in part) at any time by the Buyer on written notice to the Seller stating that the Order is cancelled.
- 14.3.2 If such notice is given, the Seller shall comply with any directions regarding the Supplies given by the Buyer (including any requirement to deliver the Supplies to the Buyer or to assist the Buyer to transfer any work in progress over to a replacement supplier).
- 14.3.3 The Buyer and the Seller shall agree a fair and reasonable price for all work reasonably done and materials reasonably purchased by the Seller for the purpose of carrying out work on the Order up to the date of such cancellation (such price to exclude any loss of profits or consequential loss suffered by the Seller as a result of the cancellation), in satisfaction of all sums due to the Seller by the Buyer under this Order.
- 14.3.4 In order to agree such price, the Seller shall submit an account to the Buyer within three (3) months from the date of cancellation in a form satisfactory to the Buyer.
- 14.3.5 The agreed price, together with any sums paid or due to the Seller under the Order before the effective date of termination shall not exceed the total price

of the Supplies under the Order and such payment shall be the Buyer's sole liability in respect of the cancellation.

14.4 Consequences of Termination

14.4.1 On the expiry or termination of the Contract for any reason:

- (a) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected;
- (b) the Seller shall upon request from the Buyer immediately return to the Buyer all of the Buyer's Confidential Information provided to the Seller in connection with the Contract, any Specification, Technology, and Buyer Brand; and
- (c) provisions which expressly or by implication have effect after the expiry or termination of the Contract shall continue in full force and effect including the following Conditions of this agreement: 1, 9, 10, 11, 14.4, 16-24 inclusive, 26 and 27.

15. FORCE MAJEURE

15.1 The Seller shall not be liable for delays in Delivery or Performance due to Force Majeure (meaning an event proved to be beyond the reasonable control of the party seeking to rely upon it) provided that the Seller promptly notifies the Buyer of any delay or anticipated delay as soon as it is known and resumes performance as soon as possible thereafter. However, if such delay exceeds fourteen (14) days the Buyer shall be entitled to terminate any affected Order without incurring any liability whatsoever except in respect of that part of the Supplies already delivered and accepted by the Buyer prior to such termination.

15.2 Should an event of Force Majeure occur, the Buyer may wholly (or partly) suspend or postpone any of its obligations under any affected Order (without incurring any liability) by promptly notifying the Seller in writing. Such suspension or postponement will continue until the circumstances of the Force Majeure have ceased or been overcome or the Buyer notifies the Seller in writing that it wishes to resume its obligations under the Order or until the Buyer notifies the Seller that it wishes to terminate the Order in accordance with Condition 15.1 above.

16. SPECIFICATION

16.1 Any Specification, Technology or Buyer Brand supplied by the Buyer to the Seller, or specifically produced by the Seller for the Buyer in connection with the Order, together with the IPR in such Specification, Technology and Buyer Brand, will be the exclusive property of the Buyer. The Seller will not disclose to any third party or use any such Specification, Technology or Buyer Brand except to the extent that it is required for the purpose of fulfilling an Order from the Buyer. The Seller shall not sell, resell or dispose of any Goods bearing the Buyer Brand to any third party without the prior written agreement of the Buyer.

16.2 Except as set out in this Condition 16, the Seller has no rights in respect of the Specification, the Technology or any Buyer Brand. The Seller may use the Specification, the Technology and Buyer Brand but only for the duration of the Contract and solely for the purposes set out in the Contract.

17. TOOLS AND MATERIALS

17.1 The Seller shall not acquire any legal or beneficial interest in any property supplied to it by or on behalf of the Buyer (whether on free issue or loan) or paid for by the Buyer

and held by the Seller for performance of work on the Order. The Seller shall keep all such property in safe custody at the Seller's risk.

- 17.2 Where the Buyer for the purpose of the Contract issues "free of charge" materials, components, equipment or tools (together "**the Equipment**") to the Seller, such Equipment shall be and remain the property of the Buyer. The Seller shall maintain all such Equipment in good order and condition (which shall be at the Seller's risk), subject, in the case of tooling, patterns and the like to fair wear and tear, all Equipment being subject to reasonable periodic inspection at the Buyer's discretion. The Seller shall keep the Equipment in transport ready containers when not in use. The Seller shall use such Equipment solely in connection with the fulfilment of a Contract and not for its own benefit or the benefit of any third party. The Seller shall not make any changes or modifications to, or copies of, any Equipment without the Buyer's prior written consent. Any surplus Equipment shall be disposed of only with the prior written agreement of the Buyer. Waste, loss or damage of such Equipment arising from bad workmanship or negligence of the Seller shall be made good at the Seller's expense or where this is not possible the Seller shall meet the full replacement cost.
- 17.3 Where the Buyer is required to purchase and has paid for custom made tools, jigs, materials, components, graphic design, colour separations, artwork, photographs, test equipment or any like items from the Seller (together "**the Items**"), those Items shall remain the property of the Buyer. The Seller's original quotation for the supply of all such Items will make provision for full replacement insurance. All such Items will be kept, at the Seller's expense, clean and defect free, protected against corrosion and accidental damage and stored in transport ready containers when not in use. The Seller guarantees to promptly release all such Items to the Buyer upon demand in good working order as to allow the recommencing of manufacture elsewhere. The Seller shall use all such Items solely in connection with the Contract and not for its own benefit or the benefit of any third party. The Seller shall not make any changes or modifications to, or copies of, any Items without the Buyer's prior written consent. The Seller's price for the supply of any Goods produced using such Items will make provision for regular updates and maintenance of all such Items to ensure that they remain in full working order and able to meet the full product Specification as required by the Buyer.
- 17.4 At the request of the Buyer (which may be made at any time) or on completion of the Order, or upon the termination of the Contract or cancellation of the Order to which the Equipment and/or Items relate, such Equipment and Items shall, unless incorporated into the Supplies, be returned promptly to the Buyer. The Seller hereby grants the Buyer an irrevocable licence to enter, with or without vehicles, any premises for the purpose of inspecting or repossessing the Equipment and/or Items stored in any such premises. The Seller will not at any time exercise or seek to enforce any lien or other encumbrance over any of the Equipment or Items or otherwise make the release of the Equipment or Items subject to the payment of a release fee, administration fee or any other sort of ransom fee.
- 17.5 The Seller shall, for the duration of the Contract and for a period of 12 consecutive calendar months following the expiry or termination of the Contract, make sure that all Equipment and Items are at all times whilst they are in the Seller's custody or control insured with a reputable insurer to their full replacement value against loss, damage and theft. The Seller shall, upon request from the Buyer, provide the Buyer with evidence (including copies of certificates of insurance and proof of payment of all applicable premiums) to the Buyer's reasonable satisfaction that the Seller has complied with this Condition 17.5.
- 17.6 Where the Seller is permitted (under Condition 6.1) to enter into a sub-contract in a situation where the sub-contractor will take possession of the Buyer's Equipment or Items, the Seller shall ensure that, in the sub-contract, the sub-contractor agrees to provisions materially the same as in Conditions 17.1 to 17.5 inclusive, to protect the Buyer's ownership of and access to the Equipment and Items.

18.CONFIDENTIALITY AND PUBLICITY

- 18.1 The Seller may, and indeed is actively encouraged to, name the Buyer as a customer of the Seller in circumstances that the Seller reasonably determines to be of benefit to the Seller and the Buyer. However, the Seller shall not disclose to any third party the details of any Contract with the Buyer, without the Buyer's prior written consent.
- 18.2 No party will disclose, and each party will take all proper steps to keep confidential, all Confidential Information of the other which is disclosed to or obtained by it under or as a result of a Contract and will not divulge it to any third party or employee except for the purposes of carrying out their obligations under a Contract. A party in receipt of the other's Confidential Information must ensure that their employees and relevant third parties are aware of the confidential nature of the Confidential Information and comply with the provisions of this clause as if named as a party.
- 18.3 The obligations of confidentiality under this clause do not apply to any information or material which the recipient party can prove:
- 18.3.1 was already known to it before it received it from the disclosing party;
 - 18.3.2 was subsequently disclosed to it lawfully by a third party who did not obtain it (whether directly or indirectly) from the disclosing party;
 - 18.3.3 is required to be disclosed by law, order of a court of competent jurisdiction or the requirements of a governmental or regulatory body. Where information is required under these conditions the Buyer should be given notice of disclosure within a reasonable time period prior to disclosure;
 - 18.3.4 was in the public domain at the time of receiving it or has subsequently entered into the public domain other than by reason of breach of this clause or of any obligation of confidence owed by the recipient party or by any of its sub-contractors or sub-licensees to the disclosing party; or
 - 18.3.5 was or is independently developed or being developed by the recipient party.

19.PATENT AND OTHER RIGHTS

- 19.1 Notwithstanding any other provision of these Conditions:
- 19.1.1 all Background IPR shall remain the property of the party introducing the same;
 - 19.1.2 all Foreground IPR developed by the Seller or its subcontractors shall belong to and is hereby assigned to the Buyer. The Seller, at its own cost, shall do or shall procure all necessary acts to vest the Foreground IPR in the name of the Buyer, such acts to include (without limitation) the execution of documents;
 - 19.1.3 except as otherwise expressly provided in these Conditions, these Conditions shall not be deemed to confer or imply the grant or agreement to grant by the Buyer to the Seller and/or any third party any of the Buyer's rights (including without limitation by way of licence (express or implied and/or directly or indirectly) or otherwise) in and/or under the Buyer's Background IPR; and
 - 19.1.4 The Seller acknowledges and agrees that a breach of the provision of this Agreement by the Seller will cause irreparable harm to the Buyer for which money damages will not be adequate and that the Buyer shall be entitled to seek immediate injunctive relief to protect its rights under this Agreement without prejudice to its right to seek other remedies.

- 19.2 The Seller hereby grants to the Buyer a non-exclusive, irrevocable, worldwide, royalty free, perpetual, transferrable licence to use the Seller's Background IPR for the purpose of making use of the Supplies and for the purpose of exploiting any Foreground IPR.
- 19.3 The Seller warrants that having carried out all reasonable investigations, the Supplies and the intended use of the Supplies by the Buyer and its customers will not infringe any IPR or other rights of a third party.
- 19.4 The Seller will at the request and expense of the Buyer take all steps that the Buyer reasonably requires to assist the Buyer in maintaining the validity and enforceability of any of the Buyer's IPR, and the Seller will promptly and fully notify the Buyer of any actual or threatened infringement of any of such IPR, which comes to the Seller's notice.
- 19.5 The Seller shall on demand indemnify the Buyer against all losses, liabilities, actions, claims, damages, injuries, costs and expenses (including reasonable legal costs and expenses) of whatever nature which may be incurred or suffered by or on behalf of the Buyer as a result of the infringement or alleged infringement of any third party IPR caused by the use by the Buyer or by any of the Buyer's customers of any Supplies, any Foreground IPR or any of the Seller's Background IPR.
- 19.6 On request to the Seller by the Buyer, the Buyer shall be given full control of any proceedings or negotiations in connection with any claims made against the Seller in respect of the Buyer's IPR and shall cooperate fully with the Buyer in connection with the same. The Buyer shall consult with the Seller in relation to such actions.
- 19.7 The Seller shall procure the waiver of any moral rights in the Supplies or the Foreground IPR to which any individual may be entitled now or at any time in the future.
- 19.8 Context Plus name and Logo are both Registered Trademarks of Context Plus Ltd. The use or reproduction of the Context Plus name and Logo shall not be made by the Seller without the express knowledge and authorisation or permission of the Buyer. By giving the Seller their purchase orders, the Buyer is giving the Seller permission to use / reproduce the Context Plus name and logo on the Buyer's purchase orders only and strictly for the sole purpose of fulfilling the Buyer's purchase orders. The Seller shall not reproduce or use the Context Plus logo and name in any other circumstances. The Seller is only authorised to use and/or reproduce the name and logo of Context Plus on specific products which are designated to be branded with the Context Plus name and logo as designated in the purchase orders given to the Seller by the Buyer. Failure to comply with these terms will represent an express violation by the seller of the United Kingdom Trademark laws and of the Buyer's terms and conditions of purchasing.

20. SOFTWARE WARRANTY

- 20.1 Where software is required to be supplied hereunder the Seller warrants that the Buyer has been provided with any conditions of use or licence terms relating to such software prior to the date of the Order. In the event that such conditions or licence terms have not been provided, the Seller agrees to waive their application and the Seller agrees to fully indemnify the Buyer against all losses, claims, liabilities, damages, costs and expenses arising from the Buyer's use of the software in contravention of any such conditions or licence terms. The Seller warrants that the Seller is the owner of the copyright or other intellectual property in such software to be supplied or has a valid licence from the owner of the copyright or intellectual property to sell or sub-licence the software to the Buyer.
- 20.2 The Seller warrants that any code provided in the Supplies shall not contain any Harmful Code ("**Harmful Code**" shall mean any computer code or programming instructions that are intentionally constructed with the ability to damage or otherwise adversely affect computer programmes, data files or hardware without the agreement or intent of the user, and includes instructions known as worms and viruses). The Seller shall ensure that it has written procedures designed to prevent any such a code being contaminated by Harmful Code, and will, upon request, make such procedures available to the Buyer for review.

21. INDEMNITIES

- 21.1 The Seller shall upon demand indemnify the Buyer in full against all losses, liabilities, actions, claims, damages, compensation, obligations, injuries, costs and expenses (including legal costs and expenses) of whatever nature suffered or incurred by the Buyer resulting from any breach of the Order, or any negligence, breach of contract or breach of statutory duty caused by the acts or omissions of the Seller, its employees, sub-contracts or agents in their performance of the Order or in connection with any defect in any item of the Supplies. This indemnity shall continue in force notwithstanding termination for whatever reason of a Contract but the indemnity shall not apply to the extent that the loss or damage incurred by the Buyer arises due to the act or omission of the Buyer.
- 21.2 The Seller shall upon demand indemnify the Buyer in full against all losses, liabilities, actions, claims, damages, compensation, obligations, injuries, costs and expenses (including legal costs and expenses) of whatever nature suffered or incurred by the Buyer resulting from any death or personal injury or damage to property suffered by any person as a result of that person making reasonable use of the Supplies.
- 21.3 The Seller shall also upon demand indemnify the Buyer in full against all losses, liabilities, actions, claims, damages, compensation, obligations, injuries, costs and expenses (including legal costs and expenses) of whatever nature suffered or incurred by the Buyer resulting from any product recall that may be made by the Seller or any other person in respect of any Goods.

22. INSURANCE

- 22.1 The Seller shall effect public liability insurance and product liability insurance each of not less than thirty five million pounds (£35,000,000) per event or series of related events in respect of loss of or damage to property of the Buyer or a third party or death or injury to persons resulting from or caused by the act or omission of the Seller its employees, agents or subcontractors or the Goods and/or Services supplied.
- 22.2 Should the Seller's legal liability insurance policy cover be in excess of five million pounds (£5,000,000) then the Buyer shall have the full benefit of such policy.
- 22.3 On request by the Buyer, the Seller shall provide the Buyer with a certificate of insurance or such other evidence reasonably satisfactory to the Buyer that the above insurances are in full force and effect in respect of the Seller's obligations under the Order.
- 22.4 The obligations under this Condition 22 shall last for the duration of the Contract and for a period of 12 consecutive calendar months following the expiry or termination of the Contract.

23. RIGHT TO APPOINT A THIRD PARTY

- 23.1 If the Seller is for any reason unable to perform its obligations under the Contract, the Buyer may, at its sole option, appoint a third party to step in and supply the Goods or perform the Services under the Contract ("**Step-In Seller**"). The Seller shall, at no cost to the Buyer, provide the Buyer with all reasonable assistance to effect the transfer of the supply of the Goods and/or the performance of the Services to the Step-In Seller so as to cause minimal disruption to the Buyer and the Buyer's business. The Buyer may, at its sole option, transfer the supply of the Goods and/or the performance of the Services back from the Step-In Seller to the Seller if at any time the Buyer is satisfied that the Seller is in a position to recommence the supply of the Goods and/or the performance of the Services and the Seller shall, at no cost to the Buyer, accept such transfer of the supply of the Goods and/or the performance of the Services from the Step-In Seller to the Seller and Page 15 of 16 shall immediately recommence the

supply of the Goods and the performance of the Services in accordance with the Contract.

23.2 The Buyer shall not be liable to pay the Price to the Seller so far as the Price relates to the supply of Goods or the performance of Services discharged by the Step-In Seller.

23.3 The Seller shall indemnify and keep indemnified the Buyer for and against all costs incurred by the Buyer as a result of, or in connection with, the Buyer appointing a Step-In Seller to supply any Goods or perform any Services so far as those costs exceed the Price the Buyer would have paid to the Seller had the Seller supplied those Goods or performed those Services in accordance with the Contract.

24. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

24.1 Subject to Condition 24.2, a person who is not a party to a Contract has no right under the Contract (rights of third parties) Act 1999 to enforce any term of the Contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

24.2 Any of the Buyer's Affiliates may benefit under these Conditions and the Contract and enforce their terms against the Seller. The parties may vary or terminate these Conditions or any Contract without the consent of any of the Buyer's Affiliates.

25. WAIVER

Any concession or indulgence made by the Buyer shall not be considered as a waiver of the Buyer's rights under the Order unless specifically authorised in writing on the Buyer's printed order or amendment form.

26. NOTICES

26.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next Business Day delivery service to the recipient at its registered office or its principal place of business.

26.2 Any notice or communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt, or otherwise at 9.00 am on the second Business Day after posting.

26.3 This Condition 26 does not apply to the service of any proceedings or other documents in any legal action.

27. LAW

27.1 The construction validity and performance of the Order shall be governed by the Law of England. The parties irrevocably submit to the exclusive jurisdiction of the English courts to the exclusion of all foreign jurisdiction, save that foreign jurisdictions may apply solely for the purposes of giving effect to this paragraph and for the enforcement of any judgement, order or award given under English jurisdiction, and save that the Buyer may commence proceedings in any court of competent jurisdiction for the purposes of claiming injunctive or interim relief.

27.2 Should any provision of a Contract be deemed invalid, illegal or void, then that provision shall be deemed severed from the Contract which shall continue in force notwithstanding such severance. The Parties shall nevertheless negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory

alternative provision in place of the severed provision.

27.3 English shall be the language for all means of communication between the Seller and Buyer in any matter concerning the Contract.