

## Spirit Solar Ltd (trading as Spirit Energy)

### Terms and Conditions

#### 1. DEFINITIONS

In these Terms & Conditions:

- **“Client”** means the person named as the Client on the Order Form;
- **“Commissioning Date”** means the date on which the system is commissioned by the Supplier such that the system is in full working order and installed in accordance with the Contract, such date when relevant to be entered on any MCS Certificate to be provided to the Client;
- **“Cooling off Period”** means a period of 14 days after the Order Date, during which period the Client has the right to cancel the Contract without penalty unless such right is expressly waived by the Client on the Order Form to allow work to commence within 14 days of the Order Date;
- **“Contract”** means the contract between the Client and the Supplier for the Services, comprising the Order Form, the Quotation, these Terms & Conditions, any valid Variation to Contract Schedule issued pursuant to these Terms & Conditions, and where relevant the Self-Survey Form;
- **“Contract Price”** means the price payable by the Client to the Supplier for the Services, as shown on the Order Form (and as varied in accordance with the Contract);
- **“Deposit”** means the deposit paid by the Client on or shortly after the Order Date as specified on the Order Form;
- **“Equipment”** means the equipment and materials referred to on the Quotation, and all cables, pipes, switches and other components to be installed at the Site;
- **“Distribution Network Operator (DNO)”** means a company licensed to distribute electricity in Great Britain, from whom prior permission may be required to connect more than 3.68kW per phase of solar photovoltaic cells, or to connect multiple systems in a single postcode, or to install a battery system;
- **“Energy Performance Certificate (EPC)”** means a certificate containing information about a property’s energy use and energy costs, required (usually with a D-rating or better), to obtain the higher rate Solar PV Feed-in Tariff for the relevant tariff band;
- **“MCS Certificate”** is a certificate issued in respect of any system that falls within the scope of the relevant Microgeneration Installation Standard produced under the Microgeneration Certificate Scheme;
- **“MCS Installation Database”** means the database of renewable energy systems maintained under the Microgeneration Certification Scheme;
- **“Microgeneration Certification Scheme”** means the scheme supported by the UK Government to ensure renewable energy systems are installed in accordance with specified standards;
- **“Order Date”** means the date on which the Order Form is signed by the Client;
- **“Order Form”** means the Supplier's signed Order Form referring to these Terms & Conditions;
- **“Pre-Installation Abort Fee”** means the fee payable by the Client to the Supplier in the event that the contract is cancelled by the Client under Clauses 10.6, 10.7 or 10.9 prior to installation, such fee to be deducted from the Deposit refund where relevant;
- **“Proposed Install Dates”** means the dates on which work is scheduled to take place on Site with the final date being the Commissioning Date, as set out on the Order Form or as subsequently agreed in writing between the Client and the Supplier;
- **“Quotation”** means the quotation given to the Client together with the Order Form and referenced on the Order Form, setting out the Equipment to be installed and the Services to be supplied;
- **“Self-Survey Form”** means a survey form sent by the Supplier to the Client, completed by the Client, and returned to the Supplier prior to the Order Date or the Proposed Install Dates;
- **“Services”** means the supply and installation of the system described on the Quotation;
- **“Site”** means the place where the Equipment is to be installed and the Services carried out;
- **“Subcontractor”** means any person or entity employed directly by the Supplier for the purposes of completing its obligations under this Contract, including without loss of generality consultants, scaffolders, and businesses engaged in excavation. Subcontractors may require access to the Site;
- **“the Supplier”** means **Spirit Solar Ltd**, a limited company, registered in England No 07138647 with its registered office at 44 Portman Road, Reading RG30 1EA, **trading as Spirit Energy**;

- **“Technical Survey”** means a survey by a qualified installer to ensure that the property is suitable for the system at the price quoted on the Order Form, subject where relevant to structural calculations, the obtaining of any D rated (or better) EPC if required, the obtaining of any planning permission and /or prior DNO permission to connect a system to the grid should such permission be required;
- **“Variation to Contract Schedule”** means a schedule setting out a variation to the Equipment and Services to be supplied, to the Contract Price or to the Proposed Install Dates, as agreed between the Client and the Supplier after the Order Date. Only one such schedule can be valid at any one time; this shall be determined as the schedule with the most recent Variation Date;
- **“Variation Date”** the date set out on a Variation to Contract Schedule;
- **“Workmanship Warranty Term”** means the term of the Workmanship Warranty given by the Supplier in respect of its workmanship, to run from the Commissioning Date to and including an anniversary of the Commissioning Date, such term to be 5 years for Solar PV, 2 years for Battery Systems, 1 or 3 years for Electric Vehicle chargers and 1 year for LED lighting systems, unless otherwise stated on the Quotation.

## 2. ENGLISH LAW AND CONTRACT FORMATION

2.1 These Terms & Conditions and any Contract agreed with the Supplier are governed by English law and the English courts, or, if the Site is outside England or Wales, by the law and the courts governing at the Site location.

2.2 Acceptance of the Supplier's Quotation and signing of the Order Form by the Client constitutes the Contract for the Supplier to carry out the Services in accordance with these Terms & Conditions.

## 3. GENERAL OBLIGATIONS OF SUPPLIER

### Reasonable Skill and Care, Compliance with MCS installer standards

3.1 The Supplier shall exercise reasonable skill and care in the performance of the Services and shall take full responsibility for the work of Subcontractors employed by the Supplier to assist in the performance of the Services.

3.2 The Supplier shall give not less than 72 hours' notice of the date when the Supplier requires access to the Site.

3.3 Where the installation falls within the scope of the Microgeneration Certification Scheme, the Supplier shall ensure that Equipment is specified and installed in accordance with that scheme, and an MCS Certificate is issued to the Client.

### Timetable

3.4 The Supplier will make every effort to supply the Equipment and Services as specified in the timetable agreed with the Client in the Quotation. The Supplier will notify the Client in the Quotation of any delays in the availability of Equipment known to the Supplier at the time of preparation of the Quotation.

3.5 Delays may occur for reasons beyond the control of the Supplier, such reasons including for example and without loss of generality, severe weather or delays in the availability of Equipment. The Supplier shall notify the Client within 5 working days of becoming aware of any event beyond his control which may prevent or delay completion of the Services. The notice shall specify the cause of the delay, the likely effect on the completion date and the Supplier's proposals for dealing with the matter. The completion date shall then be extended as agreed by the parties or, failing agreement, decided under Clause 12. The Supplier acknowledges that he must take reasonable steps to mitigate or reduce any delay.

The Client acknowledges that unless the Site is a new build property, the Contract Price assumes completion of the Services in a single working day or over consecutive working days, and the Supplier is under no obligation to supply Equipment in stages if some Equipment is available and some Equipment is not available; if the Client requires a staged installation, the Client may request a Variation to Contract in accordance with Clause 5.1; additional charges may apply.

### Equipment Selection

3.7 The Equipment shall comply with the description on the Order Form but if prior to installation, any material component of Equipment to be purchased for the Contract is not available, or only available with a severe delay, the Supplier may select alternative equipment of a comparable specification, value and quality (MCS certified where relevant) and shall notify the Client with relevant details. The Client can either

accept the change of Equipment which shall be confirmed by way of a Variation to Contract Schedule, or they shall be entitled to cancel the Contract with a full refund of their deposit.

#### **Incidental damage at the Site**

3.8 The Supplier shall take every possible precaution to prevent incidental damage to the property during the installation of the Equipment. To avoid any misunderstandings, so far as is reasonably practicable, the Client undertakes to inspect as relevant the roof, loft space and any other area of the property in which the Supplier has worked, and to notify the Supplier of any such incidental damage that the Client believes to have been caused by the Supplier by 5pm on the third working day following the Commissioning Date. If such notification is made within three working days after the Commissioning Date, the Supplier will investigate the damage and repair any damage for which it accepts liability. If notification is made more than three working days after the Commissioning Date, the Supplier cannot be held responsible for the damage if it could reasonably have been identified by the Client within three days of the Commissioning Date.

When required, the Client must allow the Supplier to effect a remedy using Supplier tradespersons and under no circumstances will the Supplier be held liable for the costs of reparations by third parties that the Supplier has not expressly agreed in writing.

#### **4. GENERAL OBLIGATIONS OF CLIENT**

4.1 The Client shall give the Supplier and all Subcontractors access to the Site as required by the Supplier to enable the Supplier to carry out and complete the Services without interference by the Client or by other suppliers or contractors of the Client. This includes sufficient access for all excavators and any other plant required in order to perform the Services.

4.2 The Client will be expected to provide electrical power, running water and toilet facilities where reasonably possible (except on new build sites).

4.3 The Client permits the Supplier to take photographs of the Site or to complete a pre-existing damage form prior to the start of the project. The Supplier may only take photographs relevant to proving pre-existing condition. In the unlikely event that the Supplier damages the Site, this will be

covered by Supplier insurance for the full amount. However claims that the Supplier is able to dispute photo evidence may incur a £50 charge per complaint to cover administrative costs.

#### **Client delays**

4.4 If the Client wishes to amend the Proposed Install Dates once agreed in writing on the Order Form, or subsequently, then the Client shall notify the Supplier of such amendment at least three weeks before the original Proposed Install Dates, unless the period between the Order Date and the original Proposed Install Dates is less than three weeks, in which case the notice period shall be two weeks. If the Client amends the Proposed Install Dates without giving the required notice, then the Supplier shall make all reasonable endeavours to fill the original Proposed Install Dates with other chargeable work. If the Supplier is unable to fill the original Proposed Install Dates with other chargeable work, then the Supplier reserves the right to charge the Client for expenses and / or the loss of profits resulting from the amendment to the Proposed Install Dates. The hourly and daily rates that result from any unexpected work are set out in the Quotation.

4.5 The Client is responsible for obtaining any planning permission required for the Services. If required the Supplier shall provide assistance as set out in the Quotation.

4.6 For installations requiring groundworks, it is the Client's responsibility to provide the Supplier with accurate information concerning the location of known underground services and utilities, or to provide the Supplier with assurance that there are no utilities, gas, electricity sewerage or other such services under the groundworks location. Whilst the Supplier will take all reasonable steps to locate underground services and utilities, the Supplier cannot be held liable for any damage that may result from the Client's failure to identify services and utilities prior to drilling or digging.

4.7 Equipment may require internet connectivity for the purposes of remote monitoring and / or correct functioning. The Supplier cannot be held responsible for problems that arise after the Commissioning Date as a result of issues with the Client's internet connectivity or as a result of router changes. The Client acknowledges that warranties require remote access to be in place where available, should troubleshooting be required. The Supplier reserves the right to charge a call-out fee if the Client calls the

Supplier out after the Commissioning Date in respect of a fault arising from internet connectivity issues or router changes, or if a lack of internet connectivity hinders remote access, necessitating a site visit.

## **5. VARIATIONS**

5.1 If the Client wishes to omit or vary any of the Services (or Equipment) he must inform the Supplier in writing who shall, as soon as practicable, notify the Client of the estimated cost of the variation and the likely effect on the Contract period and completion date.

5.2 Unless the Client withdraws his request for a variation when he receives the Supplier's estimate, the Supplier shall submit a Variation to Contract Schedule which shall set out variations to the Equipment, Services, Contract Price and Proposed Install Dates and will then form part of the Contract.

5.3 If there is a need to submit more than one Variation to Contract Schedule, each such Schedule should supersede its predecessor, rendering the predecessor invalid. Only the Variation to Contract Schedule with the most recent Variation Date shall be valid at any one time.

5.4 The Supplier shall notify the Client if he encounters any difficulties which he could not have reasonably foreseen when preparing the Order Form and in those circumstances, a fair and reasonable adjustment to the Contract Price and the date for completion will be made. A Variation to Contract Schedule will be issued to reflect these adjustments. Without loss of generality this shall include any difficulty resulting from the presence of asbestos containing materials on site which were not identified prior to the commencement of work, any difficulties arising as a result of unsafe wiring which must be made safe as soon as it is discovered and any additional costs incurred to access the Site as a result of heavy rain and/or flooding. The Quotation details the hourly or daily costs that would result from any unexpected work due to site conditions or special circumstances beyond the control of the Supplier.

5.5 In the event that the Site is found to be unsafe at any point before or during the commencement of work, the Supplier shall interrupt the supply of Services and shall notify the Client of the reasons for the interruption. The Client shall be responsible for making the Site safe and shall notify the Supplier within 30 days of the date of interruption that adequate steps are being taken to make the Site safe.

These steps must be complete within 6 months of the date of interruption. Subject to the right to terminate under clause 10.11, the Supplier shall continue the supply of Services as soon as the Supplier deems the necessary corrective measures have been taken to make the Site safe.

## **6. CONTRACT PRICE & PAYMENT**

6.1 The Client shall pay the Supplier the Contract Price in accordance with the payment terms on the Order Form, as varied by any valid Variation to Contract Schedule.

6.2 The Supplier accepts payment by Visa, Maestro, and Mastercard debit and credit cards, BACS transfers and cheques in settlement of an account.

6.3 Unless otherwise specified, prices are quoted exclusive of VAT which will be added at the prevailing rate as appropriate and payable by the Client. The Supplier shall issue a valid VAT invoice or receipt for each such amount.

6.4 If the Client disputes any part of an invoice and wishes to withhold any amount, the Client must notify the Supplier by no later than 5pm on the due date of the payment with a statement setting out the amount(s) he proposes to withhold and the reasons. The Client shall not be entitled to withhold a disproportionate amount of the sum due and the undisputed parts of an invoice must be paid and any disputed amount will be dealt with under clause 13 (Disputes). Except as stated in this clause, the Client shall not withhold any money or set off any amount against invoices of the Supplier.

### **Consequences of late payment**

6.5 If the Client fails to pay any amount properly invoiced, then the Supplier can give 2 working days' notice to suspend work until the payment is received. Any period of suspension will entitle the Supplier to any additional costs incurred as well as an extension of time for completion of the Services. If full payment of the outstanding amount is received by the Supplier before expiry of the notice period, the suspension notice will be cancelled. If full payment is not received, the Supplier will be entitled to provide written notice containing full details of any claim for compensation within 21 days of suspension of work. The Supplier may require the Client to return the Equipment supplied.

6.6 Late payment entitles the Supplier to interest at 3% above the Bank of England Base Rate on the sum outstanding, accruing on a daily basis from the date on which payment becomes due, until the date on which payment is made.

6.7 In the event that the Supplier cannot recover any outstanding amount after 10 working days, the Supplier may employ the services of a debt collection agency. The Client accepts that the debt collection agency will increase the outstanding amount to cover their costs – this fee is levied as soon as the debt is passed from the Supplier to the agency and usually amounts to 33% of the cost of the invoice. Once the debt passes from the Supplier to the debt collection agency, the Supplier has no further involvement in the account and cannot reverse the process or any associated fees.

## **OWNERSHIP**

7.1 Ownership in the Equipment and Services shall remain with the Supplier until payment in full of all amounts due from the Client have been received by the Supplier.

7.2 Liability for any loss or damage to the Equipment not caused by the Supplier shall pass to the Client on the earlier of the Commissioning Date and the passing of Title to the Client. For the avoidance of doubt the Client shall be liable for the Equipment on Site from the Commissioning Date at the Site to the point at which payment is made in full, in accordance with Clause 7.1, after which title passes to the Client.

## **INSURANCE**

8.1 The Supplier shall take out and maintain the following insurances

- Public Liability Insurance for £10,000,000.
- Employer's Liability Insurance for £10,000,000.
- Professional Indemnity Insurance for £5,000,000.

8.2 The Client shall be responsible for insuring all of the Equipment on Site from the Commissioning Date; in the event that Equipment is destroyed or damaged by accident or fire (other than as caused by the Supplier), or stolen prior to full payment being made by the Client, the Client shall still be liable to make full payment under the Contract.

## **9. COMMISSIONING & WARRANTIES**

9.1 Within 7 days of the Commissioning Date, the Supplier shall supply the Client with any guarantees, test certificates and other relevant paperwork related to the Equipment and Services.

9.2 Any defect must be notified promptly and in any event within 7 days of the Client becoming aware of the defect. When the Supplier accepts that the defect is the Supplier's responsibility, the Supplier shall have the option either to repair or replace the defective Services (where this is feasible).

9.3 By way of Workmanship Warranty, the Supplier shall be responsible for remedying defects in workmanship which appear during the Workmanship Warranty Term and which are promptly notified to the Supplier by the Client. Where there is a need to claim on the manufacturer's warranty within the Workmanship Warranty Term, the Supplier shall use its best endeavours to claim under the warranty on the Client's behalf and to replace the faulty equipment free of charge. The Client shall give the Supplier full access to carry out any remedial Services. In the event that the manufacturer of the Equipment has gone out of business and is unable to honour the Equipment warranty during the Workmanship Warranty Term, the Supplier shall suggest alternative Equipment, the cost of which shall be borne by the Client, with installation free of charge by the Supplier. Defects in design or materials supplied by the Client, and defects attributable to fair wear and tear, accidental damage, pest/rodent damage or to misuse or failure by the Client to comply with any operating or maintenance manuals shall not be the responsibility of the Supplier. Where a product has been supplied by the Supplier to divert excess solar PV generation to the Client's hot water tank, the Supplier cannot be held responsible for problems caused by faulty immersion heaters or thermostats. The Client shall also take note of Clause 4.7 of these Terms & Conditions.

9.4 In the event that the Client calls the Supplier out to investigate a problem which turns out not to have been caused by defects in the workmanship of the Supplier or by defects in the Equipment under warranty during the term of the Workmanship Warranty, the Supplier has the right to charge a standard call out fee to the Client, at the hourly rates set out in the Quotation, adjusted by the Retail Price Index applying between the Order Date and the date of call out.

9.5 Except for his liability to remedy any defect for which he is responsible and which are notified to him within the Workmanship Warranty Term, the Supplier shall have no liability to the Client, in contract or in tort, for any other direct, indirect or consequential loss incurred by the Client, including but not limited to loss of use, loss of profit, or loss of tariff income, whether arising out of loss of use of the system or out of variations to the tariff rate applying to the system. Moreover, the aggregate liability of the Supplier under the Contract shall not exceed the Contract Price. However, liability for death or injury of individuals due to the Supplier's negligence is unlimited.

9.6 All terms, conditions and warranties implied by law, trade use or otherwise (including but not limited to any warranties as to quality or fitness for purpose) are excluded to the extent permitted by law. The Client acknowledges that the only warranties are those given expressly by the Supplier in these Terms & Conditions.

## **10. TERMINATION**

### **Termination prior to installation**

10.1 Unless the Client has waived his right to a 14 day Cooling off period, the Client may give notice to terminate the Contract in writing during the Cooling off period, in which case the Supplier will refund any deposit that has been paid under the Contract in full.

10.2 If the Client has provided a Self-Survey Form, then this Self-Survey Form shall form part of the Contract and a Technical Survey will ordinarily not be required. Otherwise, if a Technical Survey has not been carried out prior to the signing of the Order Form, the installation is subject to a Technical Survey which shall be carried out within 28 days of the Order Date.

In the event that the Technical Survey identifies a variation to the specification of the system, or identifies additional work that is needed to ensure a satisfactory and safe installation, compliant with current Building Regulations, then, before work commences on Site, the Supplier shall notify the Client of such variation and any additional costs that may be incurred by the Client as a result of such variation. Such variation shall be set out on a Variation to Contract Schedule. The Client shall be entitled to accept this variation or to cancel the Contract, in which case a full refund shall be made of any payments made under the Contract within 14 days of the variation being notified to the Client.

10.3 In the event that the Technical Survey identifies a reason that the installation is not technically feasible, the Contract shall be cancelled and a full refund shall be made of any payments made under the Contract within 14 days of the Technical Survey.

10.4 In the event that a D rated or better EPC is required for an installation to qualify for full subsidies, such rating is not achieved in the EPC Survey carried out after the Order Date, and the Client gives notice to terminate the Contract, the Contract shall be terminated and payments made by the Client shall be refunded within 14 days of termination, less the cost of the EPC Survey, if such cost was originally borne by the Supplier.

10.5 In the event that planning consent and / or prior approval from the DNO are required for the installation, and the planning application or the DNO application fail so that the installation cannot proceed, the Contract shall be cancelled and a full refund shall be made of any payments made under the Contract within 14 days, less any cost incurred by the Supplier in obtaining an EPC certificate, any structural calculations and any Planning Cost specified in the Quotation.

10.6 Following the Technical Survey, a structural report may be required (if such structural report has not been obtained prior to the Contract being entered into), for example where the Equipment is being installed on a roof. In the event that the structural report identifies a variation to the specification of the system, or identifies additional work that is needed to ensure a satisfactory and safe installation, compliant with Building Regulations, then, before work commences on Site, the Supplier will notify the Client of such variation. Such variation shall be set out on a Variation to Contract Schedule. The Client shall be entitled to accept this variation or to cancel the Contract. The structural report may identify a reason why the installation is not technically feasible, in which case the Contract shall be cancelled. If the Contract is cancelled for any reason as a result of the structural report, the Client shall be refunded any payments made under the Contract, less the Pre-Installation Abort Fee set out in the Quotation, which reflects the reasonable costs of the Supplier up to the point of termination. If the Pre-Installation Abort Fee exceeds the value of any payments made under the Contract, the Client shall pay the Supplier the difference between the Pre-Installation Abort Fee less the value of the payments made under the Contract.

10.7 The Client may give notice to terminate the Contract at any time before the Proposed Install Dates and before the erection of Scaffolding or other preparatory works on Site. Unless the Contract is terminated under Clause 10.1, 10.2, 10.3, 10.4 or 10.5, the Client shall be refunded any payments made under the Contract, less the Pre-Installation Abort Fee set out in the Quotation, which reflects the reasonable costs of the Supplier up to the point of termination. If the Pre-Installation Abort Fee exceeds the value of any payments made under the Contract, the Client shall pay the Supplier the difference between the Pre-Installation Abort Fee less the value of the payments made under the Contract.

10.8 If the Client wishes to terminate the Contract once works have begun on Site, including the erection of scaffolding, then the Client shall bear the reasonable costs of the Supplier up to the point of termination, including the cost of labour allocated to the installation that cannot be redeployed onto another site, the cost of installed Equipment that cannot be re-deployed and any loss still incurred after three months of termination by the Supplier on Equipment purchased but not installed, the Supplier having a duty to mitigate such loss as far as possible.

10.9 If the Client has supplied a Self-Survey Form and has given incorrect information which a layman could reasonably have been expected to have supplied correctly, or if changes occur between the completion of the Self-Survey Form and the installation of the Equipment, and as a result the cost of the works increases, then the Client shall be liable to pay the additional cost of the works, which shall be set out in a Variation to Contract Schedule. If the Client does not wish to accept this additional cost and wishes to abort the contract, the Client shall be refunded any payments made under the Contract, less the Pre-Installation Abort Fee set out in the Quotation, which reflects the reasonable costs of the Supplier up to the point of termination. If the Pre-Installation Abort Fee exceeds the value of any payments made under the Contract, the Client shall pay the Supplier the difference between the Pre-Installation Abort Fee less the value of the payments made under the Contract.

10.10 The Supplier may give 7 days' notice to terminate the Contract if the Client fails to make any payment to the Supplier within 30 days of the payment due date or commits any other material breach of the Contract. After 7 days have elapsed, unless the breach is remedied, the Supplier shall terminate the Contract and shall be entitled to submit

within 4 months a final invoice to the Client for all work done prior to the date of termination. Payment of this invoice shall be due within 14 days of issue of the invoice. The Supplier will be entitled to recover from the Client all reasonable costs incurred up to the point of termination, including the cost of labour allocated to the installation that cannot be redeployed onto another site, the cost of installed Equipment that cannot be re-deployed and any loss still incurred after three months of termination by the Supplier on Equipment purchased but not installed, the Supplier having a duty to mitigate such loss as far as possible.

10.11 The Supplier may give notice to terminate the Contract if the supply of Services is interrupted under Clause 5.5 and the Client does not notify the Supplier within 30 days of the date of interruption that adequate steps are being taken to make the Site safe. The Supplier may give notice to terminate the Contract if the supply of Services is interrupted under Clause 5.5 and the Client has failed to take adequate steps to make the Site safe within 6 months of date of interruption. In this case the Supplier shall submit a final invoice to the Client for all work done prior to the date of interruption. Payment of this invoice shall be due within 14 days of issue of the invoice. The Supplier will be entitled to recover from the Client all reasonable costs incurred up to the point of termination, including the cost of labour allocated to the installation that cannot be redeployed onto another site, the cost of installed Equipment that cannot be re-deployed and any loss still incurred after three months of termination by the Supplier on Equipment purchased but not installed, the Supplier having a duty to mitigate such loss as far as possible.

10.12 The Client may give notice to terminate the Contract if the Supplier commits a material breach and, in the case of a breach capable of remedy, fails to take steps to remedy the breach within 28 days of being requested to do so in writing.

10.13 Either party may terminate the Contract if the other party becomes insolvent or bankrupt or has a receiver, manager or administrative receiver or liquidator appointed.

10.14 Termination shall not affect the accrued rights and liabilities of the parties at the termination date.

## **11. INTELLECTUAL PROPERTY**

11.1 All copyright and other intellectual property rights in designs and documents prepared by the

Supplier shall remain the sole property of the Supplier. The Client shall have a licence to use them, but only for the purposes for which they were prepared. The Supplier shall have a similar licence in respect of drawings and documents issued to him by the Client.

## 12. DISPUTES

12.1 The parties will endeavour to settle any dispute or difference amicably by direct negotiation.

12.2 If they are unable to settle the dispute, it may be referred by either party to adjudication in accordance with the CEDR (Centre for Effective Dispute Resolution) Adjudication Rules. The decision of the adjudicator shall be final and binding on the parties unless a notice of dissatisfaction is served by either party on the other within 28 days of the decision.

12.3 Any dispute that is not resolved by negotiation or adjudication shall be finally settled by the courts of England and Wales or, if the Site is outside England or Wales, by the law and the courts governing at the Site location.

## 13. GENERAL

13.1 **Notices.** Every notice shall be in writing and delivered by hand or sent by first class post to the address of the recipient. A notice sent by post shall be treated as having been received two working days after posting. A notice delivered by hand shall be treated as having been received at the time of delivery unless this is after the normal working hours of the recipient, in which case delivery shall be treated as occurring at 9.00 a.m. on the next working day.

13.2 **Assignment.** Neither party shall assign any of its rights or obligations under the Contract without the prior written consent of the other.

13.3 **Subcontracting.** The Supplier shall not sublet all of the Services but he shall be entitled to sublet parts of the Services. Subcontracting shall not relieve the Supplier of his obligations under the Contract.

13.4 **Entire Agreement.** The Contract is the only agreement between the parties and supersedes any previous arrangements, agreements or understandings relating to the Services. Each party acknowledges that in entering into this agreement it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance

or warranty (whether made negligently or innocently) other than as expressly set out in this agreement. Nothing in this clause shall limit or exclude any liability for fraud

13.5 **Amendment.** Any amendment to the terms of the Contract shall only be effective if it is set out in a valid Variation to Contract Schedule in writing and signed by the Client.

13.6 **Severance.** If any provision of the Contract becomes illegal or unenforceable, this shall not affect the legality or enforceability of any other provision of the Contract. In that situation the parties shall, where possible, use reasonable endeavours to agree an alternative provision which is legally enforceable.

13.7 **Waiver.** The waiver by either party of a breach by the other in the performance of its obligations under the Contract shall not constitute a waiver of any default nor shall failure to complain of any default constitute a waiver of that default by the other party.

13.8 **Data protection.** The Supplier will use the Client's personal data to fulfil the Supplier's obligations under the Contract. Consequently the Supplier may pass the Client's details on to its agents and sub-contractors in its role as Data Controller.