

Select Technology Systems Limited

Terms & Conditions

The Contract between the Client and Select Technology Systems Limited ("**STS**") for the engagement of STS's services is governed by the Terms & Conditions as set out below.

For the avoidance of doubt, the subject matter of these Terms & Conditions includes:

- Provision/installation of hardware and/or software;
- IT support/cloud services
- SelectCare

STS and the Client shall hereinafter be referred to as "**the Parties**".

1. Interpretation.

In these Terms & Conditions unless the context otherwise requires the following expressions shall have the following meanings:

1.1	"Business Day"	Means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;
1.2	"Charges"	Means the charges payable by the Client for the supply of the Services in accordance with Clause 5;
1.3	"Client"	Means the person or company who engages STS for the supply of the Services;
1.4	"Cloud Services"	Means a service or application (which may be provided by a third party appointed by STS) that is outside of a client's on-premises infrastructure. For the avoidance of doubt, the service or application is typically accessed via the Internet;
1.5	"Commencement Date"	Has the meaning set out in Clause 2.2;
1.6	"Confidential Information"	Means the terms of this Agreement, the business, accounts, finance, customers, clients, suppliers, contractual arrangements, operations, plans, products and product information, know-how, designs, trade secrets or any other dealings, transactions or affairs of the Parties, data, materials, technology, computer programs, software, specifications, manuals, business plans, marketing plans or any Intellectual Property Rights as developed by STS or the Client from time to time;
1.7	"Contract"	Means the contract entered into between STS and the Client for the supply of the Goods and/or Services in accordance with these Terms & Conditions;
1.8	"Deliverables"	Means the deliverables as set out in the Schedule to these Terms & Conditions;
1.9	"Goods"	Means hardware and/or software and/or consumables supplied to the Client by STS;
1.10	"Intellectual Property Rights"	Means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;
1.11	"Opening Hours"	Means 08:30 to 17:30 on Business Days, excluding bank/public holidays;
1.12	"Order"	Means the Client's order for the Services as set out in the Client's written acceptance of STS's quotation;
1.13	"Services"	Means services supplied by STS to the Client relating to the provision of IT hardware and/or software and/or the provision of services relating to the support in respect of hardware and/or software and/or SelectCare, including the Deliverables;
1.14	"Supplier Materials"	Means any documentation, descriptive matter or advertising relating to the Services that are provided to the Client during the course of the supply of the Services;

1.15	"Term"	Means the length of the Contract as set out in the Schedule to these Terms & Conditions;
1.16	"Terms & Conditions"	Means these terms and conditions as amended from time to time in accordance with Clause 18.1; and
1.17	"SelectCare"	Means pre-paid services to be supplied by STS to the Client, which may be used for any technical task within our skill-set, not covered by a support contract;
1.18	"STS"	Means Select Technology Systems Limited, a company registered in England and Wales at Unit 4 Cannon Park, Transfesa Road, Paddock Wood, Tonbridge, Kent, TN12 6UF, with company registration number 03028373.

1.19 In these Terms & Conditions, the following rules apply:

- 1.19.1 A 'person' includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.19.2 A reference to a Party includes its personal representatives, successors or permitted assigns;
- 1.19.3 A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.19.4 Any phrase introduced by the terms 'including', 'include', 'in particular' or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- 1.19.5 A reference to 'writing' or 'written' includes faxes and e-mails.

2. Basis Of Contract

- 2.1 The Order constitutes an offer by the Client to purchase the Services in accordance with these Terms & Conditions.
- 2.2 The Order shall only be deemed to be accepted when STS issues written acceptance of the Order at which point and on which date the Contract shall come into existence. For the avoidance of doubt, where such Order reasonably requires, the written acceptance shall include:
 - 2.2.1 Confirmation of the Commencement Date;
 - 2.2.2 Confirmation of the Charges; and
 - 2.2.3 The Schedule to these Terms & Conditions.
- 2.3 The Contract constitutes the entire agreement between the Parties. The Client acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of STS which is not set out in these Terms & Conditions.
- 2.4 Any samples, descriptive matter or advertising issued by STS, and any descriptions or illustrations contained in STS's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Terms & Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 Any quotation given by STS shall not constitute an offer, and is only valid for a period of 7 Business Days from its date of issue.

3. Supply Of The Services & STS's Obligations

- 3.1 STS shall supply the Services to the Client in accordance with the Deliverables all material respects and only during STS's Opening Hours.
- 3.2 STS shall use all reasonable endeavours to meet any performance dates specified in STS's written acceptance of the Client's order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.3 STS shall have the right to make any changes to the Services which are necessary to comply with any applicable laws or requirements, or which do not materially affect the nature or quality of the Services, and STS shall notify the Client any such event.
- 3.4 STS warrants to the Client that the Services will be provided using reasonable care and skill.

Provision Of Hardware and/or Software

- 3.5 Any Services relating to the provision of hardware and/or software are subject to the following:
- 3.5.1 Delivery dates stated by STS are approximate only;
 - 3.5.2 The Client agrees to inspect the outer packaging of any Hardware and/or software for damages upon delivery. In the event that the outer packaging shows obvious signs of damage, delivery should be refused, and the Client shall inform STS by telephone or e-mail immediately;
 - 3.5.3 The Client agrees to inspect the hardware and/or software within 3 Business Days of delivery for damage caused by the carrier or for shortages. STS shall not accept any claims relating to damage caused by the carrier or for shortages beyond such 3 Business Day period;
 - 3.5.4 In the event that the hardware and/or software is found to be inherently faulty, or in the event that the Client no longer requires the hardware and/or software, the Client may return the hardware and/or software to STS in accordance with the following:
 - 3.5.4.1 The Client shall contact STS and request authorisation to return the Goods. For the avoidance of doubt, no returns shall be accepted by STS without prior authorisation;
 - 3.5.4.2 In the event that the Goods are proven to be faulty within the warranty period, such Goods will be replaced, repaired or refunded, whichever is most practicable. All returns will be tested, and any Goods which prove not to be faulty shall be subject to Clause 3.5.4.3;
 - 3.5.4.3 In the event that the Goods are not faulty, or in the event that the Goods are not required by the Client, such Goods may be exchanged for Goods of equal value, or for credit against Goods of a higher value, provided the Goods are returned in an unopened re-saleable condition. If the Client does not require an exchange, STS shall refund the value of the Goods, less a 20% re-stocking fee. For the avoidance of doubt, all refunds exclude carrier fees; and
 - 3.5.4.4 For the avoidance of doubt, bespoke special order Goods may only be returned in accordance with Clause 3.5.4.2;
 - 3.5.5 The Goods shall be despatched for delivery to the Client upon settlement of the invoice in accordance with Clause 5; and
 - 3.5.6 All Goods provided to the Client shall be subject to the manufacturer's standard warranty, unless the Client becomes subject to any extended warranty period.

Support Of Hardware and/or Software

- 3.6 During the supply of any Services relating to the support of hardware and/or software, STS will investigate and/or attempt to rectify malfunctions with any hardware and/or software listed in the Schedule, subject to the following:
- 3.6.1 The Client warrants that the hardware and/or software is fully serviceable on the Commencement Date;
 - 3.6.2 The Services do not include:
 - 3.6.2.1 The repair of external cables;
 - 3.6.2.2 The provision or fitting of consumable items such as, including, but not limited to, documentation, disks, toner/ink cartridges, and laser printer drums;
 - 3.6.2.3 Issues relating to errors outside the scope of the Services; or
 - 3.6.2.4 Remedies in respect of virus or malware attack where such attack has been caused by the negligence of the end-user.
- 3.7 Where the Client has contracted STS to carry out on-site assistance, STS warrants to the Client that any Services require on-site assistance at the Client's premises shall be carried out at no additional charge in the event that the Client's premises are within a 30 mile radius or 1 hour travel time (whichever is less) of STS's offices at 4 Cannon Park, Transfesa Road, Paddock Wood, Kent TN12 6UF. In the event that the Client's premises are not within a 30 mile radius or 1 hour travel time of STS's offices, STS reserves the right to charge travel expenses and associated costs (including, for example, London congestion charges and parking fees) for journeys beyond the 30 mile radius or 1 hour travel time from STS's offices at the hourly rate as set out in the Charges.

- 3.8 For the avoidance of doubt, any Services relating to the support of hardware and/or software do not include the support of hardware and/or software that is not listed in the Schedule.
- 3.9 Any Services relating to the support of hardware and/or software that do not require on-site assistance at the Client's premises may be carried out remotely in accordance with the following:
- 3.9.1 The Client agrees to permit STS full and unrestricted remote access via third party proprietary software to the Client's computer systems and/or devices as may be necessary for STS's supply of the Services;
 - 3.9.2 The Client agrees during the supply of the Services the Client may disclose to STS Confidential Information; and
 - 3.9.3 The Client agrees and understands that the third party proprietary software will run on the Client's computer systems continuously in the background, regardless of whether a support request has been logged with STS. For the avoidance of doubt, STS will have access to the Client's computer systems and to the individual machines used by the Client's users at all times via the third party proprietary software.
- 3.10 Any Services relating to support and/or managed services are subject to the following:
- 3.10.1 If there is any increase or decrease in the number of computer systems and/or devices to be covered by the managed service, STS shall vary the Schedule in accordance with Clause 18.1. For the avoidance of doubt, any increase or decrease in the number of computer systems and/or devices shall be subject to an Invoice to be submitted by STS to the Client;
 - 3.10.2 If there is any increase or decrease the usage of Cloud Services by the Client, STS will vary the Schedule in accordance with Clause 18.1. For the avoidance of doubt, any increase or decrease in the usage of Cloud Services by the Client, shall be subject to an Invoice to be submitted by STS to the Client;
 - 3.10.3 Upon notification by STS of any hardware and/or software belonging to the Client that has exceeded its reasonable lifespan and accordingly become a source of unreliability, the Client shall replace such hardware and/or software at its own expense and within 1 week of STS's notification. In the event that the Client does not replace such hardware and/or software within 1 week, STS shall have the right to suspend supply of the Services under the Contract until such hardware and/or software has been replaced;
 - 3.10.4 In the event that hardware and/or software has been added to the Client's computer systems and/or devices that would conflict with any hardware and/or software as set out in the Schedule, or in the event that the Client has reconfigured any hardware and/or software that may affect the operation of the hardware and/or software as set out in the Schedule, STS shall have the right to suspend supply of the Services under the Contract or terminate the Contract in accordance with Clause 9.1.1;
 - 3.10.5 In the event that STS advises the Client that any hardware and/or software needs to be upgraded or replaced in order for STS to provide the Services effectively, and the Client subsequently refuses to upgrade or replace such hardware and/or software, STS shall have the right to terminate the Contract by giving 30 days' written notice to the Client.

SelectCare

- 3.11 Any Services relating to SelectCare are subject to the following:
- 3.11.1 Cleared payment in full must be received by STS at least 1 week prior to first use of any pre-paid hours;
 - 3.11.2 STS shall supply the Client with a priority service upon notification to STS of a support ticket, and/or a request for consultancy;
 - 3.11.3 STS shall supply the Client with the Services until the number of pre-paid hours has been reduced to zero, at which point the Client may purchase further pre-paid hours;
 - 3.11.4 STS shall, at the request of the Client, provide the Client with details as to the number of pre-paid hours remaining;
 - 3.11.5 STS shall reduce the number of pre-paid hours remaining:
 - 3.11.5.1 On a real-time basis when a support engineer is actively working on a support ticket remotely; and
 - 3.11.5.2 On a quarter-hourly basis (minimum 1 hour) when an engineer is actively working on a support ticket that requires on-site assistance.
- 3.12 Any pre-paid hours are subject to a 24 month expiry, from date of purchase.

- 3.13 Any pre-paid hours are non-refundable once purchased.
- 3.14 STS shall assume that any request for STS to carry out work which is not covered by a support contract will be deducted from existing SelectCare pre-paid hours, unless otherwise notified in advance by the Client.
- 3.15 The Client may use any SelectCare pre-paid hours for services supplied by STS provided that such services are within STS's capabilities. In the event that the Client requests STS to carry out services that are outside STS's capabilities, STS reserves the right to reject the Client's support ticket or request for consultancy.

User Level Support (inc. Select Prestige)

- 3.16 User Level support billing is conducted against Active Directory user object quantities.
 - 3.16.1 STS reserves the right to increase the billed quantities if additional users are identified that require support over the billing period.
 - 3.16.2 Inactive users can be removed, and billing reduced, at the next contract review anniversary.
 - 3.16.3 Changes to supported user numbers for monthly billed agreements can be amended at the next billing cycle.
- 3.17 User Support Onsite visits will be to named business location only.
- 3.18 Smart Devices are defined as handheld mobile devices, which will be supported for business email setup related issues.
 - 3.18.1 The support of applications, or devices, outside Microsoft based architectures will be conducted on a vendor management basis with the relevant supplier and/or manufacturer.
- 3.19 Exchange Online mailboxes are offered for each physical User supported by the agreement, on a one mailbox per user basis.
 - 3.19.1 Migration to the offered mailboxes will be charged as a project cost, dependent on the number of users/mailboxes and the required labour.
 - 3.19.2 Whilst conducting the migration, management of the Clients DNS Zone will be transferred to the Microsoft Portal.
 - 3.19.3 It is the Clients responsibility to arrange for migration away from the included mailboxes, should agreement cancellation be requested, before the final supported day of the cancellation notice period.
- 3.20 Changes to user devices provided for business use must be communicated to STS immediately.
 - 3.20.1 STS reserves the right to refuse support if a change or addition to a supported users business devices has not been communicated, and agreed, in advance of support being sought.
 - 3.20.2 STS will not accept any liability for devices outside the corporate network that have not been pre-agreed.
- 3.21 The testing of patches deployed in accordance with our Patch Management service will be for Microsoft Windows operating systems only.
 - 3.21.1 Patches will be tested on the day following the release (normally a Tuesday) before they are approved.
 - 3.21.2 Once testing is complete workstations will be patched and rebooted in the early hours of the Wednesday morning.
 - 3.21.3 Servers will be patched and rebooted in the early hours of the Sunday morning.
 - 3.21.4 Laptops will be patched any time after they are approved, with the reboot suppressed.
 - 3.21.5 Core applications will also be patched, however the onus of responsibility for compatibility and stability will be with the individual vendor.

4. Client's Obligations

- 4.1 The Client agrees that once the written acceptance of the Order has been issued by STS in accordance with Clause 2.2, the Client may not cancel the Order and that the Contract may only be terminated in accordance with Clause 9, or where hardware and/or software is to be returned, such hardware and/or software may be returned in accordance with Clause 3.5.4.

- 4.2 The Client shall:
- 4.2.1 Ensure that the requirements set out in the Order, including any other information it provides relevant to the supply of the Services, are complete and accurate;
 - 4.2.2 Co-operate with STS in all matters relating to the Services;
 - 4.2.3 Provide STS, its employees, agents, consultants and sub-contractors, with access to the Client's premises, office accommodation, computer systems and other facilities as reasonably required by STS in STS's supply of the Services;
 - 4.2.4 Provide STS with such information and materials as STS may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
 - 4.2.5 Prepare the Client's premises, office accommodation, computer systems and/or devices and other facilities for the supply of the Services, including any reasonably required access outside of the Client's opening hours;
 - 4.2.6 Obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;
 - 4.2.7 Keep and maintain all Supplier Material, hardware, software and other property of STS at the Client's premises, or under the Client's control, in safe custody at its own risk, maintain the Supplier Materials, hardware, software and other property of STS in good condition until returned to STS as necessary, and not dispose of or use the Supplier Materials, hardware, software and other property of STS other than in accordance with STS's written instructions or authorisation;
 - 4.2.8 Back-up any and all data contained on the Client's computer systems and/or devices prior to the supply of the Services, such back-up to be stored onto a removable medium stored separately from the computer systems and/or devices;
 - 4.2.9 Not undertake or allow maintenance to the equipment except with STS's written agreement; and
 - 4.2.10 Sign and return to STS the job sheet, if applicable, indicating that STS has satisfactorily completed the required Services.
- 4.3 If STS's performance of any of its obligations under these Terms & Conditions is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation ("**Client Default**"):
- 4.3.1 STS shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations to the extent the Client Default prevents or delays STS's performance of any of its obligations;
 - 4.3.2 STS shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from STS's failure or delay to perform any of its obligations as set out in this Clause 4.2;
 - 4.3.3 The Client shall reimburse STS on written demand for any costs or losses sustained or incurred by STS arising directly or indirectly from the Client Default.

5. Charges & Payment

- 5.1 The Charges for the Services are in accordance with the following:
- 5.1.1 The Charges shall be set out in STS's written acceptance of the Offer; and
 - 5.1.2 STS shall be entitled to charge the Client for any expenses reasonably incurred by STS or the individuals whom STS engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by STS for the performance of the Services, and for the cost of any materials. For the avoidance of doubt, the Client shall be notified of any such expenses prior to such expenses being incurred.
- 5.2 In respect of invoices:
- 5.2.1 In the event the Services relate to the provision of hardware and/or software, STS reserves the right to invoice the Client prior to the hardware and/or software being despatched for delivery to the Client. For the avoidance of doubt, time for payment shall be of the essence of the Contract;

- 5.2.2 In the event the Services relate to the support of hardware and/or software, STS reserves the right to invoice the Client monthly, quarterly or annually (where the Services relate to regular support of hardware and/or software) or upon completion of the supply of the Services (where the Services relate to a single instance of support of hardware and/or software). For the avoidance of doubt, time for payment shall be of the essence of the Contract; and
- 5.2.3 In the event the Services relate to SelectCare, STS shall invoice the Client in advance of the supply of the Services. For the avoidance of doubt, time for payment shall be of the essence of the Contract.
- 5.3 The Client shall pay each invoice submitted by STS:
- 5.3.1 Within 30 days of the date of the invoice, except in respect of invoices relating to support contracts. For the avoidance of doubt, such invoices relating to support contracts shall be paid immediately; and
- 5.3.2 In full and in cleared funds to a bank account nominated in writing by STS.
- 5.4 All amounts payable by the Client under these Terms & Conditions are exclusive of amounts in respect of value added tax chargeable for the time being ("**VAT**"). Where any taxable supply for VAT purposes is made under these Terms & Conditions by STS to the Client, the Client shall, on receipt of a valid VAT invoice from STS, pay to STS such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.5 Without limiting any other right or remedy of STS, if the Client fails to make any payment due to STS under these Terms & Conditions by the due date for payment ("**Due Date**"), STS shall have the right to charge interest on the overdue amount at the rate of 8% per annum above the then current Bank of England's base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 5.6 The Client shall pay all amounts due under these Terms & Conditions in full without any deduction or withholding except as required by law and the Client shall not be entitled to assert any credit, set-off or counterclaim against STS in order to justify withholding payment of any such amount in whole or in part. STS may, without limiting its other rights or remedies, set off any amount owing to it by the Client against any amount payable by STS to the Client.
- 5.7 The Charges shall be reviewed by STS and are subject to change from time to time.
- 5.8 In the event that the Charges are increased in accordance with Clause 5.7, STS shall notify the Client of such increases prior to the Term being renewed in accordance with the Schedule.
- 5.9 STS reserves the right to increase the Charges where necessary in the event the Client does not adhere to Clause 4.2.
- 5.10 STS reserves the right to increase the Charges for on-site assistance, remote assistance or telephone assistance caused by the Client outside the scope of the Services.

6. Intellectual Property Rights

- 6.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by STS.
- 6.2 The Client acknowledges that, in respect of any third party Intellectual Property Rights, the Client's use of any such Intellectual Property Rights is conditional on STS obtaining a written licence from the relevant licensor on such terms as will entitle STS to license such rights to the Client.
- 6.3 All Supplier Materials are the exclusive property of STS.

7. Confidentiality

- 7.1 A Party ("**Receiving Party**") shall keep in strict confidence all Confidential Information, technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other Party ("**Disclosing Party**"), its employees, agents or sub-contractors, and any other Confidential Information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such Confidential Information to such of its employees, agents or sub-contractors as need to know it for the purpose of discharging the Receiving Party's obligations under these Terms & Conditions, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party.
- 7.2 This Clause 7 shall survive termination of the Contract.
- 7.3 Only Directors and Managers of STS are authorised to sign Client agreements, such as non-disclosure agreements, on behalf of STS. Any other signatories will be considered non-binding.

8. Limitation Of Liability

- 8.1 Nothing in these Terms & Conditions shall limit or exclude STS's liability for:
- 8.1.1 Death or personal injury caused by its negligence, or the negligence of its employees, agents or sub-contractors; or
 - 8.1.2 Fraud or fraudulent misrepresentation.
- 8.2 Subject to Clause 8.1:
- 8.2.1 STS shall under no circumstances whatsoever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with these Terms & Conditions;
 - 8.2.2 STS shall under no circumstances whatsoever be liable to the Client for any loss of profit, or any indirect or consequential loss arising under or in connection with the late delivery beyond the control of STS during the provision of hardware and/or software;
 - 8.2.3 STS shall under no circumstances whatsoever be liable to the Client for any loss of profit, or any indirect or consequential loss arising under or in connection with accident, neglect, virus or malware attacks, network down-time, misuse, transportations or moving, excessive fluctuations in mains electrical supply, damage caused by hardware and/or software not maintained by STS or any other circumstances beyond the control of STS during the support of hardware and/or software;
 - 8.2.4 STS shall under no circumstances whatsoever be liable to the Client for any loss of profit, or any indirect or consequential loss arising under or in connection with the failure or down-time of any third party services or Cloud Services;
 - 8.2.5 STS shall under no circumstances whatsoever be liable to the Client for any loss of profit, or any indirect or consequential loss arising under or in connection with any amendments to the Client's requirements beyond those stated prior to the Commencement Date;
 - 8.2.6 STS's total liability to the Client in respect of all other losses arising under or in connection with these Terms & Conditions, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the values as follows:
 - 8.2.6.1 In the event that STS has provided the Client with Goods, STS's total liability to the Client under this Clause 8.2.6 shall in no circumstances exceed the value of the faulty Goods; and
 - 8.2.6.2 In the event that STS has provided the Client with any other Services, excluding the provision of Goods, STS's total liability to the Client under this Clause 8.2.6 shall in no circumstances exceed the value of the invoice on which the faulty Services are listed in accordance with Clause 5.2.2 or Clause 5.2.3.
- 8.3 Except as set out in these Terms & Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 8.4 The Client shall indemnify STS and otherwise hold STS harmless against any losses, liabilities, costs, legal costs, and expenses that may be incurred in connection with any and all claims and proceedings brought against STS by any individual or company with which the Client enters into a contractual arrangement in connection with the supply the Services by STS.
- 8.5 This Clause 8 shall survive termination of the Contract.

9. Termination

- 9.1 Without limiting its other rights or remedies, each Party may terminate the Contract with immediate effect by giving written notice to the other Party if:
- 9.1.1 The other Party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that Party being notified in writing of the breach;
 - 9.1.2 The other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing or (being a partnership) has any partner to whom any of the foregoing apply;

- 9.1.3 The other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
 - 9.1.4 A petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
 - 9.1.5 The other Party (being an individual) is the subject of a bankruptcy petition or order;
 - 9.1.6 A creditor of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - 9.1.7 An application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other Party (being a company);
 - 9.1.8 A floating charge holder over the assets of that other Party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - 9.1.9 A person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;
 - 9.1.10 Any event occurs or proceeding is taken with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 9.1.2 to Clause 9.1.9 (inclusive);
 - 9.1.11 The other Party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
 - 9.1.12 The other Party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 9.2 Without limiting its other rights or remedies, STS may terminate the Contract with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under these Terms & Conditions on the Due Date.
- 9.3 Without limiting its other rights or remedies, STS shall have the right to terminate the Contract by giving the Client 30 days' written notice.
- 9.4 Without limiting its other rights or remedies, the Client shall have the right to terminate the Contract by giving STS:
- 9.4.1 30 days' notice, in the event that the Term is renewable on a monthly basis in accordance with the Schedule;
 - 9.4.2 90 days' notice, in the event that the Term is renewable on a three monthly basis in accordance with the Schedule; or
 - 9.4.3 90 days' notice, in the event that the Term is renewable on a yearly basis in accordance with the Schedule.
- 9.4 Without limiting its other rights or remedies, STS shall have the right to suspend supply of the Services under the Contract or any other contract between the Client and STS if the Client becomes subject to any of the events listed in Clause 9.1.1 to Clause 9.1.12, or STS reasonably believes that the Client is about to become subject to any of them, or if the Client fails to pay any amount due under these Terms & Conditions on the Due Date.

10. Consequences Of Termination

- 10.1 On termination of the Contract for any reason:
- 10.1.1 The Client shall immediately pay to STS all of STS's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, STS shall submit an invoice, which shall be payable by the Client immediately on receipt.
 - 10.1.2 The Client shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Client fails to do so, then STS may enter the Client's premises and take possession of them.

Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

10.1.3 The accrued rights, remedies, obligations and liabilities of the Parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

10.1.4 Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

11. Force Majeure

11.1 For the purposes of these Terms & Conditions, "**Force Majeure Event**" means an event beyond the reasonable control of STS including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of STS or any other third party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

11.2 STS shall not be liable to the Client as a result of any delay or failure to perform its obligations under these Terms & Conditions as a result of a Force Majeure Event.

11.3 If the Force Majeure Event prevents STSL from providing any of the Services for more than 90 Business Days, STSL shall, without limiting its other rights or remedies, have the right to terminate the Contract immediately by giving written notice to the Client.

12. Assignment & Sub-Contracting

12.1 STS may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights under the Contract and may sub-contract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

12.2 The Client shall not, without the prior written consent of STS, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

13. Notices

13.1 Any notice or other communication required to be given to a Party under or in connection with these Terms & Conditions shall be in writing and shall be delivered to the other Party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other Party's main fax number.

13.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.

13.3 This Clause 13 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this Clause 13, "writing" shall not include e-mails and for the avoidance of doubt notice given under these Terms & Conditions shall not be validly served if sent by e-mail.

14. Waiver

14.1 A waiver of any right under these Terms & Conditions is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a Party in exercising any right or remedy under these Terms & Conditions or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

14.2 Unless specifically provided otherwise, rights arising under these Terms & Conditions are cumulative and do not exclude rights provided by law.

15. Severance

15.1 If a court or any other competent authority finds that any provision of these Terms & Conditions (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of these Terms & Conditions shall not be affected.

15.2 If any invalid, unenforceable or illegal provision of these Terms & Conditions would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

16. No Partnership

- 16.1 Nothing in these Terms & Conditions is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the Parties, nor constitute any Party the agent of another Party for any purpose. No Party shall have authority to act as agent for, or to bind, the other Party in any way.

17. Third Parties

- 17.1 A person who is not a Party to these Terms & Conditions shall not have any rights under or in connection with it.

18. Variation

- 18.1 Except as set out in these Terms & Conditions, any variation, including the introduction of any additional terms and conditions, to these Terms & Conditions, shall only be binding when agreed in writing and signed by STS.
- 18.2 STS reserves the right to amend these Terms & Conditions from time to time as may be required by STS in its course of business.

19. Mediation

- 19.1 In the event of a dispute between the Parties arising out of or in connection with these Terms & Conditions, the Parties agree to engage in mediation moderated by an independent mediator in an effort to resolve such a dispute prior to the initiation of any formal legal proceedings.
- 19.2 Costs arising in connection with the operation of Clause 19.1 shall be split equally between the Parties.

20. Governing Law & Jurisdiction

- 20.1 These Terms & Conditions, and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the Parties hereby irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.