2.1.2 Upon return by Seller of an acknowledgement such Purchase Order shall be deemed to be effective.

2.2.2 A contract effected by the use of email shall be concluded in England and according to the provisions of Sections 4.1 and 7.10.

2.2.4 The parties undertake to implement and maintain security procedures and measures in order to ensure the protection of emailed Purchase Order and acknowledgments against the risks of unauthorised access, alteration, or acknowledgement and to ascertain that the Purchase Order or acknowledgement received is complete and has not been corrupted, are capable of being reproduced in a human readable form and of being printed, if required. Any operational equipment required in this connection shall be retained.

2.5 A complete and chronological record of all Purchase Order and acknowledgements sent by email or fax shall be stored by each party, unaltered and securely, in accordance with these Terms and conditions of Purchase Order.

2.7 Parties shall ensure that electronic or computer records of Purchase Order and acknowledgements sent by email or fax shall be readily accessible, are complete and have not been corrupted, and can be studied carefully.

2.1.2 Upon receipt of an acknowledgement, the parties shall ensure that the Purchase Order is complete and has not been corrupted, and can be studied carefully.

2.2.2 A contract effected by the use of email shall be concluded in England and according to the provisions of Sections 4.1 and 7.10.

2.2.6 If the use of security procedures and measures results in the rejection of, or acknowledgement received is complete and has not been corrupted, are capable of being reproduced in a human readable form and of being printed, if required. Any operational equipment required in this connection shall be retained.

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2.7 Parties shall ensure that electronic or computer records of Purchase Order and acknowledgements sent by email or fax shall be readily accessible, are complete and have not been corrupted, and can be studied carefully.
7.1 If Buyer provides any articles to Seller (e.g. for modification or copying) such articles will remain Buyer’s property at all times. Those articles must be kept confidential and secure and Buyer reserves the right to enter Seller’s premises at any time on reasonable notice to ensure Seller’s and each of its officers, agents and employees are compliant with such obligations. While those articles are in Seller’s custody Seller must not use them, copy them or disseminate them, electronically or otherwise, except in the performance of Contract. Buyer will retain copyrights or other intellectual property rights in such articles, design drawings, computer programs, compilations of data, specifications or the like which Buyer provides to Seller. Seller indemnifies Buyer and each of its officers, agents and subcontractors against any loss and all claims and liabilities incurred by Buyer arising out of or in connection with Seller’s breach of any of the warranties, representations or covenants herein. Seller will demonstrate to Buyer the terms and currency of any such claims.

7.2 All warranties, conditions and other terms implied by statute or common law in contract or, where applicable, by statute or common law in tort (including, without limitation) any alleged or actual infringement of any third party’s intellectual property rights.

7.3 Seller warrants that the Deliverables will be suitable for the intended purpose, will breach any property rights in or about that Deliverable (save to Buyer) unless with Buyer’s express prior consent.

7.4 Seller warrants and represents that (i) the quantity, quality, description and standard of the Deliverables will be suitable for the intended purpose, will be fit for any particular purpose, will not infringe any intellectual property rights in or about that Deliverable (including without limitation) intellectual property rights of any third party.

7.5 All warranties, conditions and other terms implied by statute or common law in contract or, where applicable, by statute or common law in tort (including, without limitation) any alleged or actual infringement of any third party’s intellectual property rights in the Deliverables.

7.6 Seller warrants that the Deliverables will be suitable for the intended purposes expressly notified by Buyer, or any purpose which Seller might reasonably anticipate.

7.7 Seller will indemnify and keep indemnified Buyer and each of its officers, employees, agents and subcontractors immediately upon Buyer’s written demand against any loss, costs, claim, expense or liability (in each case whether direct, indirect or consequential) incurred by Buyer in connection with Buyer’s performance of its obligations in this Contract. If Seller fails to comply with any obligation under the Contract Buyer will be entitled at its sole discretion to reject any Deliverable and Seller will not be entitled to receive payment for that Deliverable.

7.8 If in Buyer’s reasonable opinion the Deliverable does not comply with the Contract, Buyer may require Seller to repair, replace, or re-perform such Deliverable (as the case may be) within 7 days or Buyer may at its sole discretion reject such Deliverable and demand repayment of any sum already paid by Buyer.

7.9 Buyer will not be liable to Seller for any delay or failure to perform any of Buyer’s obligations under this Contract if the delay or failure was due to a cause beyond Buyer’s reasonable control.

7.10 Buyer’s liability in respect of all claims, losses or damages of whatever nature (and in each case whether direct, indirect or consequential), whether arising from tort, breach of contract, indemnity or otherwise under or in connection with the Contract shall not exceed the aggregate of the charges paid by Buyer to Seller in the 12 months preceding the first of such claim.

7.11 Nothing in this Contract shall exclude or limit either party’s liability for any death or personal injury caused by negligence or for any other liability which cannot be excluded or limited by law.

8 Rights

8.1 In respect of any rights Buyer reasonably requires to use the Deliverables for the intended purpose, Seller shall either (i) transfer, or procure to be transferred to Buyer (with full title guarantee) the ownership of such rights (for Deliverables that are unique to Buyer or where Seller using reasonable endeavours is able to do so), or (ii) otherwise, grant a licence, or procure the grant to the Buyer of a licence, for such rights on an assignable, transferable and royalty-free basis.

8.2 If Seller carries out any development work at Buyer’s request and wholly or primarily at Buyer’s expense Buyer will own all intellectual property rights generated by that work, and section 8.3 will apply to those rights.

8.3 Seller will do all things reasonably required by Buyer during or after Performance to perfect any transfer or licence of rights to Buyer under this section or to assist Buyer in registering or authenticating (but not at Seller’s cost enforcing or defending) those rights.

9 Termination

9.1 Any agreement of Buyer to receive and pay for Deliverables may be cancelled by Buyer at its sole discretion provided that Buyer shall reimburse Seller for all irrecoverable costs incurred or unavoidably committed by Buyer up to the point of cancellation. Buyer will be entitled to retain any benefits or indemnities that Seller holds from that other party, in connection with Seller’s breach of this provision including (without limitation) any alleged or actual infringement of any third party’s intellectual property rights.

9.2 Buyer may terminate the Contract without any liability to Seller if: (i) Seller materially or persistently breaches its terms and fails to rectify the breach within ten working days, or (ii) Seller’s business fails.

9.3 Seller will do anything reasonably required by Buyer during or after Performance to perfect any transfer or licence of rights to Buyer under this section or to assist Buyer in registering or authenticating (but not at Seller’s cost enforcing or defending) those rights.

10 Data Protection

For the purposes of this clause, “Applicable Data Protection Law” shall mean the Data Protection Act 2018 (or any applicable successor legislation) and (to the extent that it applies under UK legislation) the General Data Protection Regulation (EU 2016/679); “controller”, “data subject”, “Personal Data”, “processing” and “personal data” and “subject access request”, shall have the meanings given to them under Applicable Data Protection Law.

10.1 If a party discloses Personal Data to the other party (“Receiving Party”) the Receiving Party warrants and represents to the Disclosing Party that it shall:

a) comply with Applicable Data Protection Law;

b) undertake the processing of Personal Data only for the purposes of this Agreement and within the scope of any lawful instructions received from the Disclosing Party, unless it is required to do otherwise by Applicable Data Protection Law; in which case, the Receiving Party shall inform the Disclosing Party of that legal requirement and work with the Disclosing Party to ensure that the Receiving Party processes data in accordance with Applicable Data Protection Law for that purpose. The Receiving Party shall check that it and any of its third parties or subprocessors have the appropriate anti-virus products and malware protection; e) ensuring that personal data is kept secure and is not accessed or disclosed without the appropriate level of security provided for personal data. The Receiving Party shall keep personal data secure and ensure that only those for whom it is necessary to access such personal data are granted access.

10.2 Receiving Party shall:

a) comply with Applicable Data Protection Law;

b) undertake the processing of Personal Data only for the purposes of this Agreement and within the scope of any lawful instructions received from the Disclosing Party, unless it is required to do otherwise by Applicable Data Protection Law; in which case, the Receiving Party shall inform the Disclosing Party of that legal requirement and work with the Disclosing Party to ensure that the Receiving Party processes data in accordance with Applicable Data Protection Law for that purpose.

10.3 If a party discloses Personal Data to the other party (“Receiving Party”) the Receiving Party warrants and represents to the Disclosing Party that it shall:

a) comply with Applicable Data Protection Law;

b) undertake the processing of Personal Data only for the purposes of this Agreement and within the scope of any lawful instructions received from the Disclosing Party, unless it is required to do otherwise by Applicable Data Protection Law; in which case, the Receiving Party shall inform the Disclosing Party of that legal requirement and work with the Disclosing Party to ensure that the Receiving Party processes data in accordance with Applicable Data Protection Law for that purpose.

10.4 Receiving Party shall:

a) comply with Applicable Data Protection Law;

b) undertake the processing of Personal Data only for the purposes of this Agreement and within the scope of any lawful instructions received from the Disclosing Party, unless it is required to do otherwise by Applicable Data Protection Law; in which case, the Receiving Party shall inform the Disclosing Party of that legal requirement and work with the Disclosing Party to ensure that the Receiving Party processes data in accordance with Applicable Data Protection Law for that purpose.

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a) comply with Applicable Data Protection Law;

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a) comply with Applicable Data Protection Law;

b) undertake the processing of Personal Data only for the purposes of this Agreement and within the scope of any lawful instructions received from the Disclosing Party, unless it is required to do otherwise by Applicable Data Protection Law; in which case, the Receiving Party shall inform the Disclosing Party of that legal requirement and work with the Disclosing Party to ensure that the Receiving Party processes data in accordance with Applicable Data Protection Law for that purpose.

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a) comply with Applicable Data Protection Law;

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Protection Law to store the Personal Data;

10.2 The Disclosing Party shall ensure it has all necessary appropriate consents and notices in place to enable the lawful transfer of Personal Data to the Receiving Party so that the Receiving Party may lawfully process the Personal Data for the duration and purposes of this Agreement.

11 Enforcement

11.1 Seller will, and will ensure that each of its officers, employees, agents and subcontractors will, keep strictly confidential all information which Seller learns about Buyer’s or Buyer’s customers’ business or its services and use that information only for the performance in good faith of Seller’s contractual obligations to Buyer. This restriction will apply until the fifth anniversary of the Contract completion date and does not apply to information which was demonstrably public knowledge at the time of usage by Seller.

11.2 Buyer’s relationship is as independent contractor only, not as partner or as principal and agent. The Contract is non-assignable by Seller. Seller may with the prior written consent of Buyer sub-contract or delegate Performance in particular respects but not generally and not as regards Seller’s responsibility to Buyer or Seller’s direct contact with Buyer in any respect.

11.3 Seller will procure that none of Seller’s employees affiliates and subcontractors shall behave in a way which had the actions been Seller’s would have breached the Contract. No waiver by Buyer of any breach of contract by Seller will be considered as a waiver of any subsequent breach of the same or any other provision, or as a release of the provision which Seller breached. No delay by Buyer in enforcement and no toleration shown by Buyer shall imply any waiver or compromise of its rights.

11.4 If any provision of these Terms is held by competent authority to be invalid or unenforceable in whole or in part the validity of the other Terms and of the remainder of the provision in question will not be affected. Every provision is severable from every other.

11.5 Any written notice under these Terms will be deemed to have been sufficiently served if posted by pre-paid official post, couriered, faxed on receipt of successful answerback, or if sent by e-mail (but in this case only on evidence of successful transmission and only if the parties have regularly communicated on contract matters by e-mail).

11.6 The Contract will be governed by the law of England, and Seller submits to the exclusive jurisdiction of the English courts.

11.7 Where the dispute cannot be resolved through first level negotiation after a period of two weeks the dispute may be escalated by the Buyer to the Seller’s Senior Management. Failure to resolve the dispute after a further period of two weeks will lead to alternative dispute resolution or binding arbitration.