

## Dell Commercial Terms of Sale for the United Kingdom

### 1. Introduction.

1.1 **Scope.** These Commercial Terms of Sale (“CTS”) govern Customer’s procurement and Supplier’s provisioning of Products and Services (collectively “Offerings”) unless there is a master agreement in place between Customer and Supplier that covers the relevant Offerings. Offerings comprise of “Dell” or “Dell EMC” branded Products and Services as well as certain Third-Party Offerings in accordance with Section 9 that Supplier may offer from time to time. References to “Customer” shall mean the entity ordering the Offerings and references to “Supplier” shall mean Dell Corporation Limited or such other Dell legal entity as may be specified in the Quote or Order. The Offerings are solely for Customer’s internal business use; if Customer wishes to resell Offerings, procure Offerings as an OEM customer, or for the purposes of its personal use as a consumer, alternative terms and conditions apply (see [www.dell.co.uk/terms](http://www.dell.co.uk/terms)).

1.2 **Products and Services.** “Products” are either (i) Supplier provided IT hardware products (“Equipment”) or (ii) Supplier provided generally available software, whether microcode, firmware, operating systems or applications (“Software”). “Services” are Supplier’s standard service offerings for maintenance and support of Products (“Support Services”) or consulting, deployment, implementation, education and any other services that are not Support Services (“Professional Services”).

1.3 **Affiliates.** In these CTS, “Affiliate” means, with respect to Customer, any other entity that directly or indirectly controls, is owned by, controlled by or under common ownership or control with Customer, and with respect to Supplier, Dell Inc. and its wholly-owned or wholly-controlled subsidiaries; “control” means more than 50% of the voting power or ownership interests.

### 2. Quoting and Ordering.

2.1 **Process.** Customer may request to procure Offerings by either: (i) issuing a Customer purchase order that references a “Quote” (a Supplier issued document detailing specification and price of Offerings) previously issued by Supplier; or (ii) ordering through either [www.dell.com](http://www.dell.com) or other online or telephone process (in which case details of the Offering and its price communicated to Customer during such order process shall be considered the “Quote”). Quoted prices are effective until the expiration date of the Quote but may change due to shortages in materials or resources, increase in the cost of manufacturing, or other factors. Orders are subject to acceptance by Supplier; unless Supplier has otherwise accepted Customer’s order (e. g. through an order confirmation), shipment of Products or commencement of Service delivery, respectively, shall be deemed Supplier’s acceptance of Customer’s order. Each Supplier-accepted order is hereinafter referred to as an “Order” and forms a single contract between Supplier and Customer. Supplier may split an Order into separate transactions, each of which will form an Order. Orders are subject to availability and are cancellable only by Supplier except as expressly permitted in a Quote. Supplier reserves the right to cancel Orders affected by a pricing, typographical or other error.

2.2 **Product and Service Specific Terms.** Scope and details of Product and Service-specific terms are specified in the applicable description / terms that are (i) attached to or referred in a Quote, or (ii) made available at the applicable then-current Supplier website for Product or Service-specific terms (accessible at [www.dell.com/offeringspecificterms](http://www.dell.com/offeringspecificterms)). Such standard descriptions or terms are from time to time referred to as “Service Description(s)”, “Product Notices” or “Service Briefs”. The version of the applicable document that is effective as of the date of the applicable Quote, shall be deemed incorporated into the Order and shall prevail over the terms of these CTS in case of any conflict. Scope and details of customized Services not covered by such a standard description shall be documented in a mutually agreed Statement of Work (“SOW”).

2.3 **Exclusion of General Terms and Conditions, Order of Precedence.** These CTS including the documents referenced herein shall apply to the exclusion of all other general terms and conditions incorporated in or referred to in any documentation submitted by Customer to Supplier. The terms stated on the Quote itself shall prevail over the terms of these CTS in case of any conflict.

2.4 **Revision of Offerings.** Supplier may revise its Offerings, including after Customer places an Order but prior to Supplier’s shipment or performance. As a result, Offerings Customer receives may differ from those ordered, as long as they still substantially meet or exceed the specifications as per the documentation of the originally ordered Product or Service.

### 3. Product Delivery.

3.1 **Shipment.** Unless otherwise agreed, Supplier shall arrange for shipment of the ordered Products to the delivery address agreed for the Order, through a common carrier designated by Supplier. Delivery dates are indicative. Software may be provided by Delivery of physical media or through electronic means, in which case “Delivery” of Software occurs when Supplier notifies Customer that Software is available for electronic download. Customer shall notify Supplier within 21 days of the invoice date if Customer believes any Product included in its Order is missing, wrong, or damaged, and shall ensure that the intended installation site meets the specifications as per the product documentation.

3.2 **Transfer of Risk and Title.** Risk of loss for Products transfers to Customer upon Delivery. “Delivery” shall have occurred: (i) for Equipment or Software delivered through physical media: once it has arrived at the agreed delivery address; (ii) for Software delivered electronically or through a Transformational License Agreement or similar enterprise license arrangement, once Supplier has made it available for download and has notified Customer thereof and/or has sent out activation codes to Customer where required to use the Software. Title to sold Equipment passes to Customer upon the later of (a) Delivery or (b) receipt of full payment according to Section 3.3 (Retention of Title).

3.3 **Retention of Title.** In order to secure Supplier’s rights to receive payment for the Equipment, Supplier retains title in the Equipment until full payment is received and, until that time, Customer will:

- A. Hold the Equipment on a fiduciary basis as Supplier’s bailee and shall not pledge or in any way charge by way of security for any indebtedness any of the Products;
- B. Ensure that the Equipment remains readily identifiable as Supplier’s property;
- C. Not destroy, deface or obscure any identifying mark on the Equipment; and
- D. Maintain the Equipment in satisfactory condition.

3.4 **Acceptance.** All Products will be deemed to be accepted upon Delivery. Notwithstanding such acceptance, Customer retains all rights and remedies under the warranty terms in Section 7.

### 4. Software Licenses.

Customer’s rights to use the Software delivered by Supplier are governed by the terms of the applicable end-user license agreement. Unless different terms have been agreed between the parties, the terms posted on [www.dell.com/eula](http://www.dell.com/eula) (“EULA”) shall apply. Supplier will provide a hard copy of the applicable terms upon request. For certain Software offerings, license terms are included in the product-specific terms stated in Section 2.2. Unless expressly otherwise agreed, microcode, firmware or operating system software required to enable the Equipment with which it is shipped to perform its basic or enhanced functions, is licensed for use solely on such Equipment.

## 5. Services.

### 5.1 Support Services.

A. **Scope and Term.** Supplier shall provide Support Services in accordance with the applicable Service Description or Product Notice (see Section 2.2), for the (initial or renewal) period agreed in the applicable Order. Unless otherwise agreed therein, the initial Support Services procured together with the Product start on the commencement date of the warranty period (as specified in Section 7.1).

B. **Support Availability and Release Cycles.** Availability of Support Services is governed by Supplier's "End-of-Service-Life" policies, to be made available to Customer upon request. Subject to such policies, Support Services for Software apply to the current and the immediately prior release of the Software.

C. **Limitations.** Support Services do not cover any of the following: (i) problems that are excluded from warranty coverage according to Section 7 below; (ii) problems that cannot be reproduced at Supplier's facility or via remote access to Customer's facility; (iii) providing media replacement, operating supplies, cosmetic accessories or parts such as frames, and cover or support on those items; (iv) repairing damage or defects in Equipment that are purely cosmetic and do not affect device functionality.

D. **Maintenance Tools and Spare Parts.** Supplier may, at its discretion, store tools and spare parts used by Supplier to perform diagnostic or remedial activities in connection with Products at the Customer's site or on Customer's systems, and Customer agrees that such are for use only by Supplier authorized personnel and further authorizes Supplier to remove and/or disable them when no longer needed by Supplier to provide its Services.

E. **Replacements.** All replaced Equipment or components thereof shall be returned to Supplier and become the property of Supplier upon Customer's receipt of the corresponding replacement, unless specifically agreed otherwise in an Order; if Customer does not return a replaced component or Equipment within 15 days after receipt of Supplier's request, then Customer must pay Supplier at the then-current spare parts list price for the Equipment or portions that Customer has failed to return. If Supplier determines that a component of a defective Equipment product is "customer-replaceable", i.e. one that is easily disconnected and reconnected, or if the Supplier analyst determines that the Equipment should be replaced as a whole, Supplier reserves the right to send Customer a component or whole replacement Equipment for exchange.

F. **Data Responsibility.** Supplier shall not access or use any Customer production data stored on the Products, unless Customer has exceptionally and expressly authorized Supplier to do so. Unless a data deletion service is expressly ordered from Supplier, Customer is responsible for removing all information and data stored on replaced parts, or on any other Products returned to Supplier. Supplier will not restore any data or software removed from returned Products.

G. **Customer-Initiated Changes.** If Customer intends: (i) to relocate Equipment to a different installation site (where applicable to the Product, e.g. infrastructure products); (ii) to change the hardware configuration on its own; or (iii) to deny the activation or to disable remote support features of a Product, Customer shall notify Supplier in advance. Where any of such action limits Supplier's ability to provide Support Services for the affected Product or increases the Supplier's cost of providing Support Services, Supplier is entitled to make the continuation of Support Services dependent on Customer paying a reasonable adjustment of the ongoing fees and a reasonable charge for any re-certification services Supplier reasonably considers necessary for continued support; agreed proactive support capabilities, response times, or other service levels may no longer apply.

### 5.2 Professional Services.

A. **Scope of Services.** Supplier shall provide Professional Services including any Deliverables (as defined below) in accordance with the applicable Service Description, SOW (see Section 2.2) or other agreed documentation containing the specifics of such services ("**Service Specification**"). Professional Services are provided as a separate and independent service even if mentioned together with the sale or licensing

of Products by Supplier in the same Order. Supplier is not providing legal or regulatory advice in any Professional Services.

B. **Grant of License Rights in Deliverables.** "**Deliverables**" means any reports, analyses, scripts, code, or other work results that Supplier delivers to Customer within the framework of fulfilling obligations under a Service Specification. "**Proprietary Rights**" mean all patents, copyrights, trademarks, trade secrets, or other intellectual property rights of a party. Subject to Customer's compliance with the terms of these CTS and any applicable Service Specification, Customer's payment of applicable amounts due, and Supplier's Proprietary Rights in any underlying intellectual property incorporated into any Deliverables or used by Supplier to perform Professional Services, Supplier grants Customer a non-exclusive, non-transferable, revocable (in case of non-payment, or any breach of these CTS or any applicable Service Specification) license to use (without the right to sublicense) the Deliverables provided by Supplier for Customer's internal business purposes, only and solely in accordance with the applicable Service Specification and subject to these CTS. Customer may authorize its service providers to use the Deliverables, but solely on Customer's behalf, solely for Customer's internal business purposes, and Customer shall be responsible for service provider's compliance with these restrictions. Supplier reserves for itself all Proprietary Rights that it has not expressly granted to Customer herein. The license granted in this Section 5.2 B does not apply to: (i) any Products; or (ii) items licensed or otherwise provided under a separate agreement. Supplier is not limited in developing, using, or marketing services or products that are similar to the Deliverables or Professional Services provided hereunder, any Service Specification, or, subject to Supplier's confidentiality obligations to Customer, in using the Deliverables or performing similar Professional Services for any other projects.

5.3 **Customer Responsibilities.** At no charge to Supplier, Customer shall: (i) provide Supplier personnel with timely access to appropriate facilities, space, power, documentation, files, data, information, additional software (if needed); (ii) use skilled and authorized Customer personnel to assist and cooperate with Supplier in the provision of the Services as reasonably requested by Supplier; (iii) be responsible for physical and network security and all conditions in its business necessary for due performance of Services; (iv) allow Supplier remote and onsite access to the Products and Customer's infrastructure environment, as required; and (v) where applicable, promptly notify Supplier when Products fail and provide Supplier with sufficient details of the failure such that the failure can be reproduced by Supplier. For Professional Services, further details may be set forth in the Service Specification.

5.4 **Termination of Services.** Either party may terminate Services only for material breach by the other party if such other party has failed to cure such a breach within a reasonable grace period of no less than 30 days set by the other party in writing.

## 6. Invoicing and Payment.

6.1 **Invoicing.** Supplier shall invoice the price of the Offerings plus any applicable charges to Customer in the currency agreed in the Order. Supplier may invoice parts of an Order separately or together in one invoice.

6.2 **Payment Terms.** Customer shall pay Supplier's invoices in full and in the same currency as Supplier's invoice 30 days after the date of the invoice, with interest accruing after the due date at a rate of 8 per cent above the Bank of England base rate. Such payment terms are subject to regular credit checking by Supplier. In case of Customer's default in payment Supplier shall, until arrangements as to payment or credit have been established, be entitled to: (i) cancel or suspend its performance of such Order and/or (ii) withhold performance under these CTS.

6.3 **Taxes.** The charges due under each Order are exclusive of, and Customer shall pay or reimburse Supplier for all, value added taxes (VAT), sales, use, excise, withholding, personal property, goods and services and other taxes, governmental fees, levies, customs and duties resulting from Customer's purchase, except for taxes based on Supplier's net income, gross revenue, or employment obligations. If Customer qualifies for a tax exemption, Customer must provide Supplier with a valid certificate of exemption or other appropriate proof of exemption within 1 week of the date of Customer's Order. If Customer is required to withhold taxes, then Customer will within 60 days of remittance to the applicable tax authority

provide Supplier with satisfactory evidence (e.g. official withholding tax receipts) that Customer has accounted to the relevant authority for the sum withheld or deducted, otherwise Supplier will charge Customer for the amount that Customer has deducted for the transaction.

## **7. Warranty.**

**7.1 Product Warranty.** Supplier warrants that Equipment, under normal usage and with regular recommended service, will be free from material defects in material and workmanship, and that Equipment and Software will perform substantially in accordance with the corresponding standard Product Notice or other product documentation issued by Supplier. Customer must promptly notify Supplier of any warranty claims within the warranty period. Unless otherwise agreed in the Order the warranty period is 12 months for Equipment and 90 days for Software, commencing upon the date of invoice. Equipment upgrades are warranted until the end of the warranty period for the Equipment into which such upgrades are installed. Supplier does not warrant that Products meet customer-specific requirements. Supplier does not warrant that the operation of Software shall be uninterrupted nor error free, nor that all defects can be corrected. Dell Services do not affect a Customer's statutory warranty entitlement.

**7.2 Customer's Remedies.** Supplier's entire liability under the warranties for Products described in Section 7.1 shall be for Supplier, at its option and cost, to repair or to replace the affected Product, and, if Supplier is unable to effect such within a reasonable time, then Supplier will refund the amount Customer paid for the affected Product as depreciated on a straight-line basis over a five year period, upon return of such Product to Supplier.

**7.3 Services.** Supplier will perform Services in a workmanlike manner in accordance with generally accepted industry standards. Customer must notify Supplier of any failure to so perform within ten days after the date on which such failure first occurs. In such case, Supplier will use reasonable efforts to correct such failure within a reasonable period of time. If, after reasonable efforts, Supplier is not able to correct such deficiencies for reasons for which Supplier is responsible, then Customer may terminate the affected Services for cause by providing written notice to Supplier.

**7.4 Limitations.** Warranties in respect of Offerings do not cover problems that arise from: (i) accident or neglect by Customer or any third party; (ii) any third party items or services with which the Product is used or other causes beyond Supplier's control; (iii) installation, operation or use not in accordance with Supplier's instructions and the applicable documentation; (iv) use in an environment, in a manner or for a purpose for which the Product was not designed; and/or (v) modification, alteration or repair by anyone other than Supplier personnel, unless conducted under instructions from Supplier.

**7.5 Exclusive Remedies.** Supplier's warranties for Offerings and Customer's remedies in case of breach of any warranty are exhaustively described in these CTS, and any warranties implied by applicable law are excluded, insofar as permitted under such law.

**7.6 Software License Terms.** Where specific warranty terms are set out for certain titles or types of Software in the applicable license terms (see Section 4), such terms shall apply instead of those in this Section 7.

## **8. Limitation of Liability.**

For all claims of either party to the other for damages under or in connection with any transaction (including an Order) under these CTS, whatever the legal basis may be (including tort), the following shall apply:

**8.1 Unlimited Liability.** Nothing herein shall exclude or limit liability for: (i) death or personal injury resulting from negligence; (ii) fraud or fraudulent misrepresentation; or (iii) misappropriation or infringement of Supplier's or its Affiliates' intellectual property rights; (iv) timely fulfillment of payment obligations; or (v) any other liability that cannot be excluded by law.

**8.2 Limitations.** Neither party shall be liable for: (i) loss of profit, income or revenue; (ii) loss of use of systems or networks; (iii) loss of goodwill or reputation; (iv) loss of, corruption of or damage to data or software; (v) recovery or reinstallation of data or programs; or (vi) special, indirect or consequential loss or damage. Supplier (and its suppliers) shall

have no liability for any damages resulting from Customer's use or attempted use of Third Party Software, Free Software or Development Tools, all defined in the EULA described in Section 4, or Third-Party Offerings, described in Section 9.

**8.3 Prevention and Mitigation.** Customer is solely responsible for its data. Customer shall implement IT architecture and processes enabling Customer to prevent and mitigate damages in line with the criticality of the systems and data for Customer's business and its data protection requirements, including a business recovery plan. In that regard, Customer shall: (i) provide for a backup process on a regular (at least daily) basis and backup relevant data before Supplier performs any remedial, upgrade or other works on Customer's IT systems; (ii) monitor the availability and performance of its IT during the performance of Services; and (iii) promptly react on messages and alerts received from Supplier or through notification features of the Products and immediately report any identified issue to Supplier. To the extent that Supplier has any liability for data loss, Supplier shall only be liable for the cost of commercially reasonable and customary efforts typical effort to recover the lost data from Customer's last available backup.

**8.4 Liability Cap.** For each damaging event or series of connected events during any twelve month period, either party's liability to the other, whatever the legal basis (including tort), shall not exceed the lower of the (i) total amount of the net fees paid or payable by Customer to Supplier for the Product or Service giving rise to the liability; or (ii) £500,000 Pounds.

## **9. Third-Party Offerings.**

Supplier may offer to supply products and services from a third party manufacturer/supplier and that are neither "Dell" nor "Dell EMC" branded ("**Third-Party Offerings**"), and may include offerings from Supplier Affiliates using brands other than "Dell" or "Dell EMC". Notwithstanding any other provisions herein, Third-Party Offerings are subject to the standard license, services, warranty, indemnity and support terms of the third-party manufacturer/supplier (or an applicable direct agreement between Customer and such manufacturer/supplier), to which Customer shall adhere. To the extent that the third-party manufacturer/supplier may process any personal data on behalf of the Customer in the provision of the Third Party Offering, that third party manufacturer/supplier shall do so in accordance with its' form of a data processing agreement, which shall be made available to Customer in the Product and Service Specific Terms referenced in Section 2.2, or though the applicable third party manufacturer/supplier. References to warranty and support information for Third-Party Offerings are available in the Product and Service Specific Terms referenced in Section 2.2 or though the applicable third party manufacturer/supplier. Even if support fees are invoiced through Supplier, Third-Party Offerings are generally not supported by Supplier and Customer shall contact such third party directly for support (except as otherwise set forth in the in the Product and Service Specific Terms referenced in Section 2.2). Any warranty, damages or indemnity claims against Supplier in relation to Third-Party Offerings are expressly excluded. The remaining provisions of these CTS applicable to Offerings shall apply to Third-Party Offerings.

## **10. Confidentiality.**

Information exchanged in connection with the negotiation, conclusion and performance of a transaction governed by these CTS that is not generally known to the public, whether or not it is expressly designated as confidential or which, due to the nature of the information or the circumstances surrounding its disclosure, should reasonably be understood to be confidential ("**Confidential Information**"), including the terms of the Quote, may only be disclosed to an Affiliate or another third party on a "need-to-know" basis and shall be reasonably protected against disclosure to third parties. The receiving party shall be liable to the disclosing party for disclosures by its or its Affiliates' personnel or advisors.

## **11. Data Privacy.**

**11.1 Compliance with Laws.** Each party shall comply with all privacy laws and regulations that are applicable to that party in relation to the processing of personal data under an Order hereunder. In this Section 11, "personal data", "controller" and "processing" shall have the meaning set out in the General Data Protection Regulation (EU) 2016/679.



**11.2 Data Processing Terms.** To the extent that Supplier may process any personal data on behalf of the Customer in the performance of an Order hereunder, Supplier shall only do so in line with applicable laws and regulations and in accordance with a form of a data processing agreement to be agreed between the parties. In the absence of an agreed form of a data processing agreement, Supplier's standard data processing terms shall apply, which are available here [https://www.dell.com/learn/uk/en/ukcorp1/legal\\_docs/data\\_protection\\_terms\\_uk\\_en.pdf](https://www.dell.com/learn/uk/en/ukcorp1/legal_docs/data_protection_terms_uk_en.pdf). Where Supplier processes any personal data acting as a controller, it shall do so in accordance with its country-specific privacy policies, available at [www.dell.com/Privacy](http://www.dell.com/Privacy).

**11.3 Customer Responsibility.** Customer will provide personal data to Dell only where strictly required. Customer agrees that it will, prior to disclosure of or provision of access thereto by the Supplier, obtain all necessary rights, permissions and consents associated with: (a) technology or data (including personal data) that Customer and its Affiliates provide to Supplier or its Affiliates, and (b) non-Supplier software or other components that Customer and its Affiliates direct or request that Supplier or its Affiliates use with, install, or integrate as part of the Supplier's Offerings. Customer is solely responsible for reviewing data that will be provided to or accessed by Supplier in the provision of the Offerings to ensure that it does not contain: (i) data that is classified, ITAR (International Traffic in Arms Regulations) related data, or both; or (ii) articles, services, and related technical data designated as defense articles and defense services. Customer will defend and indemnify Supplier and its Affiliates against any third party claim resulting from a breach of the foregoing, or from Customer's infringement or misappropriation of intellectual property rights of Supplier, its Affiliates or third parties.

## **12. General.**

**12.1 Governing Law and Place of Jurisdiction.** These CTS are governed by the laws of England and Wales. To the extent permitted by law, the English courts will have exclusive jurisdiction over any disputes arising out of or in connection with these CTS and all transactions governed by it. The U.N. Convention on Contracts for the International Sale of Goods does not apply.

**12.2 Trade Compliance.** Customer's purchase of Offerings and access to related technology (collectively, the "**Materials**") are for its own use, not for resale, export, re-export, or transfer. Customer is subject to and responsible for compliance with the export control and economic sanctions laws of the United States, the European Union and other applicable jurisdictions. Materials may not be used, sold, leased, exported, imported, re-exported, or transferred except in compliance with such laws, including, without limitation, export licensing requirements, end user, end-use, and end-destination restrictions, prohibitions on dealings with sanctioned individuals and entities, including but not limited to persons on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List, or the U.S. Department of Commerce Entity List, and Denied Persons List, Military End User List, and Military Intelligence End User List. Customer represents that it is not the subject or target of, and that Customer is not located in a country or territory (currently including without limitation, North Korea, Cuba, Iran, Syria, and Crimea and the so-called Donetsk People's Republic and Luhansk People's Republic) that is the subject or target of, economic sanctions of the United States, European Union or other applicable jurisdictions. Customer will defend and indemnify Supplier and its Affiliates against any third party claim resulting from a breach of any of the obligations under this Section 12.2.

**12.3 Entire Agreement.** Any Orders concluded under these CTS comprise the entire agreement with respect to its subject matter and may be modified only by written agreement. The Product and Service specific terms, the EULA and any other information which is incorporated by reference (including reference to information contained in a URL or policy) form an integral part of these CTS.

**12.4 Force Majeure.** Neither party shall be liable to the other for any delay or failure to perform any of its obligations (other for the payment of fees) caused by events beyond its reasonable control. If such delay or failure lasts longer than 30 days, then the other party may immediately terminate, in whole or in part, the Order by giving written notice to the delayed party. Events beyond reasonable control include, without

limitation, act of God, war, riot, civil commotion, terrorist acts, malicious damage, governmental or regulatory actions, accident, breakdown of plant or machinery, local or national emergency, explosions, fire, natural disasters, severe weather or other catastrophes, epidemics or pandemics, general import/export/customs process problems affecting supplies to Supplier or to Customer, shortages in materials, failure of a utility service or transport network, embargo, strike, lock out or other industrial dispute (whether involving Supplier's workforce or any other party), or default of suppliers or subcontractors due to any of the preceding events.

**12.5 High-Risk Applications.** Customer acknowledges that the Offerings are not designed or intended for use in high-risk activities which means the use of the Offerings in hazardous environments requiring fail safe performance, including without limitation, in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, weapons systems, life support machines, or any other potentially life critical uses.

**12.6 Assignment and Subcontracting.** Neither party shall assign, transfer or novate any Order, or any right or obligation thereunder, or delegate any performance without the other party's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing: (i) Supplier may use Affiliates or other qualified subcontractors to perform its obligations hereunder, provided that Supplier shall remain responsible for the performance thereof; and (ii) either party may assign rights to payments arising under any Order without consent of the other party.

**12.7 Third Party Rights.** There are no third-party beneficiaries to this CTS or any Order under any laws, including the Contracts (Rights of Third Parties) Act 1999.

**12.8 Waiver and Severability.** Failure to enforce a provision of this CTS will not constitute a waiver of that or any other provision of this CTS. If any part of an Order including these CTS is held unenforceable, the validity of all definitions and the remaining provisions shall not be affected.

**12.9 Notices.** The parties will provide all notices under this CTS in writing.