

## TEMPEST IT LIMITED GENERAL TERMS AND CONDITIONS Version 1.1.2

### 1. DEFINITIONS

"Associated Companies" means any party controlling, controlled by or under common control with The Customer. "Control" (including "controlling", "controlled by" and under "common control with") in relation to any such party means the direct or indirect beneficial ownership of fifty percent (50%) or more of the voting stock or a fifty percent (50%) or greater interest in the income of such party.

"Agreement" means the contract for the supply by Tempest IT Limited to the Customer of the Products and/or the Services incorporating these terms and conditions.

"Tempest IT Limited Personnel" means those personnel engaged by Tempest IT Limited to perform the Services and for the avoidance of doubt shall include employees, agents and consultants appointed by Tempest IT Limited.

"Customer" means the legal entity (person, firm or company) accepting Tempest IT Limited's written or oral estimate for the supply of Products and/or Services or whose order for Products and/or Services is accepted by Tempest IT Limited or the party otherwise commissioning the Services in each as named on the Invoice or the Agreement.

"Deliverables" includes, without limitation, all computer programs, documentation and other materials as well as any idea, method, invention, discovery, design, concept or other work arising from Tempest IT Limited's performance of its Services (whether conceived or developed individually or jointly with the Customer and others).

"Documents" means in addition to a document in writing, any drawing, graph, photograph, film or other device embodying visual images and any disk, tape, CD Rom or other device embodying any other data.

"Environmental and Usage Assumptions" means:

(a) The hardware and software components of any system or equipment of the Customer are properly installed and are functioning normally in accordance with their respective specifications and are Year 2000 compliant.

(b) All telecommunications hardware and related software forming part of the system or equipment of the Customer are properly installed and such hardware and software components together with the communication network(s) with which they interconnect are functioning normally in accordance with their respective specifications and are Year 2000 compliant.

(c) The Customer systems and equipment are operated by persons possessing appropriate skills and experience in their operation.

"Invoice" means the document sent by Tempest IT Limited to the Customer, demanding payment for the Products or the Services and containing, recording and evidencing contractual terms relating to the Agreement.

"Services" means the professional services to be performed by Tempest IT Limited as detailed within the Agreement.

"Fees" means the charge for the Products or Services as detailed within the Agreement for those Products and/or Services.

"Products" means goods sold by Tempest IT Limited pursuant to the Agreement, as specified on the Invoice.

"Third Party Products" means Products not manufactured or assembled or authored by Tempest IT Limited and supplied to Tempest IT Limited by third parties for re-supply by Tempest IT Limited.

### 2. GENERAL

2.1. These terms and conditions will be incorporated in all Tempest IT Limited and their Customers Agreements and will apply to all orders from the Customer for Products and Services and shall prevail and supersede any other terms and conditions referred to, offered or relied upon by the Customer. Any specific terms and conditions relating to the supply of Products and Services will prevail over these standard terms and conditions in the event of any conflict.

### 3. PRODUCTS AND SERVICES

3.1. Tempest IT Limited shall supply, and the Customer shall purchase, Products and/or Services in accordance with the Agreement.

3.2. Products and Services are supplied subject to these terms and conditions to the exclusion of any other terms. Amendments to the standard terms and conditions must be confirmed by Tempest IT Limited in writing within a specific agreement.

#### 3.3. Services

3.3.1. The supply of Services will:

3.3.1.1. start on the agreed date as shown in the Agreement;

3.3.1.2. end upon signoff of the last phase of a project.

3.3.2. The Customer shall, at its own expense, supply Tempest IT Limited with all necessary documentation and materials and all necessary data and information relating to the Services to be provided within sufficient time to enable Tempest IT Limited to provide the Services in accordance with the contract to provide the Services.

3.3.3. The Services shall be provided in accordance with any specification or terms supplied by Tempest IT Limited to the Customer.

3.3.4. In respect of the delivery of the Services, when working at a Customer location, the Customer will provide Tempest IT Limited with and be responsible for expenses associated with:

3.3.4.1. Full, unrestricted and safe access to the equipment being used by Tempest IT Limited, its agents, employees and subcontractors at all times, and notify Tempest IT Limited in writing, in advance of any hazardous conditions or materials that are likely to be encountered;

3.3.4.2. Adequate working space, operating supplies and facilities, including telephones, power and lighting, within a reasonable distance of the equipment;

3.3.4.3. Adequate car parking.

3.3.5. Where either party supplies the other with equipment to enable Tempest IT Limited to deliver their Services as per the Agreement, then such equipment must be supplied in accordance with the Environmental and Usage Assumptions. Any such equipment loaned by one party to the other must be returned on the termination of the respective Agreement or upon 30 business days notice from the lender at any time at the cost and expense of the lender.

3.3.6. The relationship between Tempest IT Limited and the Customer is that of independent contractor. Neither party, is an agent for the other, and neither party has any authority to enter into any contract, whether expressly or by implication, in the name of the other party, without that party's prior written consent.

#### 3.4. Products

3.4.1. Tempest IT Limited may help the Customer to specify or choose computer configurations, but the assessment and selection of the Customer's chosen equipment's suitability for the Customer's purpose must be the Customer's ultimate responsibility. Tempest IT Limited undertakes only that in giving such assistance it has acted in good faith and has not been willingly misleading.

3.5. Tempest IT Limited may at any time, without notifying the Customer, make changes to the provision of Services or Products which are necessary to comply with any applicable safety or other statutory requirements or which do not materially affect the nature or quality of the Services or Products to be supplied.

3.6. All times and dates given for the delivery of Products and provision of Services are given in good faith, but without any responsibility on the part of Tempest IT Limited. Time of the delivery shall not be of the essence of the Agreement nor shall Tempest IT Limited be under any liability for any delay beyond Tempest IT Limited's control.

3.7. Tempest IT Limited and the Customer acknowledge that the performance and the functionality of the computer systems, the Deliverables, the Services, software-controlled equipment and/or hardware used in or affecting the Customer's business may be affected adversely by the processing or other handling of dates after 1 January 2000 (Date Problem). Tempest IT Limited shall have no obligation under this Agreement to identify, advise upon, assess or correct any Date Problems. The parties may engage in a separate arrangement for the provision of Date Problem advice and assessment services by Tempest IT Limited on Tempest IT Limited's standard terms and conditions for such services.

3.8. If any Date Problem disrupts, delays or prevents Tempest IT Limited's ability to perform the Services of the Agreement, Tempest IT Limited shall not be responsible for the disruptions or delays or for its inability to perform the affected Services.

### 4. DELIVERY, TITLE AND RISK

4.1. From the time of the delivery to the Customer, the Products shall be at the risk of the Customer, who shall be solely responsible for their custody and maintenance, but, unless otherwise expressly agreed in writing, the Products shall remain the property of Tempest IT Limited until all payments under the Agreement have been made in full and unconditionally. Tempest IT Limited shall be entitled at any time before title passes (without any liability):

4.1.1. To terminate Customer's right to use, sell or otherwise deal in Products;

4.1.2. To enter the premises of Customer and repossess Products;

4.1.3. To use or sell Products.

4.2. Until the Products and the Services have been paid for in full the Customer shall not be entitled to sell transfer lease charge assign by way of security or otherwise deal in or encumber the Products or the Deliverables and the relationship between Tempest IT Limited and the Customer in respect of the Products and the Deliverables including any proceeds of sale or other consideration therefore shall be a fiduciary one.

4.3. If in breach of clause 4.2 above the Customer sells the Products prior to the payment therefore then any proceeds of sale in respect thereof and all rights arising under or in respect of said sale shall be held (in the case of the proceeds of sale in a separate account) by the Customer as trustee for Tempest IT Limited.

4.4. With effect from the delivery date up to and including the date of payment the Customer shall insure the Products for their full replacement value with such insurance company as Tempest IT Limited shall approve (such approval not to be unreasonably withheld) and shall provide a copy of the insurance certificate to Tempest IT Limited which certificate shall have Tempest IT Limited endorsed thereon as loss payee.

4.5. Services are deemed delivered upon signoff of a phase of a project or delivery of an invoice, which covers the respective service activity.

4.6. To allow Tempest IT Limited to be able to more effectively manage their participation in the delivery of the Services, Tempest IT Limited reserve the right to determine the personnel to perform the work, although Tempest IT Limited shall attempt to honour the Customer's requests for specific individuals.

4.7. Tempest IT Limited Services will be delivered between core business hours of 09:00 and 17:30, United Kingdom time.

4.8. Tempest IT Limited assumes that one man day is 7.5 hours.

### 5. DELIVERABLES/INTELLECTUAL PROPERTY RIGHTS

5.1. The property and copyright and all other intellectual proprietary rights existing now or in the future in the Deliverables shall belong to and be the absolute property of Tempest IT Limited. At Tempest IT Limited's request and expense, the Customer shall do all such things and sign all documents reasonably necessary to enable Tempest IT Limited to obtain all such rights in the Deliverables.

5.2. Tempest IT Limited shall, subject to payment of all fees and expenses due to Tempest IT Limited in connection with the delivery of the Services, grant the Customer a non-transferable, non-exclusive licence for a period of 25 years from delivery to use and reproduce for the Customer's own internal use only any Deliverables created in the delivery of Services.

5.3. The Customer acknowledges that in the delivery of the Services Tempest IT Limited may use products, materials or methodologies proprietary to it or a third party or Tempest IT Limited may produce proprietary materials or methodologies that are not part of the Deliverables. The Customer agrees that it will not have or obtain rights in such proprietary products, materials and methodologies except pursuant to a separate written agreement on terms to be agreed, and the Customer agrees to maintain the confidentiality of such items.

5.4. For the avoidance of doubt Tempest IT Limited the Source Code of any program created by Tempest IT Limited as part of the Deliverables is the property of Tempest IT Limited and such Source Code shall not be made available to the Customer

5.5. The Customer warrants that any Documents or other information or material provided by the Customer to Tempest IT Limited for the purposes of supplying the Services is accurate and will not infringe the copyright or other rights of a third party and the Customer shall indemnify Tempest IT Limited against any loss, damages, costs and expenses or other claims arising from such infringement.

5.6. Tempest IT Limited will have no liability under this clause for:

5.6.1. Any infringement arising from the combination of the Products or Deliverables with other systems (hardware or software) not supplied by Tempest IT Limited; or

5.6.2. The modification of the software unless the modification was made or approved expressly by Tempest IT Limited; or

5.6.3. Any information, data, service or applications assistance supplied to the Customer by Tempest IT Limited. In no circumstances will Tempest IT Limited be liable for any costs or expenses incurred by the Customer without written authorisation.

### 6. CUSTOMER'S OBLIGATIONS

6.1. The Customer shall properly use the Products and shall provide Tempest IT Limited with all

reasonable facilities and information to enable Tempest IT Limited to perform its duties.

6.2. The Customer shall be responsible for complying with all Customer applicable regulatory requirements.

6.3. In order to carry out the Services, Tempest IT Limited shall have full and timely access to directors and other staff of the Customer and its subsidiaries associated with the delivery of the Services and to the other advisers to the Customer. Tempest IT Limited shall also have full and timely access to data and information as it may reasonably require. In addition, to keep Tempest IT Limited informed of any material developments or proposals in relation to the business or operations of the Customer, its subsidiaries, where relevant, where these may have an effect upon the delivery of the Services.

6.4. Tempest IT Ltd Limited can help the Customer to specify or choose computer configurations, but the assessment and selection of the Customer's chosen equipment's suitability for the Customer's purpose is the Customer's ultimate responsibility. Tempest IT Limited undertakes only that it has acted in good faith.

6.5. For the duration of the Agreement and for a period of six months after it ends, the Customer shall not solicit or offer employment to any of Tempest IT Limited Personnel associated with the delivery of the Services or Products of the Agreement. If the Customer does employ Tempest IT Limited Personnel, in any form (permanent or temporary), Tempest IT Limited estimate the loss at the equivalent on one year's salary for each of the Tempest IT Limited employees concerned. The Customer will pay damages to Tempest IT Limited equal to that amount upon commencement of their employment/contract with the Customer.

## 7. SERVICE FEES, PRODUCT PRICES, EXPENSES

### 7.1. Services

7.1.1. Tempest IT Limited will bill the Customer, at the end of the completion of a phase of the Services or on a monthly basis, whichever is the earlier. Professional fees and expenses will be subject to the addition of local taxes (value added tax in the United Kingdom) where applicable. Tempest IT Limited retains the right in the event of non-payment of any bill to suspend work until payment is received.

7.1.2. Travelling, subsistence, accommodation and any other expenses necessarily incurred while engaged on the Customer business, whether at your premises or elsewhere, will be charged as per the Tempest IT Limited customer expense schedule.

7.1.3. If during the course of delivering Tempest IT Limited Services, a need for ancillary specialist services not specified in this proposal is identified, agreement to their use and related charges will be obtained before any expenditure is incurred.

7.1.4. Tempest IT Limited will increase Service Fees on an annual basis during December to be effective from the 1st of January of the following year. In the event that the Customer does not accept this change in pricing then the maximum increase in the charges shall be no greater than the actual increase in relevant expenses incurred by Tempest IT Limited in providing the services and in any event no greater than the increase in the UK Headline Retail Price Index Inflation Rate plus 3% during the corresponding period.

7.1.5. In fulfilling its obligations, Tempest IT Limited personnel may be required to attend training courses for specific Customer software to conform to the latest Environment and Usage Assumptions. Such training costs and any additional software costs (e.g. upgrade to a piece of software) shall be borne by the Customer

### 7.2. Products

7.2.1. All Prices stated in writing are valid for 14 days or 10 working days. Oral statements on prices are valid only to the end of the business day upon which they are given.

7.2.2. All Prices for the sale of Products exclude Tempest IT Limited's charges for storage, transport and insurance.

7.2.3. The Price and any additional charges payable under the Project Order are exclusive of all sales taxes including Value Added Tax.

7.2.4. The price of the Products shall be Tempest IT Limited's estimated price or, where no price has been estimated (or a estimated price is no longer valid), the price listed in Tempest IT Limited's published price list current at the date of the Customer's order and in any case as shown in the Project Order or on the Invoice.

7.2.5. Availability of Products and therefore delivery to the Customer, can only be confirmed at the point of the Customer order being received and formally processed by Tempest IT Limited.

## 8. PAYMENTS

### 8.1. Services

8.1.1. Unless otherwise agreed by Tempest IT Limited in writing, invoices are payable within 30 days of receipt.

### 8.2. Products

8.2.1. Unless otherwise agreed by Tempest IT Limited in writing, invoices are payable in full on or after the supply of Products or, if agreed in writing by Tempest IT Limited at the time of the Customer order within 30 days of the date of Invoice.

8.2.2 A payment of 40% in advance of the total cost of purchase is applicable where hardware implementation or software imaging or installation is required prior to the delivery of goods or services and where the total value of the purchase exceeds £10,000.

8.3. All prices are exclusive of Value Added Tax and any similar taxes. All such taxes are payable by the Customer and will be applied in accordance with UK legislation in force at the tax point date.

8.4. Payments which are not received when payable will be considered overdue and will remain payable by the Customer together with interest for late payment as calculated by the Late Payment of Commercial Debts (Interest) Act 1998

8.5. In addition to the above provision for late payment, in this event Tempest IT Limited may also choose, without prejudice to any other remedy we may have at any time after payment has become due, to terminate or temporarily suspend performance of the Agreement

8.6. If Tempest IT Limited become entitled to terminate the Agreement for any reason, any sums then due to Tempest IT Limited will immediately become payable in full together with interest as calculated by the Late Payment of Commercial Debts (Interest) Act 1998.

## 9. WARRANTY

### 9.1. Services Warranty

9.1.1. Tempest IT Limited undertakes that it will exercise due care in the performance of its work in accordance with applicable professional standards. Tempest IT Limited will re-perform any work which is not in compliance with this undertaking without further liability for such noncompliance if it is brought to Tempest IT Limited's attention within 30 days after the work is delivered. However, Tempest IT Limited do not warrant, nor will Tempest IT Limited be responsible for, the performance of any Third Party Products. The Customer's sole and exclusive rights and remedies with respect to

claims arising out of or relating to any third party product will be against the third party. In the event Tempest IT Limited is asked to reperform any work and it is determined that Tempest IT Limited have already met its obligations under this paragraph, the Customer agrees to pay Tempest IT Limited on a time and materials basis at our standard rates plus value added tax for time spent on such additional work.

9.1.2. Tempest IT Limited agrees that for a period of 30 days following the completion of the delivery of the Services it will resolve all reasonable problems (e.g. bugs to bespoke developed software) that the Customer identifies in writing via the Tempest IT Limited Change Request process, to any bespoke software designed and implemented for the Customer by Tempest IT Limited. Any requests for assistance after the 30 day period or any additional services or new requests for change of functionality or specification that are required to be delivered by Tempest IT Limited will incur professional fees.

9.1.3. All surveys, forecasts, projections and recommendations made in any report, presentation, or other document are made in good faith and on the basis of the information supplied to Tempest IT Limited at the time. However, Tempest IT Limited does not guarantee and it takes no responsibility for their achievement or continuing applicability, because the actual outcome will depend on future events and circumstances and matters over which Tempest IT Limited has no control, including the actions of management and staff. It shall be the responsibility of the Customer's management to make implementation decisions, if any, and to determine further courses of action with respect to any matters arising from the provision of the Services. Whilst Tempest IT Limited may assist in the implementation of recommendations; ultimately this is the sole responsibility of the Customer's management.

## 9.2. PRODUCTS WARRANTY

9.2.1. In respect of Third Party Products, the Customer shall only be entitled to the benefit of any warranty or guarantee given by the Third Party manufacturer. Tempest IT Limited does not give any warranty, guarantee or other term as to their quality, fitness for purpose or otherwise.

9.2.2. Unless the Customer shall, promptly after delivery, inspect the Products and notify Tempest IT Limited, in writing, of any defects found, the Products shall be deemed to have been accepted on delivery. Any software developed by Tempest IT Limited and forming part of the Products shall not be sold but Tempest IT Limited will grant a non-exclusive non-transferable licence to the Customer.

9.2.3. Tempest IT Limited warrants that all Products except for Third Party Products (which have the benefit of the manufacturers guarantee) shall be free from defect for a period of 90 days from delivery or purported delivery. If, before the expiry of the warranty period Tempest IT Limited receives written notice from the Customer of any breach of the warranty then Tempest IT Limited shall, within a reasonable time, repair or, at its option, replace Products or spare parts that are defective or otherwise remedy such defects.

9.2.4. This warranty does not apply to defects resulting from improper or inadequate installation, use or maintenance; actions or modifications by unauthorised third parties or the Customer or accidental or wilful damage.

9.2.5. Tempest IT Limited does not give any warranty that the Products are fit for any particular purpose and this warranty is given in place of all warranties, conditions, terms, undertakings and obligations implicit by statute, common law, custom, trade, usage, course of dealing or otherwise, all of which are excluded to the fullest extent permitted by law.

## 10. LIABILITY

10.1. Because of the importance of Tempest IT Limited's Services the information and representations supplied to Tempest IT Limited by the directors, employees, sub-contractors and agents of the Customer, Tempest IT Limited shall not, save to the extent that the law requires otherwise, be held responsible or liable for any loss, damage, cost, legal costs, court costs, expenses or other consequences (together "losses") whatsoever and howsoever, caused, incurred, sustained or arising if information material to our work is withheld or concealed from Tempest IT Limited or misrepresented to Tempest IT Limited, except and only to the extent finally determined to have resulted from Tempest IT Limited's knowing disregard of matters of which Tempest IT Limited have actual knowledge, or from Tempest IT Limited's bad faith or wilful default.

10.2. The Customer shall indemnify, defend and hold harmless Tempest IT Limited and its Associated Companies and its and their directors, officers, employees, sub-contractors and agents, from and against losses resulting or arising from any third-party claims, actions, proceedings, investigations or litigation relating to or arising from or in connection with this Agreement and/or the Services except to the extent such losses are determined to have resulted solely from the negligence or intentional misconduct of the Tempest IT Limited Indemnified Party seeking indemnity hereunder.

10.3. Any liability of Tempest IT Limited arising out of or in connection with the Agreement (including liability for interest and costs) will not exceed in aggregate the total fees paid to Tempest IT Limited for the portion of the Services or Deliverables giving rise to the liability, or the sum of 250,000 GBP, whichever is the smaller, except in the case of:

10.3.1. liability for death or personal injury caused by the negligence of Tempest IT Limited, which shall not be subject to financial limit; and

10.3.2. liability for direct damage to property caused by the negligence of Tempest IT Limited which will not exceed 1,000,000GBP for any one event or series of connected events.

10.4. Tempest IT Limited and the Customer shall at their own expense obtain and maintain insurance of a type and amount adequate to cover all loss, damage, liability or costs in respect of which it is liable to indemnify the other under the provisions of this clause 10 and shall not do or omit any act, matter or thing which may prejudice or render voidable any such insurance. Each party will, forthwith on request by the other, provide the party requesting the same with evidence of the insurance as that party may reasonably require.

10.5. The representations, warranties, terms and conditions set out in these terms and conditions are the parties' only representations, warranties, terms and conditions relating to the project and Tempest IT Limited's provision of the Services in connection with the project and are made expressly in place of and to the exclusion (to the fullest extent permitted by law) of all other representations, warranties, terms and conditions, express or implied, by statute or otherwise, including without limitation any implied warranties, terms or conditions as to performance, fitness for a particular purpose, merchantability, satisfactory quality or otherwise and are subject to the limitations on liability set out herein.

## 11. FORCE MAJEURE

11.1. Neither party will be liable to the other for any delay in or failure to perform their obligations (other than a payment of money) as a result of any cause beyond their reasonable control including but not limited to floods, strikes, or other labour disturbances, riots, fires, accidents, wars, embargoes, delay of carriers, delay in suppliers, inability to obtain materials, failure of power or natural sources of

supply, acts, injunctions, or restraints of government or any other Act of God or other force majeure.

11.2. The affected party shall exert its reasonable efforts to eliminate or cure or overcome any such causes and to resume performance of its obligations with all possible speed. If such a delay or failure continues for at least 90 days, either party will be entitled to terminate the Agreement by notice in writing.

## 12. CONFIDENTIALITY

12.1. In connection with the delivery of Tempest IT Limited's professional services, each party shall hold all confidential information of the other in strict confidence. Save as may be required by law or applicable regulation, neither party shall disclose such information without the prior written consent of the other party.

12.2. All presentations, reports, documents, Deliverables and other advice given, including agreements, are for the Customer's exclusive use and must not be handed over or otherwise disclosed to any third party without our prior written consent. The Customer agrees to take all steps necessary to ensure that they are not handed over or otherwise disclosed or used by any third party without Tempest IT Limited's prior written consent.

## 13. TERMINATION

13.1. Tempest IT Limited's services, in relation to the Agreement, may be terminated by Tempest IT Limited at any time by written notice in the event that the Customer does not perform the Customer Obligations defined within the Agreement, or if the assumptions upon which the Agreement is based are in Tempest IT Limited's opinion inaccurate or misleading.

13.2. The Agreement may be terminated immediately by notice in writing:

13.2.1. By Tempest IT Limited if the Customer fails to pay any sums due under the Agreement by the date payable without prejudice to any other provisions relating to late payment in the Agreement.

13.2.2. By either party if the other party is in material or continuing breach of any of its obligations under the Agreement and fails to remedy the breach (if capable of remedy) for a period of 90 days after written notice by the other party.

13.2.3. By either party, if the other party becomes involved in any legal proceedings whatsoever concerning its solvency, or ceases trading, or commits an act of bankruptcy or is adjudicated bankrupt or enters into liquidation, whether compulsory or voluntary, other than for the purposes of an amalgamation or reconstruction, or makes an arrangement with its creditors or petitions for an administration order or has a receiver or manager appointed over all or any part of its assets or generally becomes unable to pay its debts within the meaning of Section 123 or Section 268 of the Insolvency Act 1986, (or equivalent circumstances occur in any other jurisdiction).

13.3. Any termination of the Agreement under this clause will be without prejudice to any other rights or remedies of either party under the Agreement or at law and will not affect any accrued rights or liabilities of either party at the date of termination.

13.4. On termination of the Agreement, the Customer will be obliged to satisfy Tempest IT Limited that they have erased/removed all copies of the Products and Bespoke Developed Software and any part of Software (Bespoke or purchased Product) from their magnetic media and that they have no ability to reproduce the Software in any way, and that they must return to Tempest IT Limited immediately all related documentation or other tangible property in their possession belonging to Tempest IT Limited.

13.5. Where the Agreement relates to Services for the provision of training:

13.5.1. The Customer agrees to pay the full invoice in respect of any course, which is postponed or cancelled by them with less than seven days notice prior to the course date

13.5.2. If a delegate withdraws from a course once that course has commenced then the Customer shall pay the full value of the course invoice to Tempest IT Limited.

13.5.3. The Customer may substitute delegates at any time upon notification to Tempest IT Limited, subject to the new delegate complying with the requirements for the course as notified by Tempest IT Limited to the Customer.

13.6. Any provisions of the Agreement, which by their nature extend beyond the expiry or termination of the Agreement shall survive such expiration or termination. Such provisions shall include, without limitation, fees and expenses, professional fees and expenses, payment and interest, confidential information, Deliverables, limitation on liability and indemnities of these terms and conditions.

## 14. ASSIGNMENT

14.1. Tempest IT Limited may sub-contract all or any of its obligations under the Agreement to a competent third party. Except for this, neither party shall assign or otherwise transfer any of its rights or obligations.

## 15. NOTICES

15.1. Any notice required or permitted to be given by either party to the other under these terms and conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice.

15.2. Any notice or other communication to be given under the Agreement shall be delivered personally or sent by first-class pre-paid post (Post will be deemed to have been given two working days after the date of posting) or facsimile transmission (confirmed by first-class pre-paid post).

15.3. For avoidance of doubt notices sent to Tempest IT Limited should be sent to (subject to written confirmation within a specific agreement): Tempest IT Limited, 15 Ontario Place, Chapel Allerton, Leeds, West Yorkshire, LS7 4LL. United Kingdom. For the attention of: Niall Rudd.

15.4. All such notices or other communications shall be deemed to have been served as follows:

15.4.1. If delivered personally, at the time of such delivery;

15.4.2. If sent by first-class pre-paid post, three English business days (Saturdays, Sundays and English Bank or other English public holidays excluded) after being placed in the post; or

15.4.3. If sent by facsimile three business days after the postal confirmation has been placed in the post;

15.4.4. Tempest IT Limited will NOT accept any Notices via electronic email.

## 16. SEVERANCE

16.1. If any of the provisions of the Agreement is judged to be invalid, illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced unless the substantive purpose of the Agreement is thereby frustrated, in which case either party may terminate the Agreement forthwith on written notice.

## 17. HEADINGS

17.1. Headings to clauses in this Agreement are for the purpose of information and identification only and shall not be construed as forming part of this Agreement.

## 18. WAIVER

18.1. The waiver by either party of a breach or default of any of the provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

## 19. PROMOTIONALACTIVITIES

19.1. Subject to clause 12 above Tempest IT Limited shall have the right to refer to and use any information or material which is not of a confidential nature derived by it in the delivery of the Services, Products or the Deliverables to the Customer for its internal and external promotional and marketing purposes. The Customer grants Tempest IT Limited the right to use the Customer's trademarks or design rights for such purposes.

## 20. LAW AND JURISDICTION

20.1. The Agreement shall be governed by and construed in all respects in accordance with the laws of England and the parties hereby submit to the non-exclusive jurisdiction of the English courts.

20.2. No failure or delay on the part of Tempest IT Limited or the Customer to exercise or enforce any rights conferred on it by the Agreement shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege or further exercise thereof operate so as to bar the exercise or enforcement thereof at any time or times prior to the course date

13.5.2. If a delegate withdraws from a course once that course has commenced then the Customer shall pay the full value of the course invoice to Tempest IT Limited.

13.5.3. The Customer may substitute delegates at any time upon notification to Tempest IT Limited, subject to the new delegate complying with the requirements for the course as notified by Tempest IT Limited to the Customer.

13.6. Any provisions of the Agreement, which by their nature extend beyond the expiry or termination of the Agreement shall survive such expiration or termination. Such provisions shall include, without limitation, fees and expenses, professional fees and expenses, payment and interest, confidential information, Deliverables, limitation on liability and indemnities of these terms and conditions.

## 14. ASSIGNMENT

14.1. Tempest IT Limited may sub-contract all or any of its obligations under the Agreement to a competent third party. Except for this, neither party shall assign or otherwise transfer any of its rights or obligations.

## 15. NOTICES

15.1. Any notice required or permitted to be given by either party to the other under these terms and conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice.

15.2. Any notice or other communication to be given under the Agreement shall be delivered personally or sent by first-class pre-paid post (Post will be deemed to have been given two working days after the date of posting) or facsimile transmission (confirmed by first-class pre-paid post).

15.3. For avoidance of doubt notices sent to Tempest IT Limited should be sent to (subject to written confirmation within a specific agreement): Tempest IT Limited, Leeds Media centre, 21 Savile Mount, Leeds, West Yorkshire, LS7 3HZ. United Kingdom. For the attention of: Niall Rudd.

15.4. All such notices or other communications shall be deemed to have been served as follows:

15.4.1. If delivered personally, at the time of such delivery;

15.4.2. If sent by first-class pre-paid post, three English business days (Saturdays, Sundays and English Bank or other English public holidays excluded) after being placed in the post;

15.4.3. If sent by facsimile three business days after the postal confirmation has been placed in the post;

15.4.4. Tempest IT Limited will NOT accept any Notices via electronic email.

## 16. SEVERANCE

16.1. If any of the provisions of the Agreement is judged to be invalid, illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced unless the substantive purpose of the Agreement is thereby frustrated, in which case either party may terminate the Agreement forthwith on written notice.

## 17. HEADINGS

17.1. Headings to clauses in this Agreement are for the purpose of information and identification only and shall not be construed as forming part of this Agreement.

## 18. WAIVER

18.1. The waiver by either party of a breach or default of any of the provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

## 19. PROMOTIONALACTIVITIES

19.1. Subject to clause 12 above Tempest IT Limited shall have the right to refer to and use any information or material which is not of a confidential nature derived by it in the delivery of the Services, Products or the Deliverables to the Customer for its internal and external promotional and marketing purposes. The Customer grants Tempest IT Limited the right to use the Customer's trademarks or design rights for such purposes.

## 20. LAW AND JURISDICTION

20.1. The Agreement shall be governed by and construed in all respects in accordance with the laws of England and the parties hereby submit to the non-exclusive jurisdiction of the English courts.