

CFMS Services Limited – Terms and Conditions of Supply

These terms and conditions apply between CFMS Services Limited, a company incorporated in England and Wales with company number 05742022 and with its main trading address as The Grow-On Centre, BBSP One, Bristol & Bath Science Park, Dirac Crescent, Emersons Green, Bristol, BS16 7FR (the “**Company**”) and the Customer (as defined below).

1 DEFINITIONS

1.1 In these Terms & Conditions:

“**Facility Brochure**” means the Company’s brochure setting out the details and specifications of the Services provided by the Company as amended by the Company from time to time pursuant to clause 4.7;

“**Business Day**” means any day which is not a Saturday or Sunday or public holiday in England & Wales;

“**Business Hours**” means 9.00am to 5.00pm local UK time on a Business Day;

“**Business Support Resources**” means internet access, telephone, stationary and printing/copying facilities made available by the Company at the Site for the Customer’s use;

“**Serviced Team Room**” IT-enabled accommodation, access to on-site or off-site HPC capability, support of in-house technologists and any other related facilities offered by the Company at the Site as more particularly described in the Facility Brochure;

“**Company’s Group**” means CFMS Limited, a company incorporated in England & Wales with company number 06477281 and having its registered office at Victoria House, 51 Victoria Street, Bristol BS1 6AD (as holding company of the Company) and all subsidiaries of such holding company (subsidiary and holding company having the meanings attributed to them by section 1159 of the Companies Act 2006);

“**Contract**” means the agreement between the Company and the Customer as set out in the Order in respect of the supply of Products and/or Services by the Company subject to these Terms & Conditions;

“**Customer**” means any company organisation or person (as defined in the Interpretation Act 1978) who enters into a Contract with the Company;

“**Customer Data**” means the Input Materials loaded onto and the Output Data generated or being generated by the HPC;

“**Delivery Materials**” means the physical portable means for storing the Output Data including DVDs and memory sticks;

“**Fair Usage Policy**” means the fair usage policy set out in Clause 6.1;

“**Facility**” means the HPC, the Serviced Team Room and any other facilities offered by the Company at the Site as more particularly described in the Facility Brochure;

“**HPC**” means the Company’s high performance computer, the HPC Storage Facilities, the Facility Model Office and the internet connection to the HPC made available for use by the Customer as more particularly described in the Facility Brochure;

“**Input Materials**” means data, information, specifications, designs and other materials (including the Delivery Materials) provided by the Customer

“**IPR**” means any patent, right to invention, copyright and related rights, moral right, rights in designs, trademark, trade name, domain name, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) or any other industrial or intellectual property right whether registered or unregistered or registrable or not and including all applications and rights to apply for, and renewals or extensions of, such rights and all similar or equivalent rights of forms of protection which subsist or will subsist now or in the future anywhere in the world;

“**IT Lab**” means the space on a server rack made available for user to Customers to install hardware for demonstration and any other related facilities offered by the Company at the Company’s Site as more particularly described in the Facility Brochure;

“**Output Data**” means all data, information, specifications and designs arising from the Customer’s use of the HPC or the IT Lab;

“**Loss or damage**” means any liability, claim, damages, penalty, fine, cost or other expense;

“**Products**” means any products we sell to you independently of use of the Facility including software (but excluding the Facility Software);

“**Proposal**” means the Company’s proposal, including quotations and estimates for the supply of Services;

“**Order**” the order form provided by the Company to be signed by the Customer and returned to the Company for acceptance which shall include these Terms & Conditions and shall form the Contract between the parties;

“**Services**” means the work or services of the Company which may include any combination of making available for use by the Customer of the HPC, the IT Lab and/or the Serviced Team Rooms and the provision of the Business Support Resources as referred to in the Company’s Order or otherwise agreed in writing with the Customer;

“**Site**” means the Company’s trading address at The Grow-On Centre, BBSP One, Bristol & Bath Science Park, Dirac Crescent, Emersons Green, Bristol, BS16 7FR

“**Site Use and Health & Safety Policy**” the Company’s policy regarding Site use and health & safety compliance by the Customer;

“**Facility Software**” means the software made available by the Company on the HPC and IT Lab or elsewhere in the Facility for use by the Customer including any third party software but excluding any Products;

“**Terms & Conditions**” means these Terms and Conditions of Supply.

2 APPLICABILITY

2.1 The following Terms & Conditions shall apply to any Contract between the Company and a Customer arising from any Order referring to these Terms & Conditions and shall prevail over any terms or conditions which the Customer may purport to apply whether in correspondence or under a purchase order, confirmation of order or similar document, and any implied from a course of dealing. No variation or qualification of these Terms & Conditions or of any Contract shall be valid unless agreed in writing by a director of the Company. In the event of any conflict between the Order, these Terms & Conditions and the Facility Brochure, the terms shall apply in the aforesaid order.

3 PROPOSAL

3.1 The Company’s Proposal constitutes an invitation to treat and no contract between the Company and the Customer shall arise unless and until the Customer has signed and returned the Order in accordance with the Company’s quotation and the Company has accepted that Order in writing.

3.2 Unless previously withdrawn all Proposals given by the Company are valid for a period of thirty days or such other period expressly specified in writing by the Company.

3.3 Once an Order is placed and the Contract formed, the Customer may not cancel the Order, renegotiate the Order or terminate the Contract other than with the Company’s consent or in accordance with clause 10 (termination).

4 COMPANY OBLIGATIONS AND WARRANTY

4.1 The Company warrants that, subject to the rest of clause 4 and these Terms & Conditions:

SERVICES

4.1.1 the Company shall make available for use by the Customer on a non-exclusive basis such parts of the Facility for such period as set out in the Order subject at all times to the Fair Usage Policy and the termination rights in clause 10;

4.1.2 the Company shall use commercially reasonable endeavours to make the Facility and the Services available during Business Hours subject to any necessary maintenance and the Fair Usage Policy;

4.1.3 the Company shall carry out the Services with reasonable skill and care and in accordance with all relevant legal and regulatory obligations;

4.1.4 any time or date for performance of any Service is not of the essence and are estimates only. The Company shall use commercially reasonable efforts to meet such times and dates;

4.1.5 the HPC, IT Lab and Serviced Team Rooms are free from material defects and shall perform substantially in accordance with their specifications (as set out in summary in the Facility Brochure and available in full on request); and

4.1.6 use of the Facility entitles the Customer to inclusive use of the Business Support Resources subject to reasonable and normal usage limits (to be decided by the Company’s Operations Team) and the Fair Usage Policy;

PRODUCTS

4.1.7 any Products sold to the Customer shall be sold as described in the Order with good title and free of any encumbrances but the Company offers no further warranty, representation, condition or other terms concerning the Products. The Company shall use reasonable endeavours to obtain the Products from reputable manufacturers and

suppliers and will endeavour to pass on the benefit of any manufacturer's warranty to the Customer. Delivery or collection shall be made as set out in the Order. Risk in the Products shall pass when delivery or collection is due to take place under the Order.

4.2 Where any valid breach of warranty claim is made in respect of any Service or Product, subject to clause 4.3, the Company can choose, as appropriate, either to re-perform the Services to the extent necessary to make good any defect (or replace the Product) or to grant credit to or refund to the Customer the price (or a proportionate part of the price) at the Company's absolute discretion, but the Company will have no further liability to the Customer under the warranty. There will be no extension of the warranty period in respect of re-performed Services or replaced Products.

4.3 In the event of any loss or damage to Customer Data arising from the Company's default, the Customer's sole and exclusive remedy shall be for the Company to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Company or the Company shall permit the Customer to repeat the relevant part of its calculations free of charge on the HPC. The Supplier shall not otherwise be responsible for any loss, destruction, alteration or damage of Customer Data.

4.4 The Customer acknowledges and accepts that:

4.4.1 the use of the Facility is a non-exclusive right and is personal to the Customer and shall not be considered granted to any subsidiary, holding company or affiliate of the Customer;

4.4.2 the Company shall not be responsible for overseeing, reviewing or checking the quality and integrity of the Input Materials or Delivery Materials used by the Customer;

4.4.3 the Company does not warrant the Output Materials in any way. The Customer is advised that quality and integrity of the Output Data is dependant on the quality and integrity of the Input Materials supplied by the Customer. The Company does not make any assurances that the Output Data will not infringe the rights and IPRs of any third party.;

4.4.4 the Customer assumes sole responsibility for results obtained from the use of the Facility, and for conclusions drawn from such use;

4.4.5 the Company does not warrant uninterrupted or error free operation of the HPC or IT Lab;

4.4.6 an amount of the cores of the HPC may be subject to maintenance at any one time and this may interrupt the Customer's use of the HPC and IT Lab;

4.4.7 the availability of the Output Data may be subject to the limitations, delays and other problems inherent in use of communications networks and facilities including the internet;

4.4.8 risk of loss or damage of any kind in the Output Data shall pass to the Customer upon collection of the Output Data or following seven days notice from the Company that the Output Data is ready for collection or download via the internet;

4.4.9 the Customer acknowledges that use of the HPC and IT Lab involves use of third party supplied software. The Company makes no warranty, representation or commitment and shall have no liability or obligation whatsoever in relation to such third party software save that the Company has chosen such software in good faith. The Company recommends that the Customer refers to the third party's terms and conditions prior to using the relevant third-party software; and

4.4.10 subject to the Company's express obligations in clause 4.1, the Company makes no warranty, representation or commitment in relation to Products sold or otherwise provided to the Customer. Without limiting clause 9.2, section 14 (Implied terms about quality or fitness) of the Sale of Goods Act 1979 shall not apply and any terms in the Order relating to quality for fitness shall not apply. The Company shall not be responsible for reviewing, checking or testing the relevance, necessity, quality or integrity of any Products sold or provided. Where Products supplied include third party supplied software, the software is sold subject to the third party's licence terms and conditions with which the Customer shall be responsible for complying.

4.5 The Company's warranties in clause 4 shall not apply if:

4.5.1 there has been any misuse, inappropriate use, unauthorised interference, modification or damage by the Customer of the Facility;

4.5.2 claims are made more than 6 months after the completion of performance of the relevant Services or availability of the relevant Output Data or supply of Products;

4.5.3 the Customer has not paid the price for the relevant Services or Products in full; and

4.5.4 in respect of any defect in Output Data arising from Input Materials supplied by the Customer or on the Customer's behalf.

4.6 The Contract shall not prevent the Company from entering into similar agreements with other customers.

4.7 The Company reserves the right to amend the Facility Brochure and the Fair Usage Policy at any time and such amendments shall take effect with at least 30 days prior written notice to the Customer.

5 IPR AND CONFIDENTIALITY

5.1 Subject to the terms of the Order, any obligation of confidentiality agreed between the parties and to any rights of third parties, all rights and title in the IPR in the Input Materials and the Output Materials shall remain the property of the Customer. The Company hereby reserves and retains all right and title in the IPR in the Services and the Facility and for the avoidance of doubt no rights or title in the IPR are granted or licensed to the Customer in respect of the HPC or the IT Lab or the Facility Software.

5.2 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, activities, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as provided by clause 5.3.

5.3 Each party may disclose the other party's confidential information:

5.3.1 to those of its employees, officers, representatives or advisers who need to know such information for the purpose of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 5; and

5.3.2 as may be required by law, court order or any governmental or regulatory authority.

5.4 No party shall use any other party's confidential information for any purpose other than to perform its obligations under the Contract.

6 FAIR USAGE POLICY

6.1 The Customer agrees to abide by the terms of the Fair Usage Policy in respect of the Services from time to time issued by the Company pursuant to clause 4.7. The current policy states that:

"Customers must not use the Facility in excess of the pre-agreed permitted use set out in an Order without the prior agreement of the Company's Operations Team. Any use of the Facility in excess of the pre-agreed use must be requested in advance by the Customer which shall be reasonably allocated by the Company's Operations Team on a first come, first served basis subject to availability and consideration to any other affected customers or potential customers.

If the Customer fails to use any pre-agreed use set out in an Order, the Customer will still be charged the pre-agreed fee."

7 CUSTOMER RESPONSIBILITIES

7.1 The Customer's use of the Facility is to be conducted in such a way that gives rise to no relationship of landlord and tenant between the Company and the Customer nor to any other proprietary interest in the Customer's favour in respect of the Site or any part of it. The Company is not to be regarded as sharing occupation or possession of the Site or any part of it with the Customer. The Company retains control, possession and management of the Site and the Customer has no right to exclude the Company from the Site or any part of it.

7.2 The Customer shall:

7.2.1 be responsible for providing all necessary Input Materials and the Delivery Materials which are required to enable the Customer to make proper use of the Facility;

7.2.2 be responsible for ensuring that any Input Materials used or Products chosen meet the Customer's requirements;

7.2.3 not access all or any part of the Facility or Services in order to build a product or service which competes with the Facility or Services;

7.2.4 not license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise exploit, or otherwise make the Facility or Services available to any third party or use the Facility or Services to provide services to third parties;

7.2.5 abide by the Site Use and Health & Safety Policy as stated in the Facility Brochure and/or as provided to the Customer on first use of the Facility;

7.2.6 use all reasonable endeavours to prevent any unauthorised access to, or use of, the Facility or Services and, in the event of any such

unauthorised access or use, promptly notify the Company;

7.2.7 not attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Facility Software or third party supplied software in any form or media or by any means (except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties or the extent expressly permitted under this Contract);

7.2.8 not attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Facility Software or third party supplied software;

7.2.9 not access, store, distribute or transmit viruses or malicious code or any material during the course of its use of the Facility that is unlawful, harmful, infringing, facilitates illegal activity or causes damage or injury to any person or property;

7.2.10 comply with the terms of any third party software licences applicable to the use of the HPC and IT Lab or Products supplied;

7.2.11 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Facility and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet;

7.2.12 liaise solely with the manufacturer in relation to any problems with Products supplied by the Company in the event that the remedies in clause 4.2 have been exhausted, are not invoked or do not apply.

7.3 The Customer warrants and represents that:

7.3.1 it is a business or academic organisation with a legitimate interest in design simulation related technologies;

7.3.2 it has good title to any Input Materials used by it and they comply with all relevant legal and regulatory obligations (including all data protection obligations);

7.3.3 the Input Materials do not and shall not cause any loss or damage to the Company or its systems (including ensuring there are no viruses or malicious code on any items of hardware or software supplied); and

7.3.4 the Input Materials do not and shall not cause the Company to infringe any IPR or other right or privilege of any third party.

7.4 The Customer shall be responsible for obtaining and maintaining all necessary licenses, permissions and authorisations applicable to the supply of the Input Materials and the Output Data, including (without limitation) export and/or import licences.

7.5 The Customer shall defend, indemnify and hold harmless the Company against any loss or damage which the Company incurs in respect of:

7.5.1 any loss or damage (physical or otherwise) to the Facility arising from the Customer's use of the Facility;

7.5.2 any Input Materials or Delivery Materials used by the Customer which breach the terms of this Contract;

7.5.3 any breach of the terms of this Contract relating to use of the HPC or Facility Software; and

7.5.4 the use or exploitation by the Customer (or by anyone acquiring rights therefore through the Customer) of any Output Data resulting from the performance of the Contract.

7.6 In respect of the indemnity in clause 7.5 above:

7.6.1 the Company shall give prompt notice of any such claim to the Customer;

7.6.2 the Company shall provide reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and

7.6.3 the Customer shall be given sole authority to defend or settle the claim.

8 PRICE AND PAYMENT

8.1 The Customer shall pay the fees as set out in the Order on a time and materials basis subject to the Fair Usage Policy. Unless otherwise expressly specified, all prices quoted shall be exclusive of Value Added Tax ("VAT") and of all other taxes or duties which may be imposed on sales. The rates are subject to review on a quarterly basis and any change shall be notified to the Customer in writing with at least 30 days notice. The fees include use of the Business Support Resources in accordance with clause 4.1 except that a reasonable additional charge may be levied for high usage at the sole discretion of the Company.

8.2 The Company shall issue invoices for the fees monthly or at such other times set out in the Order.

8.3 Invoices issued by the Company are payable within thirty days and prompt settlement shall be of the essence of the Contract. Without prejudice to its right to terminate the Contract for non-payment the Company reserves the right to suspend work on the Contract and the Company shall not be responsible for any loss or damage arising as a result of such suspension.

8.4 In spite of completion of the Service and the Customer's collection of the Output Data having been made or delivery of the Products, all Output Data and the IPR in such data arising from the Contract and any Products shall remain the Company's property until full payment of all monies (including VAT) due, under any contract between the Company and the Customer, has been made.

8.5 The Customer will pay all monies due in full without any discount, deductions, set off or abatement on any grounds.

9 LIMITATION OF LIABILITIES

9.1 Subject to the express terms herein, the following provisions set out the Company's entire financial liability (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

9.1.1 any breach of the Contract; and

9.1.2 any representation, statement or tortious act or omission including negligence, breach of statutory duty or otherwise arising under or in connection with the Contract.

9.2 Subject to clause 4 (warranty), all other warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law (including by reference to the Unfair Contract Terms Act 1977) excluded from the Contract.

9.3 Nothing in the Contract excludes or limits the Company's liability for:

9.3.1 death or personal injury caused the Company's negligence, or

9.3.2 death, personal injury or loss of or damage to property caused by defective Products supplied; or

9.3.3 fraud or fraudulent misrepresentation; or

9.3.4 any matter which it would be illegal or unlawful to exclude or limit or attempt to exclude or limit liability.

9.4 Subject to clauses 9.1 to 9.3 (inclusive):

9.4.1 the total liability of the Company to the Customer in contract, tort, negligence, misrepresentation, restitution, breach of statutory duty, obligation of indemnity or otherwise arising out of or in connection with the Contract shall be limited to twice the amount paid for the performance of the Contract over a period of no more than 1 year or £25,000 whichever is the lesser; and

9.4.2 the Company shall not be liable or responsible to the Customer for any loss or damage arising directly or indirectly in the following circumstances:

9.4.2.1 the failure of Customer supplied Input Materials or Delivery Materials;

9.4.2.2 any problem with the Output Data or any loss or damage to Customer Data (other than directly attributable to a breach of the warranty in clause 4.1 in relation to the HPC in which case the Customer's sole and exclusive remedy shall be clause 4.3);

9.4.2.3 any failure or problems with Products supplied by the Company (other than directly attributable to a breach of the warranty in clause 4.1 in which case the Customer's sole and exclusive remedy against the Company shall be clause 4.2);

9.4.2.4 any errors, omissions, poor quality, inaccuracy, unreliability, lack of integrity, illegality or other problem with the Output Data arising from Input Materials or Delivery Materials supplied by the Customer or its agents;

9.4.2.5 if there is any failure by the Company to use commercially reasonable efforts to meet times and dates for performance of the Services for any cause whether within or outside the Company's reasonable control;

9.4.2.6 if there are any delays in providing any Output Data or other Services as a result of the Customer's actions or inactions or failing to comply with its obligations under the Contract;

9.4.2.7 if there are any delays, delivery failures or any other loss or

damage resulting from the transfer of Customer Data over communications networks and facilities including the internet;

- 9.4.2.8 in the event of any claim being made against the Customer in respect of an alleged infringement of any IPR or other rights arising out of the application of the Output Data;
- 9.4.2.9 if the Customer fails to follow any of the Company's instructions or recommendations;
- 9.4.2.10 any loss of profit, income or revenue arising from the Company's breach of this Contract;
- 9.4.2.11 any loss of business, contracts or opportunity arising from the Company's breach of this Contract;
- 9.4.2.12 any loss of anticipated savings arising from the Company's breach of this Contract;
- 9.4.2.13 any wasted time arising from the Company's breach of this Contract;
- 9.4.2.14 any loss of goodwill arising from the Company's breach of this Contract;
- 9.4.2.15 any indirect, special or consequential loss or damage (whether for loss of profit or otherwise);
- 9.4.2.16 any incidental or exemplary loss or damage (whether for loss of profit or otherwise); and
- 9.4.2.17 any other loss which is not reasonably foreseeable to both parties when the Order was signed.

10 TERMINATION

- 10.1 The Contract may be terminated forthwith by either party ("**Terminating Party**") (i) without cause by 30 days written notice at any time or if (ii) the other party commits a material breach of the Contract which is incapable of remedy, or fails to remedy any other breach of the Contract within fourteen days of receiving notice of such a breach, or (iii) if the other makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt, or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction), or an encumbrancer takes possession, or a receiver is appointed of any of the property or assets of the other, or the other ceases or threatens to cease to carry on business, or is unable to pay its debts as they fall due, or any event analogous to those previously listed occurs in any other jurisdiction, or the Terminating Party reasonably believes that any of the events mentioned in this clause is about to occur (and notifies the other accordingly).
- 10.2 Termination of the Contract howsoever arising shall be without prejudice to any rights which the Customer or the Company have against each other which have accrued prior to or on such termination.
- 10.3 Without prejudice to the provisions of clause 10.2, upon termination of the Contract for any reason, the Company shall be entitled to payment for all work carried out under the Contract and any related commitments made by the Company.

11 DISPUTE ESCALATION

Any dispute, difference or controversy ("**Dispute**") arising out of or in relation to a Contract shall be referred to the Financial Controller of the Company (or his nominee) and a person of an equivalent level within the Customer's organisation. If the Dispute remains unresolved within 14 days of the date of such referral, the Dispute shall be referred to the Chief Executive of the Company (or his nominee) and a person of equivalent level within the Customer's organisation (together "**Senior Management**"). If the Dispute cannot be resolved within 21 days of the referral to the Senior Management, the parties may consider referring the Dispute to mediation or other agreed form of dispute resolution. Unless the parties separately agree on a binding form of dispute resolution, nothing in this clause will prevent either party from commencing legal proceedings at any time.

12 GENERAL

- 12.1 No goods or services other than specified in the Contract will be supplied or carried out and the Contract contains all the terms and conditions agreed by both parties.
- 12.2 Each right or remedy of either party under the Contract is without prejudice to any other right or remedy of that party whether under the Contract or not.
- 12.3 If any court or competent authority finds that any provision of this Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Contract shall not be

affected.

- 12.4 If any invalid, unenforceable or illegal provision of this Contract 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.
- 12.5 Failure or delay by either party in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 12.6 Any waiver by either party of any breach of, or any default under, any provision of the Contract by the other shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 12.7 Neither the Company nor the Customer may assign, charge or transfer or in any way make over any of its rights or obligations without the written consent of the other party.
- 12.8 The Contract shall be governed by and construed in accordance with the laws of England and Wales. Subject to clause 12, all disputes arising out of the Contract shall be subject to the exclusive jurisdiction of the Courts of England and Wales.
- 12.9 The Company and the Customer agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to the Contract but only to the extent that companies within the Company's Group shall be entitled in their own right to enforce the benefit of the indemnities, exclusions and limitations in favour of the Company contained in this Contract. The Company and the Customer may, by agreement, rescind or vary any term of the Contract without the consent of the companies within the Company's Group.
- 12.10 A reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of any amendment or re-enactment.
- 12.11 If either party is prevented from or delayed in the carrying out of its obligations under the Contract due to circumstances or events beyond the reasonable control of that party including without limitation acts of God, governmental actions, war or national emergency, acts of terrorism or piracy, hijacking, protests, riot, civil commotion, fire, explosion, flood, extreme weather, epidemic, pandemic, lock-outs, strikes or other labour disputes, restraints or delays affecting carriers or defaults of manufacturers, suppliers or sub-contractors then such party shall not be in breach of this Contract nor liable for any failure or delay in the performance of its obligations and the time for performance shall be extended accordingly. If the circumstances or event in question continues for a continuous period in excess of 60 days, either party shall be entitled to give 7 days prior notice in writing to the other party to cancel the Contract in which case neither party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.