

Cawood Scientific Limited – Standard Terms and Conditions of Supply

Date of Issue : 1st October 2014

Introduction

- 1.1 The Customer's attention is drawn to these terms and conditions of business which relate to all of the operating divisions and trading names of Cawood Scientific Limited:
- NRM Laboratories
 - Sciantech Analytical Services
 - Sci-Tech Laboratories
- 1.2 All contractual agreements with the operating divisions of Cawood (as defined below) are subject to these terms and conditions at all times.

Definitions

In these conditions:

- 2.1 "Cawood" means any of the operating divisions (listed above) of Cawood Scientific Limited, registered in England and Wales with company number 05655711, and whose registered office is at Coopers Bridge, Braziers Lane, Berkshire, RG42 6NS.
- 2.2 "Analysis Request Form" or "ARF" means the paperwork supplied by Cawood which is to be completed in full by the Customer and which must detail and accompany all samples submitted and the Services required (as stipulated by Cawood from time to time). Any 'Customer supplied paperwork' accompanying samples must detail the same parameters as the Cawood ARF.
- 2.3 "Business Day" a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
- 2.4 "Customer" means any person, or persons, firm, business, partnership, company or other organisation by or upon whose behalf a contractual agreement or order is placed for Cawood to carry out the Services, notwithstanding that the request for the work shall have been received from any agent, servant or contractor acting on behalf of the Customer. Cawood shall be entitled to regard any person placing an order with Cawood as having been authorised by the Customer to do so and so as to bind the Customer in its entirety.
- 2.5 "Contract" means the contract made between the Customer and Cawood and is formed by acceptance of the Quotation by the Customer (either expressly or by the provision of Samples by the Customer to Cawood in relation to the Services) and governed by these Conditions.
- 2.6 "Intellectual Property Rights" means all patents, rights to inventions, utility models, copyright and related rights, trade-marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how, testing methods and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extension of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- 2.7 "Quotation" means any written Quotation issued by Cawood to the Customer in relation to proposed services.
- 2.8 "Services" means the analytical testing, investigation, test protocols or other investigation and technical services to be provided by Cawood as detailed in the Quotation.
- 2.9 "Samples" means the sample(s) supplied by the Customer to Cawood from time to time in order that Cawood may perform the Services.

Contract and Acceptance

- 3.1 Cawood shall supply the Services to the Customer subject to these terms and conditions, which shall apply to the provision of all Services carried out by Cawood.
- 3.2 Except as set out in these terms and conditions, no variation of these terms and conditions shall be binding unless agreed in writing and signed by Cawood.
- 3.3 Where there is any variation whatsoever to the Services, Cawood reserves the right to amend the price and the relevant Quotation accordingly without liability.
- 3.4 The Customer shall notify Cawood prior to the issuing of a Quotation if the Services and the analysis of the Samples provided are or are likely to be used for the purpose of arbitration or litigation. In the event that the Customer should fail to do so, Cawood may, at Cawood's sole discretion and without being responsible for loss, refuse to provide expert testimony, then the same shall amount to a variation of the Quotation and Contract and Cawood shall have the right, at its sole discretion, to amend the price accordingly.
- 3.5 Unless previously withdrawn or stated otherwise, a Quotation shall not constitute an offer, and is open for acceptance for a period of 60 days from the date of the relevant Quotation. If the Customer's acceptance of a Quotation is inconsistent with the Quotation or these terms and conditions, Cawood shall not be bound by such inconsistency unless it specifically agrees in writing to the relevant variation or inconsistency.
- 3.6 At its absolute discretion, Cawood reserves the right to withdraw a quotation prior to acceptance by the Customer at any time. Cawood is not responsible whatsoever for any loss or damage encountered as result of this action.
- 3.7 Any typographical or clerical error or omission in any Quotation, order, acceptance, invoice or any other document issued by Cawood shall be subject to correction without any liability whatsoever of Cawood at whatever time and whenever such correction shall be deemed necessary by Cawood.
- 3.8 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Cawood which is not set out in the Contract.
- 3.9 Any samples, drawings, descriptive matter or advertising issued by Cawood, and any descriptions or illustrations contained in Cawood's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 3.10 These terms and conditions apply to the Contract to the exclusion of any other terms and conditions that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

The Analytical Service

- 4.1 Subject to these terms and conditions, Cawood shall supply the Services to the Customer in accordance with the Quotation in all material respects.
- 4.2 Cawood shall use all reasonable endeavours to meet any performance dates specified in the Quotation (if any) but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 4.3 Cawood shall have the right, without liability, to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Cawood shall notify the Customer in any such event.
- 4.4 Cawood warrants to the Customer that the Services will be provided using reasonable care and skill.
- 4.5 Notwithstanding the foregoing, the test methods employed by Cawood will be those considered by Cawood to be the most appropriate under all circumstances and the Customer hereby agrees to accept whatever test methods Cawood under all circumstances deem to be appropriate and shall raise no objection to the same.

- 4.6 Each Sample shall be provided by the Customer in such form and quantities as may be reasonably required by Cawood. Any alternative form and or excess quantities requiring disposal may be charged as an additional cost to the Customer.
- 4.7 Cawood may, at its sole discretion, supply containers / sample packaging where this is necessary, in Cawood's reasonable opinion, to ensure the integrity of the analysis, and if so otherwise required. Cawood shall not be responsible for the integrity of any result or output of the Services where Samples have not been submitted in appropriate containers or packaging.
- 4.8 Where the Customer requires Cawood to collect Samples, Cawood may appoint on the Customer's behalf, a third party courier to collect and deliver the Samples to Cawood. The Customer uses such third party courier at its own risk and Cawood shall have no liability whatsoever in relation to such courier services.
- 4.9 The Customer shall be responsible for all charges in relation to any courier services commenced pursuant to Clause 4.8.
- 4.10 The Customer acknowledges that by ordering courier services it has authority to authorise the collection and delivery of Samples by the courier from the collection point to Cawood or such other location as agreed between Cawood and the Customer in writing.
- 4.11 Where Cawood arranges the collection of any Sample from a Customer and the Sample is not available for collection at the specified time as agreed between the parties, Cawood and or the relevant third party courier reserves the right to charge the Customer the quoted price for the collection of the Sample.
- 4.12 Where appropriate the courier's receipt shall be conclusive evidence of the date and time of collection of Samples from the Customer.
- 4.13 Cawood shall be under no liability whatsoever in the event of the courier's failure to deliver the Samples within the estimated timeframe.
- 4.14 The Customer shall take all steps necessary to ensure that Samples will not endanger the health and safety of Cawood, its employees, servants or agents and or the courier together with property, vehicles or premises.
- 4.15 In the event that the Customer cancels the Services, the Customer shall be responsible for all courier costs incurred in collecting and delivering the relevant Samples to Cawood. If the Customer cancels the courier services the Customer shall be responsible for any costs incurred by the courier up to and including the date of such cancellation.
- 4.16 Where stated, time limits and performance specifications quoted are estimates only and Cawood reserves the right to extend the turnaround time for the provision of results. Any results given by Cawood to the Customer are given on the understanding that they are subject to normal experimental error and are based on the methods and techniques known by Cawood at the relevant time. Cawood accepts no liability whatsoever for any loss or damage resulting from any delay or the value of the result of the analysis issued.
- 4.17 The Customer confirms and acknowledges that it is the sole responsibility of the Customer to ensure that the Services shall be appropriate for Customer's requirements. Cawood shall not at any time be liable in any manner whatsoever for any information or suggestion provided by Cawood, its employees, servants, subcontractors and or agents in relation to the provision of Services and or for the capabilities of Cawood providing these services.
- 4.18 Analyses are usually carried out singly, strictly in accordance with Cawood's quality assurance procedures. If duplicate or repeat work is requested by the Customer, then this will be charged for at an additional cost and Cawood reserves the right to amend the price and the Quotation accordingly unless the original analyses were found to be incorrect.
- 4.19 The Customer acknowledges that analytical data refers only to the portion of a Sample taken for analysis. If a Sample is exceptionally heterogeneous considerable variation in analyte concentration may be manifest within a single Sample. In such instances, several replicate analyses may be deemed to be required by Cawood, at Cawood's sole discretion, but dependant on the nature and or size of the Sample and the reason for the same being requested by the Customer. In such instances, the Customer shall raise no objection in respect of the same, and in the event that the same shall constitute substantial additional Services over and above that anticipated by Cawood within the Quotation, then the same shall be deemed to be a variation to the Contract, and the provisions of Clause 3.3 shall apply.
- 4.20 Cawood reserves the right, subject to prior agreement with the Customer, to levy a surcharge for Services required urgently which, in Cawood's reasonable opinion proves disruptive to the normal efficient running of its organisation.
- 4.21 Where appropriate the Customer shall be responsible for ensuring that Samples for 'Time Dependent Services' (as specified in the Quotation) are delivered to Cawood promptly, that documentation for a 'Chain of Custody' is completed correctly and that appropriate labels are placed on the Samples to notify Cawood that the provision of 'Time Dependent Services' (as specified in the Quotation) has been agreed between the parties.
- 4.22 The Customer must notify Cawood when samples are despatched from outside the United Kingdom, with details in particular to enable customs clearance of samples to be carried out effectively (if appropriate). Cawood shall not be held liable for any delays encountered as a result of a failure to carry out this notification. The Customer will be liable for and will indemnify Cawood against any Customs and Excise duties, charges or levies.
- 4.23 The Customer must notify Cawood in writing, prior to commencement of the Services, if an analysis is required for legal proceedings. Any such analysis if undertaken, will be carried out in accordance with the procedures from time to time established by Cawood for the analysis of formal samples required for legal proceedings.
- 4.24 The Customer hereby agrees and acknowledges that Cawood is not a public analyst nor is it statutorily approved as an analyst for the purpose of any legislation containing or referring to such expression.
- 4.25 Any interpretation made by Cawood or its staff in respect of, without limitation, Samples, test results, legislation, regulations, policies or procedures constitute opinions only and Cawood does not warrant that any such opinions are accurate and Cawood shall have no liability for any reliance placed on these opinions by the Customer. The Customer must make its own decisions on the subject matter of any such opinions.
- 4.26 Laboratory records for accredited analysis such as chromatograms, notebooks, worksheets, test certificate and reports are retained by Cawood for a minimum period of three years from the date of sample receipt unless alternative specific arrangements are agreed in writing with the Customer prior to entering into the Contract or a longer period required by law.
- 4.27 Subject to Clause 4.26, unless otherwise agreed by the parties in writing, Cawood may destroy all Samples after a minimum 14 days from the receipt of the relevant Sample (this time frame will be dependent upon the sample type). If the Customer requires Cawood to store Samples for a longer period of time, Cawood reserves the right to charge an additional storage fee at its standard rates from time to time.

Health and Safety

- 5.1 Customers must inform Cawood in advance of Cawood receiving any relevant Sample, if the Sample contains hazardous, dangerous or harmful substances, including but not limited to whether the Sample contains asbestos, otherwise the Customer warrants that no Sample will constitute or contain dangerous, harmful or hazardous materials and the Customer further warrants that no sample will constitute or contain any substance which is hazardous, harmful, dangerous, radio-active, a health and safety risk or the possession, storage or delivery of, is a criminal offence or a breach of any law or regulation. Cawood reserves the right to quarantine Samples until the provisions of this clause are complied with by the Customer and to charge for any administration and or specific handling requirements involved.
- 5.2 Cawood shall indemnify and hold Cawood, its employees, servants, agents and subcontractors harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, Cawood, its employees, servants, agents and subcontractors as a result of or in connection with the Customer's breach of any of the provisions set out in Clause 5.1.

Sub-Contracting

- 6.1 At Cawood's absolute discretion, Cawood may subcontract certain Services. In this instance the Customer will be notified and Cawood shall use its reasonable endeavours to clearly indicate the same in any Quotation and on subsequent Certificates of Analysis provided by Cawood.

Customers' Obligations

- 7.1 The Customer shall:
- (a) ensure that the terms of the Quotation and any other information provided to it by Cawood are complete and accurate;
 - (b) co-operate with Cawood in all matters relating to the Services;
 - (c) provide Cawood with such information and materials as Cawood may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
 - (d) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;
 - (e) keep and maintain all materials, equipment, documents and other property of Cawood ("Cawood Materials") at the Customer's premises in safe custody at its own risk, maintain the Cawood Materials in good condition until returned to Cawood, and not dispose of or use Cawood Materials other than in accordance with Cawood's written instructions or authorisation; and
 - (f) notify Cawood of any other relevant obligations.
- 7.2 If Cawood's (or its servants', agents' and subcontractors') performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("Customer Default"):
- (a) Cawood shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Cawood's (or its servants', agents' and subcontractors') performance of any of its obligations;
 - (b) Cawood shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Cawood's (or its servants', agents' and subcontractors') failure or delay to perform any of its obligations as set out in this Clause 7.2; and
 - (c) the Customer shall reimburse Cawood on written demand for any costs or losses sustained or incurred by Cawood arising directly or indirectly from the Customer Default.

Price and Payment for the Services

- 8.1 Subject to Clause 8.3 or as otherwise expressed in these terms and conditions, the price for the services shall be set out in the Contract.
- 8.2 Charges for services other than the Services will normally be calculated on a time and materials basis. Such charges will be discussed with the Customer and the provision of Services commenced following authorisation from the Customer in accordance with these terms and conditions. In relation to all Services, Cawood shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Cawood engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of Services provided by third parties and required by Cawood for the performance of the Services, and for the cost of any materials.
- 8.3 Cawood reserves the right to increase its prices, provided that such charges cannot be increased more than once in any twelve month period. Cawood will give the Customer written notice of any such increase one month before the proposed date of the increase.
- 8.4 If a purchase order number or equivalent reference be required for payment of the invoice, it is the responsibility of the Customer to ensure that this is provided at the time of the submission of the relevant Samples. Cawood reserves the right to charge an administration charge for delays in providing these details and any other safety data.
- 8.5 Cawood shall invoice the Customer in accordance with the periods set out in the Quotation.
- 8.6 The Customer shall pay each invoice submitted by Cawood:
- (a) within 30 days of the date of the invoice (unless alternative payment terms are agreed); and
 - (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract. Receipts for payment will be issued only upon request by the Customer.
- 8.7 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by Cawood to the Customer, the Customer shall, on receipt of a valid VAT invoice from Cawood, pay to Cawood such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 8.8 Should the Customer fail to make payment in full within 30 days of the date of invoice, then without prejudice to any other right or remedy available to Cawood, Cawood shall be entitled to charge the Customer interest (both before and after any judgment) on the amount unpaid from the day that payment is due until the date of payment in full at the rate of 4% above the base rate from time to time of NatWest Bank Plc.
- 8.9 If the Customer shall fail to make payment within 30 days of the date of invoice, Cawood reserves the right to suspend the provision of any services to the Customer and withhold results and or "Certificates of Analysis/Reports" relating to any outstanding Services until such time as payment is made in full. The Customer will be liable for payment of any costs and expenses whatsoever incurred by Cawood in the collection of any overdue payment amount.
- 8.10 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Cawood may at any time, without limiting its other rights or remedies, set-off any amount owing to it by the Customer against any amount payable by Cawood to the Customer.

Intellectual Property

- 9.1 As between the Customer and Cawood, all Intellectual Property Rights in or arising out of or in connection with the Services (including without limitation the results of the Services) shall be owned by Cawood. For the avoidance of doubt, Cawood shall have the right to exploit such Intellectual Property Rights by any and all means and in any and all media throughout the world absolutely free from any restriction or encumbrance, without payment to the Customer, and may be exercised by Cawood, its successors, assignees and licences.
- 9.2 Subject to Clause 9.3, Cawood licenses all such rights to the Customer on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the results of the Services. If this agreement is terminated, this licence will automatically terminate.
- 9.3 The Customer acknowledges that, where Cawood does not own any materials or relevant Intellectual Property Rights, the Customer's use of rights in such materials and or relevant Intellectual Property Rights is conditional on Cawood obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle Cawood to license such rights to the Customer.
- 9.4 The Customer warrants and undertakes that in the event that the Customer shall submit to Cawood any specifications, designs, plans or other materials that the same shall not breach any third party's Intellectual Property Rights of whatever nature or howsoever occurring.
- 9.5 The Customer shall indemnify and hold Cawood, its employees, servants, agents and subcontractors harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by Cawood, its employees, servants, agents and subcontractors as a result of or in connection with any actual or alleged infringement brought in connection with Clause 9.3.

- 9.6 For the avoidance of doubt, Cawood shall retain all Intellectual Property Rights in any new processes or methodologies it develops during the provision of the Services.

Confidentiality

- 10.1 Subject to the provisions of Clause 9.1, each of the parties undertakes with the other not to disclose to any third party or use for any purpose other than as contemplated by the Contract any confidential information supplied by the other party save as may be required by law or to employees, servants, agents and subcontractors who have reasonable need to see and use such confidential information and the receiving party shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This Clause 10.1 shall survive termination of the Contract.
- 10.2 None of the material or information provided by Cawood to the Customer shall be used by the Customer to convey any connection with Cawood, or any endorsement or implied approval of, or on behalf of, Cawood of any aspect of the Customer's business or products except for disclosures required by regulatory submissions or with the prior consent of Cawood.

Liability

- 11.1 Cawood shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any submission of sample(s), data or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their arrival or non arrival, or any other fault of the Customer.
- 11.2 Nothing in these terms or conditions shall limit or exclude Cawood's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 11.3 Subject to Clause 11.2:
- (a) Cawood (and any third party courier) shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or any indirect or consequential loss arising under or in connection with the Contract; and
 - (b) Cawood's (including any third party courier's) total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount paid by the Customer in relation to the relevant Services.
- 11.4 The terms implied by sections 3 to 5 of the Supply Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 11.5 This Clause 11 shall survive termination of the Contract.

Termination

- 12.1 Without limiting its other rights or remedies, Cawood may terminate the Contract by giving the Customer one month's written notice.
- 12.2 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
 - (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
 - (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
 - (h) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - (j) any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 12.2(b) to Clause 12.2(i) (inclusive);
 - (k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
 - (l) the other party's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
 - (m) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 12.3 Without limiting its other rights or remedies, Cawood may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within [30] days after being notified in writing to do so.

Consequences of Termination

- 13.1 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to Cawood all of Cawood's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall return all of the Cawood Materials and any materials provided by Cawood which have not been fully paid for. If the Customer fails to do so, then Cawood may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication survive termination shall continue in full force and effect.

Force Majeure

- 14.1 For the purposes of this Contract, "Force Majeure Event" means an event beyond the reasonable control of Cawood, its servants, agents or subcontractors including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 14.2 Cawood shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- 14.3 If the Force Majeure Event prevents Cawood from providing any of the Services for more than four weeks, Cawood shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

General

15.1 Assignment and other dealings

- (a) Cawood may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of Cawood, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

15.2 Notices

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or fax
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 15.2(a), if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

15.3 Severance

- (a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- (b) If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15.4 Waiver

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

15.5 No partnership or agency

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

15.6 Third parties

A person who is not a party to the Contract shall not have any rights to enforce its terms.

15.7 Variation

Except as set out in these terms and conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Supplier.

15.8 Governing law

This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

15.9 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).