

# British Safety Council

## Terms of business



### Introduction

1. These Terms of Business shall be binding on any person purchasing goods and/or services from **British Safety Council**, a company limited by guarantee registered in England and Wales (No. 04618713) and registered as a charity in England and Wales (No. 1097271) and Scotland (No. SC037998) whose registered office is at 70 Chancellors Road, London W6 9RS.

### Interpretation

2. In this Agreement:
  - 2.1. Title headings are for convenience only and shall not be used in its interpretation;
  - 2.2. Use of the singular includes the plural and vice versa and use of any gender includes all genders;
  - 2.3. Any reference to a "person" includes a body corporate, natural person, firm, partnership, company, corporation, association, organisation, government, state, foundation and trust (in each case whether or not having separate legal personality);
  - 2.4. Unless the context otherwise requires, the words "other", "includes", "including", "for example" and "in particular" do not limit the generality of any preceding words and any words that follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible; and
  - 2.5. Any obligation in the Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.
3. The following words shall have the following meanings unless the context requires otherwise:

**"Us", "we" or "our"** means the **British Safety Council**.

**"You" or "your"** means the persons who are our clients for the Products.

**"Certification Policy"** means the policy issued by us from time to time, which contains, amongst other things, the policies, procedures and instructions for administration of certification.

**"Certification Services"** means the assessment of your management system in order to determine whether those systems fulfil the requirements for certification to the selected standard(s).

**"Data Protection Legislation"** means as they apply to each of us: (a) the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003, (b) the General Data Protection Regulations (Regulation (EU) 2016/679) ("GDPR"), until such time as it may cease to apply in the UK; (c) any legislation ratifying or otherwise adopting, replacing or supplementing GDPR in the UK; and (d) in respect of your obligations, any other laws and regulations relating to natural persons relevant to your obligations in any other jurisdictions.

**"Fees"** means the fees (including without limitation the Membership Fees, Termination Fees and Transfer Fees), as set out in the Order or as otherwise notified by us to you, payable by you to us in consideration of the provision of the Products.

**"Initial Term"** means the period of one, two or three years, as set out in the Order, commencing on the date of the Order.

**"Logo Guidelines"** means the guidelines as provided by us or as set forth on [www.britsafe.org](http://www.britsafe.org).

**"Membership Benefits"** means the benefits provided by us to you as listed on [www.britsafe.org](http://www.britsafe.org) from time to time.

**"Membership Fees"** means the fees payable by you in advance in respect of the Initial Term and each subsequent Renewal Term, as set out in the Order or as otherwise notified by us to you, in consideration of the provision of the Membership Benefits.

**"Membership Logos"** means the logos as specified by us from time to time, a current version of which is set forth on [www.britsafe.org](http://www.britsafe.org).

**"Membership Subscription"** means a subscription purchased by you pursuant to this Agreement, which entitles you to access and use the Membership Benefits for the term of this Agreement.

**"Order"** means the order submitted by you to us in writing, which sets out the nature of the Products and the quantity. The Order constitutes an offer by you to purchase Products, in accordance with these Terms of Business.

**"Renewal Term"** means each period of one, two or three years, as set out in the Order, commencing on the day following the last day of the Initial Term and the last day of each subsequent Renewal Term.

**"Privacy Notice"** means the fair processing information available on [www.britsafe.org](http://www.britsafe.org), as maybe updated from time to time.

**"Products"** means the services and/or goods to be provided by us to you and more particularly as listed on the Order or otherwise agreed between us and you.

**"Termination Fees"** means the fees payable by you to us in accordance with clause 48.

**"Transfer Fees"** means the fees payable by you to us in respect of each time the date(s) upon, or location(s) at which, each training, audit or consultancy event or delivery of the Products will take place are changed.

**"Site(s)"** means a physical location(s) from which you carry on your activities.

### Entire agreement

4. Subject to clause 62, the Order and these Terms of Business (together the **"Agreement"**) contain the whole agreement between the parties relating to the subject matter hereof and supersede all previous agreements (if any) between such parties in respect of such matters, other than any confidentiality or non-disclosure agreement which the parties may have signed prior to the commencement of this Agreement and which shall continue to govern any exchanges of information made before the commencement of this Agreement.
5. By entering into this Agreement, you acknowledge that you have not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this Agreement.

### Delivery of Products

6. No Order submitted by you for the Products shall be binding on us until accepted by us and, in the event the Product includes

Membership Subscription(s), payment of the Fees has been received by us in full.

#### **Your responsibilities**

7. You agree to:
  - 7.1. Make all necessary arrangements for the delivery of the Products, including access to all premises, records and personnel, that are necessary for us to deliver the Products;
  - 7.2. Provide us with complete, accurate and timely information relevant to our provision of the Products;
  - 7.3. Inform us of any health, safety and security arrangements that may be required when our personnel visit your sites or premises, including any special on-site conditions, and to provide our personnel with suitable personal protective equipment (as appropriate). You are primarily responsible for the safety of our personnel whilst visiting your premises;
  - 7.4. Immediately inform us in writing of all circumstances that may directly or indirectly affect the delivery of the Products;
  - 7.5. Refrain from doing any act or omitting to do anything that may affect the delivery of the Products; and
  - 7.6. Not restrict us from providing similar services to other persons.

#### **Our responsibilities**

8. We shall perform our obligations under this Agreement, including the provision of the Products, with reasonable care and skill, and within a reasonable time.

#### **Membership Subscriptions**

9. If the Products include the provision of Membership Subscriptions then clauses 10, 11, 12, 13, 14, 15 and 16 shall apply.
10. Membership Subscriptions are specific to the Site(s) listed in the Order.
11. We shall provide the Membership Benefits to you during the term of this Agreement in respect of the Sites listed in the Order. You may not transfer or share Membership Benefits between Sites or transfer or re-sell any Membership Benefits to 3<sup>rd</sup> parties.
12. We reserve the right to withdraw or otherwise change Membership Benefits at any time and without notice.

#### **Membership logos**

13. Subject to the payment of the Membership Fees, and the terms and conditions of this Agreement, we grant you a non-exclusive, license to use the Membership Logos in your advertising, literature and websites, during the term of this Agreement, solely for the purpose of demonstrating your commitment to health, safety and wellbeing in the workplace.
14. You agree to comply with the following, which are conditions of the license granted by this Agreement:
  - 14.1. You may only use the Membership Logos in strict conformity with the standards as set out in our Logo Guidelines.
  - 14.2. The license granted by this Agreement is non-sublicensable.
  - 14.3. You may not assign the license granted by this Agreement without our prior written consent.
  - 14.4. You acknowledge our exclusive right, title, and interest in and to the rights in Membership Logos. You agree that

you shall not acquire any right of any kind in Membership Logos as a result of your use of it.

- 14.5. Upon request, you shall furnish to us, without charge, samples of materials which feature the Membership Logos. We shall have the right of approval over such items by giving written notice to you, within twenty (20) days of receipt of the samples, of such reasonable changes or corrections as may be necessary to comply with our reasonable quality concerns. You shall make and incorporate said changes or corrections. Our failure, following receipt of samples, to give notice of any such changes or corrections shall be deemed by you to constitute approval by us.
- 14.6. We may, in our sole discretion, terminate the licence to use the Membership Logos at any time upon written notice to you. Upon termination of the licence, you shall immediately cease any and all use of the Membership Logos.

#### **Safety Network and Safety-inform Lite**

15. By using the Safety Network and Safety-inform features of our website, you indicate that you accept the **Safety Network and Safety-inform Terms and Conditions**, and that you agree to abide by them.

#### **Digital learning course**

16. If the Membership Benefits include digital learning courses you may only access these course via your membership account. Courses must be used during the respective Initial Term or Renewal Term, and any unused courses may not be carried forward into a subsequent term or be accessed once the relevant term has expired.

#### **3<sup>rd</sup> party offers and services**

17. Our website and publications may contain links and references to third parties who may offer products and services. We do not endorse, approve or sanction nor are we responsible for any third party's products, services, acts or omissions. We do not act in partnership with nor as agent for or on behalf of the third party to whom we provide links or references. Accordingly, any dealings between you and any third parties are solely between you and such third party.

#### **Training, audit and consultancy**

18. If the Products include the provision of face to face training, audit and/or consultancy services then both parties shall mutually agree in writing the date(s) upon, and location(s) at which, each training, audit and/or consultancy event will take place. If, having done so, both parties subsequently agree to change the date(s) and/or location(s), then you undertake to pay the following Transfer Fees to us in addition to the Fees set out on the Order. You acknowledge that any such Transfer Fees are necessary and reasonable, given that we will incur additional costs in transferring the booking.
  - 18.1. Where the change is agreed more than 28 days before the date on which delivery of the Products was due to commence, an amount equal to 10% of the total Fees payable as set out in the Order will be payable;
  - 18.2. Where the change is agreed less than 29 days but more than 14 days before the date on which delivery of the Products was due to commence, an amount equal to 25% of the total Fees payable as set out in the Order will be payable; and
  - 18.3. Where the change is agreed less than 15 days before the date on which delivery of the Products was due to commence, an amount equal to 100% of the total Fees payable as set out in the Order will be payable.
19. If the Products include the provision of face to face training, then we reserve the right to refuse any person entry to the training event and/or expel any person from the training event, where we believe that the person's behaviour or conduct is inappropriate or disruptive.

## **e-Learning**

20. If the Products include the provision of e-learning services then:

- 20.1. Each course will be saved within your user account in readiness for allocation to learners.
- 20.2. You must allocate each course to a learner within 1 year of it being saved to your user account. If you do not do so, we reserve the right to remove any unallocated courses from your user account.
- 20.3. Access to each course by the learner will be restricted to the following periods:
  - (a) **IOSH e-learning:** 5 months with no option to renew. An additional fee of £50.00 will be payable by you for any subsequent assessment following failure of two assessments.
  - (b) **IEMA e-learning:** 6 months with no option to renew. An additional fee of £49.00 will be payable by you should the learner need to re-sit any examinations. You are responsible for booking any further re-sits directly with IEMA and pay any applicable charges.
  - (c) **NEBOSH e-learning:** 12 months with no option to renew. Learners are responsible for making their own arrangements to undertake the NEBOSH assessments. Any practical assessment must be undertaken with the same provider used for examination assessments.
  - (d) **Instant Access e-learning:** 3 months. When the course includes a quiz, knowledge check or assessment, three attempts are given to the learner to pass. In the event that the learner fails an assessment 3 times and you wish the learner to complete the course, you will be required to purchase an additional course.
- 20.4. Learners must complete all learning materials, any applicable tests, assessments or projects within the period. Each period will commence on the date that the learner is allocated to the relevant course
- 20.5. Once you have allocated a course to a learner you may not transfer the course to or share it with another learner.
- 20.6. In the event that we agree to correct learner details that you have supplied to us you undertake to pay us a £50 administration fee in addition to the Fees set out on the Order.

## **Audit or certification services**

21. If the Products include the provision of audit or Certification Services then clause 22 shall apply.

22. You agree to:

- 22.1. Maintain your management system(s) in accordance with the relevant standard(s);
- 22.2. Advise us of any changes to the management system which are likely to affect the management system's compliance with the relevant standard(s);
- 22.3. Inform us as soon as you become aware of any breach of any applicable regulatory requirements which have the potential (if identified by or reported to the regulator) to result in a regulatory authority prosecution or the issuing of a legally enforceable notice to improve or cease a process or activity being undertaken relevant to the management system. We reserve the right to suspend or withdraw certificates of approval/verification statements and opinions in the event that you have failed to inform us and the appropriate regulator of such breaches;
- 22.4. Conform to the requirements set out in our Certification Policy when: (a) Making reference to your certification

status in communication media including, without limitation, the internet, brochures or advertising, or other documents; and (b) Making use of our logo.

- 22.5. Not make or permit any misleading statement regarding your certification;
- 22.6. Not use or permit the use of a certification document or any part thereof in a misleading manner;
- 22.7. Upon suspension or withdrawal of your certification, discontinue use of all advertising matter that contains a reference to certification;
- 22.8. Amend all advertising matter whenever the scope of certification has been reduced;
- 22.9. Not refer to your management system certification in such a way as to imply that we certified a product (including service) or process; or imply that the certification applies to activities that are outside the scope of certification, and not use your certification in such a manner that would bring us into disrepute;

## **Fees and Terms of Payment**

23. In consideration of the provision of the Products in accordance with the terms of this Agreement you shall pay the Fees, as set out in the Order or as otherwise notified by us to you, to us in the manner set out below.
24. We shall invoice you for the Fees and you shall pay the Fees within 30 days from the date of the invoice(s).
25. The Fees shall be paid in full in pounds sterling by way of (i) electronic transfer to a bank account as advised to you by us from time to time; or (b) a credit or debit card where the Order is placed via our website.
26. The Fees are exclusive of Value Added Tax, which shall be payable, if applicable, by you in addition to such Fees.
27. All amounts due under this Agreement shall be paid in full without any deduction or withholding other than as required by law. Neither party shall be entitled to assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.
28. In the event the you require any amendment or alteration in the Products listed in the Order, such change shall be mutually agreed and subject to additional fees. Such amendment or alteration in the Products shall be recorded in writing in form of a new Order replacing the previous Order.

## **Confidentiality**

29. Subject to clauses 30 to 36, each party agrees to maintain as confidential and will not use or disclose to any third-party information obtained from the other party in connection with the Products without the consent of the other party, except as necessary for delivery of the Products.
30. The restrictions on use or disclosure of information will not apply to:
  - 30.1. Information which was in possession prior to disclosure by a party;
  - 30.2. Information which is made available from a source independent of a party;
  - 30.3. Information which is in the public domain;
  - 30.4. Information which is required to be made available to achieve or maintain our accreditation(s); and
  - 30.5. Information which is required to be disclosed by law, order of court, the requirements of any regulatory or taxation authority, accreditation body or the rules of any stock exchange.

- Data**
31. The terms “Data Controller”, “Data Processor”, “Data Subject”, “Personal Data”, “process”, “processing”, “transfer”, and “appropriate technical and organisational measures” shall be interpreted in accordance with the applicable Data Protection Legislation.
  32. Both parties shall comply with the Data Protection Legislation as it applies to them in connection with this Agreement.
  33. Where you transfer or otherwise make available Personal Data to us in relation to this Agreement, you shall ensure that: (i) you have the necessary rights to transfer or make available such Personal Data to us (including that you have, or have procured, the necessary legal authority, permissions and/or consents for us to process the Personal Data to provide the Products); (ii) your instructions to us comply with (and will not cause us to be in breach of) the Data Protection Legislation; and (iii) that you have taken reasonable steps to ensure that the Data Subjects are aware of the nature of the processing to be undertaken.
  34. Where we act as a Data Controller in respect of any Personal Data processed in relation to this Agreement (including where you are an individual):
    - 34.1. We shall process or arrange for processing of the Personal Data only in accordance with the details set out on our [Privacy Notice](#);
    - 34.2. If you provide us with or give us access to the Personal Data, you shall take reasonable steps to ensure that the relevant Data Subjects are aware of our processing activities and the [Privacy Notice](#); and
    - 34.3. Both of us shall co-operate with the other, and promptly provide such information and reasonable assistance as the other may reasonably require to enable it to comply with its obligations under the Data Protection Legislation in respect of this Agreement, and to deal with and respond to all investigations, complaints, and requests for information from any regulator or Data Subject relating to such Personal Data.
  35. Where we process Personal Data as a Data Processor on your behalf we shall:
    - 35.1. Only process such Personal Data in accordance with your written instructions from time to time (including as set out in this Agreement) or as required for us to provide, manage or facilitate the provision of the Products, and only in respect of the subject matter, duration, nature and purpose of the Products, and the type of Personal Data and categories of Data Subject relevant to the Products;
    - 35.2. Ensure that only persons authorised by us process such Personal Data and that such persons are subject to appropriate obligations to maintain the confidentiality of such Personal Data;
    - 35.3. Taking into account the (i) state of the art, (ii) cost of implementation, (iii) nature, scope, context and purpose of processing, and (iv) the risk and severity of potential harm, protect such Personal Data by putting in place technical and organisational measures to protect such Personal data from a data breach;
    - 35.4. Taking into account the nature of our processing, put in place appropriate technical and organisational measures, insofar as possible, to assist you to fulfil, at your cost, your obligations to respond to Data Subjects’ requests to exercise their rights under the Data Protection Legislation over such Personal Data;
    - 35.5. Where reasonably requested, and taking into account the nature of our processing and the Products and the information available to us, assist you, at your cost, in

complying with your obligations under the Data Protection Legislation in respect of such Personal Data;

- 35.6. When we cease providing the Products to you, and at your choice, either delete or return such Personal Data to you and delete such copies of such Personal Data, unless applicable law or regulation requires storage of such Personal data or deletion of such Personal data is not technically possible, using all reasonable efforts;
- 35.7. Subject to reasonable access arrangements being agreed with us and save for disclosure of information which is confidential and/or privileged (or where access is otherwise restricted by applicable law or regulation), make available to you all relevant information necessary to demonstrate compliance with our obligations under this clause 35 and allow for and contribute to audits, including inspections, conducted by you or another auditor mandated by you, at your cost;
- 35.8. Be permitted to appoint other processors to process such Personal Data, provided (i) they process the Personal Data only for such purposes of assisting us with the performance of our obligations under this Agreement, (ii) we enter into a written agreement with them requiring them to process the Personal Data only in accordance with your or our written instructions, and to comply with obligations equivalent in all material respects to those imposed on us under this clause 35; and
- 35.9. Not to process or transfer such Personal Data outside of the UK or EEA unless (i) an adequacy finding has been made under the Data Protection Legislation that the relevant jurisdiction provides an adequate level of protection; or (ii) we have put in place appropriate safeguards as required under the Data Protection Legislation for such processing or transfers.
36. Where you instruct us to transfer Personal Data to anyone other than a processor engaged by us, you are responsible for ensuring that adequate arrangements are in place for such transfer as required by the Data Protection Legislation.

**Indemnity**

37. You shall indemnify, defend and hold harmless us, our affiliates and our respective employees, directors, agents and assigns, (Indemnified Parties) against any and all losses suffered, incurred or paid by the Indemnified Parties arising out of or in connection with any misrepresentation or any breach of this Agreement and/or due to any negligent act, error or omission attributable to you.

**Liability**

38. Subject to clause 39, we shall not be liable for:
  - 38.1. Any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses arising out of our obligations under this Agreement; and/or
  - 38.2. Any loss of profits, anticipated savings, increased cost of doing business, business opportunities, revenue or damage to goodwill (whether direct or indirect) arising out of our obligations under this Agreement; and/or
  - 38.3. Any claim (including but not limited to a claim for breach of contract, negligence, or breach of statutory duty) in respect of any delay or failure by us to perform any of our obligations under this Agreement to the extent such failure arises directly or indirectly from any negligent or wilful act or omission by you or any third party arising out of our obligations under this Agreement; and/or
  - 38.4. Any liability which you incur to any third party (whether direct or indirect) arising out of our obligations under this Agreement.

39. We shall not be liable for death or personal injury at your site/premises unless caused by gross negligence or fraud by our employees, agents or sub-contractors.
40. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.
41. Notwithstanding anything contained in this Agreement, our liability shall not exceed the Fees paid to us under the Agreement.

**Reports issued by us**

42. If the Products include the provision of any report ("Report"), you acknowledge and agree:
  - 42.1. The Report (including any enclosures and attachments) has been prepared for the exclusive use and benefit of you pursuant of the terms of this Agreement, and is subject to the limitations and restrictions contained herein. We do not accept any liability if the Report is used for an alternative purpose from which it is intended;
  - 42.2. No part of this Report should be reproduced, distributed or communicated to any third party without our written consent. We do not accept any liability or responsibility to anyone other than you in connection with or arising out of this Report or its contents on any basis whatsoever;
  - 42.3. The assessment (if any) on which this Report is based was not designed to identify all weaknesses and instance of non-compliance within your systems, and because of the test nature and other inherent limitations of an assessment there is an unavoidable risk that we may not have uncovered all control weaknesses and instance of non-compliance. Accordingly, no warranty is given by us that any location, building, equipment or system is safe, appropriate or fit for the purpose for which it is used;
  - 42.4. The Report and the views presented in it are based in part on information provided to us by or on behalf of you. Such information has not been independently verified by us. We shall have no liability or responsibility to the extent that any information supplied to us or representations made to us, or on the basis of which the Report has been prepared, is inaccurate, incomplete or misleading; and
  - 42.5. The Report and the views presented in it may no longer be accurate after the report date.

**Intellectual property rights**

43. We retain all copyright and other intellectual property rights in everything developed by us both before and during the course of providing the Products, including rights in all reports, written advice or other materials provided by us, although the fees you pay us under this Agreement will give you a non-exclusive, non-transferable and limited licence to use these materials for the purposes for which they were created.
44. All documents in our possession or control, generated by us or addressed to us, relating to the Products shall be our sole property.

**Term and Termination**

45. Subject to clause 46, this Agreement shall commence on the date of the Order and shall continue in force unless and until terminated in accordance with clauses 47, 49 or 50.
46. If the Products include the provision of Membership Subscriptions then this Agreement shall commence on the date of the Order and shall continue for an Initial Term. Thereafter, this Agreement shall, subject to the payment of the Membership Fees, automatically continue on a rolling basis ("Renewal Term(s)") unless and until terminated in accordance with clauses 47 or 49 or 50.

47. Subject to clause 48, you may terminate this Agreement at any time with immediate effect upon written notice to us.
48. You acknowledge that we incur costs from the time this Agreement commenced. Accordingly, if you terminate this Agreement in accordance with clause 47 you agree to pay the following Termination Fees to us:
  - 48.1. Where the written notice of termination is received by us more than 14 days before the date on which delivery of the Products was due to commence no Termination Fee will be payable;
  - 48.2. Where the written notice of termination is received by us less than 15 days before the date on which delivery of the Products was due to commence a 30% Termination Fee will be payable;
  - 48.3. Where the written notice of termination is received by us after the date on which delivery of the Products commenced a 100% Termination Fee will be payable;
  - 48.4. The Termination Fee shall be calculated as a percentage of the total Fees payable by you as set out on the Order.
49. We may terminate this Agreement upon 30 days' prior written notice to you.
50. Without prejudice to any other rights or remedies which the parties may have, either party shall be entitled to terminate this Agreement at any time with immediate effect (or following such notice period as it sees fit) upon written notice to the other if the other:
  - 50.1. commits a material breach of any provision of this Agreement and, in the case of a breach capable of remedy, fails to remedy the same within thirty (30) days after receipt of a written notice from the other party giving full particulars of the breach and requiring it to be remedied; or
  - 50.2. fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment; or
  - 50.3. has bankruptcy proceedings brought against it which is not dismissed in sixty (60) days, has a receiver, administrator or administrative receiver appointed to it, or an encumbrancer takes possession, over all or any part of its undertaking or assets; or passes a resolution for winding up (other than for the purposes of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect; or becomes subject to an administration order; or enters into any voluntary arrangement or composition with its creditors; or ceases or threatens to cease to carry on business; or if any analogous situation to any of the above occurs in relation to it under the law of any jurisdiction; or
  - 50.4. has been unable to perform any of its obligations under this Agreement as a result of force majeure for a period in excess of ninety (90) days; or
  - 50.5. in the reasonable opinion of a party, does any act, matter or thing which would or might prejudice or bring into disrepute the business or reputation of such party.

**Consequences of Termination**

51. The following clauses survive the termination and expiry of this Agreement: clause 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 42, 43, 53.1, 56, 57, 59, 60 and 62.
52. On termination by either party you shall immediately cease to use the Member Logos and return or destroy all membership certificates

### **Suspension of Products**

53. Without prejudice to any other right or remedy that we may have, if you fail to pay the Fees or expenses on the due date, we may:

53.1. Claim interest on the overdue amount from the due date up to the date of actual payment, after as well as before judgment, at the rate of 15 per cent per annum. Such interest will accrue on a daily basis, will be compounded quarterly and will be payable by you; and

53.2. Suspend the provision of all Products until payment has been made in full.

### **Force Majeure**

54. No claims can be made by either party for failures or omissions which could be considered as a breach of this Agreement where the cause of the failure or omission is reasonably beyond the control of either party.

### **Assignment**

55. This Agreement shall not be assigned in whole or part unless an assignment is agreed by the parties in writing.

### **Nature of agreement**

56. Each party is an independent contractor and nothing in this Agreement shall create, or be deemed to create, a partnership, joint venture or relationship of principal and agent or employer and employee between the parties.

### **Third Parties**

57. A person (a "third party") who is not a party to this Agreement has no right to enforce any term of this Agreement notwithstanding that any such term may purport to confer or may be construed as conferring a benefit on such third party.

### **Non-solicitation of personnel**

58. Each party undertakes that during the term of this Agreement and until 12 months after the end of the term it shall not directly, indirectly, alone or jointly, and whether as principal or agent, solicit or entice away or endeavour to solicit or entice away any director or employee of the other party without first gaining the prior approval of the other party.

### **Bribery**

59. Each Party hereby warrants that it has not, and undertakes that it will not, make or cause to be made any offer, promise, gift, payment, commission, consideration or benefit of any kind, directly or indirectly, which could be construed as an illegal or corrupt practice, as an inducement or award to any person in relation to or arising from this Agreement.

### **Waiver**

60. The failure on the part of any party to exercise or enforce any right conferred by this Agreement will not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof of any other right on any later occasion. The invalidity or unenforceability for any reason of any part of this Agreement will not prejudice or affect the validity or enforceability of the remainder.

### **Severability**

61. In the event that any term, condition, provision or clause of this Agreement shall be nullified or made void by any statute, regulation or order or by the decision or order of any Court having jurisdiction, the remaining terms conditions and provisions shall remain in full force and effect.

### **Amendments**

62. No amendment to this Agreement shall be effective unless agreed in writing by both parties.

### **Law and Jurisdiction**

63. This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties submit to the exclusive jurisdiction of the Courts of England and Wales.