

**INTEB MANAGED SERVICES LIMITED****TERMS AND CONDITIONS****1. Interpretation**

The following definitions and rules of interpretation apply in these Conditions.

**1.1 Definitions:**

<b>Agent:</b>	the agent of an Owner with the responsibility for managing and administering the supply of energy to a Site, or the obligation to make payment to the Supplier for energy supplied to a Site.
<b>Business Day:</b>	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
<b>Change:</b>	an amendment to the scope, nature, volume, execution or delivery dates of the Goods and/or Services or any other term of the Contract.
<b>Commencement Date:</b>	has the meaning given in clause 2.3.
<b>Conditions:</b>	these terms and conditions as amended from time to time in accordance with clauses 9 or 17.8.
<b>Contract:</b>	these Conditions and the applicable Quotation, to the exclusion of all other terms and conditions.
<b>Customer:</b>	the person, firm or body corporate which places the Order for the purchase of Goods and/or Services from Inteb.
<b>Data:</b>	the metering data or information in whatever form collected from the Meters.
<b>Data Products:</b>	any document, database, spreadsheet, electronic file, note, extract, analysis, study, plan, compilation, report, presentation or any other way of representing, recording or recalling information which is a copy of, reflects or is derived or generated from, any Data.
<b>Force Majeure Event:</b>	has the meaning given to it in clause 16.
<b>Goods:</b>	the goods supplied by Inteb (or any part of them).
<b>Inteb:</b>	Inteb Managed Services Limited a company incorporated in England and Wales with company number 08556305 whose

**YOUR SUSTAINABILITY  
AND ENERGY PARTNER****INVESTORS IN PEOPLE™**  
We invest in people Gold**T: +44 (0)151 601 3467**  
weareinteb.co.uk**Company No: 08556305**  
**VAT No: 176804189****INTEB**  
Egerton House, 2,  
Tower Road,  
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registered office is at Egerton House, 2 Tower Road, Birkenhead, Merseyside, United Kingdom, CH41 1FN.

- Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- Meters:** means the energy meters installed at the Site(s) from time to time.
- Owner:** in respect of a Site, the holder of the freehold or leasehold title to a Site with the legal obligation to make payment to the Supplier for energy supplied to that Site.
- Quotation:** an invitation to treat document prepared by Inteb in response to an enquiry from a Customer, describing Goods and/or Services to be provided, the price for those Goods and/or Services and other proposed terms.
- Services:** the services supplied by Inteb as described on the Website from time to time.
- Site(s):** the land and/or buildings owned and/or managed by the Customer which are the subject of the Contract, as described in Inteb's Quotation.
- Subcontract:** means any contract between Inteb and a third party pursuant to which Inteb sources the provision of any of the Goods and/or Services from that third party.
- Subcontractors:** those persons with whom Inteb enters into a Subcontract.
- Supplier:** the supplier of energy to the Site(s) from time to time.
- Transferee:** in relation to any Site means the new Agent or Owner (as applicable) of a Site following a Transfer Event.

- Transfer Event:
- a) the sale, transfer, assignment or other disposition of the leasehold or freehold title to any Site from the Customer to a different Owner; or
  - b) either the responsibility for managing and administering the supply of energy to a Site, or the obligation to make payment for energy supplied to a Site, transferring from the Customer to a different Agent or Owner.

Website: the website displayed at [www.weareinteb.co.uk](http://www.weareinteb.co.uk) as at the Commencement Date.

## 1.2 Interpretation:

- (a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its successors and permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (d) Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) A reference to writing or written includes fax and email.

## 2. Basis of contract

2.1 Any Quotation given by Inteb shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

2.2 The following shall constitute an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions (Order):

- (a) the Customer's written acceptance of the terms of Inteb's Quotation, by signing and returning the Quotation (including in electronic form); or
- (b) any other acceptance of the terms of Inteb's Quotation by the Customer in writing (including in electronic form via any durable medium).

2.3 The Order shall only be deemed to be accepted by Inteb when the earliest of either:

- (a) Inteb issuing written acceptance of the Order; or



- (b) Inteb writing to the Customer in the course of taking steps to fulfil the Customer's Order (not including any requests for information made by the Inteb about the Order or the Customer);

takes place (including in either case in electronic form via any durable medium), at which point and on which date the Contract shall come into existence (Commencement Date).

- 2.4 Any descriptive matter or advertising issued by Inteb and any illustrations or descriptions of the Goods and/or Services contained in Inteb's Website or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Conditions and the Quotation form the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

### **3. Basis of supply**

- 3.1 A Contract for the supply and installation of Goods only (Installation Contract) shall not have a fixed term and shall terminate automatically once:

- (a) Inteb has supplied and installed the Goods described in the Order; and
- (b) Inteb has received payment of all sums due to it under that Installation Contract.

- 3.2 A Contract for the supply of Services only (Services Contract) shall not have a fixed term and shall terminate automatically once:

- (a) Inteb has supplied the Services described in the Order; and
- (b) Inteb has received payment of all sums due to it under that Services Contract.

- 3.3 A Contract for the supply of Goods and Services (Mixed Contract) shall:

- (a) if a fixed term is specified in Inteb's Quotation, subsist for that term and terminate automatically after the end of that term once Inteb has received all sums due to it under that Mixed Contract; or
- (b) if no fixed term is specified, terminate automatically once Inteb has supplied the Goods and Services specified in the Order and Inteb has received all sums due to it under that Mixed Contract.

- 3.4 Inteb shall use all reasonable endeavours to meet any performance dates for the Services specified by the Customer, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

3.5 Inteb warrants to the Customer that the Services will be provided using reasonable care and skill.

#### **4. Goods**

4.1 Inteb shall deliver the Goods to the Site(s). Any dates quoted for delivery of the Goods are approximate only, time of delivery is not of the essence and it shall not be made of the essence by notice. Inteb shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Inteb with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.2 The risk in the Goods shall pass to the Customer on completion of delivery.

4.3 Title to the Goods shall not pass to the Customer until Inteb receives payment in full (in cash or cleared funds) for the Goods and any other Goods and/or Services that Inteb has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.

4.4 Inteb warrants that the Goods shall, on delivery and during the Goods Warranty Period (as defined below):

- (a) conform with their description;
- (b) be free from material defects in design, material and workmanship;
- (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- (d) be fit for any purpose held out by Inteb.

4.5 The warranty set out in clause 4.4 applies:

- (a) in the case of a Mixed Contract for a fixed term, for the duration of that fixed term; or
- (b) in the case of an Installation Contract or a Mixed Contract which is not for a fixed term, for a period of 12 months from the date of delivery;

(Goods Warranty Period).

4.6 Subject to clause 4.7 Inteb shall during the Goods Warranty Period, at its option, repair or replace defective Goods, or refund the price of defective Goods in full if:

- (a) the Customer gives notice in writing during the Goods Warranty Period that some or all of the Goods do not comply with the warranty set out in clause 4.4; and
- (b) Inteb is given a reasonable opportunity of examining such Goods.

4.7 Inteb shall not be liable for the Goods' failure to comply with the warranty in clause 4.4 if:



- (a) the defect arises because the Customer (or its staff, agents or subcontractors) failed to follow Inteb's oral or written instructions as to the use or maintenance of the Goods or (if there are none) good trade practice;
- (b) the Customer (or its staff, agents or subcontractors) alters or repairs such Goods without the written consent of Inteb; or
- (c) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions.

4.8 Except as provided in this clause 4, Inteb shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 4.4.

## **5. Authorised representative**

5.1 The Customer appoints Inteb as its authorised representative, with authority to:

- (a) negotiate with the Supplier (and other potential suppliers of energy) on behalf of the Customer for the price of supply of energy to the Site(s), the terms of supply and any other contractual terms relating to the supply of energy to the Site(s) and to enter into binding contracts for the supply of energy to the Site(s) on behalf of the Customer;
- (b) receive the Supplier's invoices to the Customer for energy use, use data to negotiate with the Supplier the correct amount of energy used and agree amendments to the amount and terms of the Supplier's invoices on behalf of the Customer;
- (c) exchange information with the Supplier, issue instructions to the Supplier, monitor the Supplier's staff at the Site(s), inspecting equipment installed by the Supplier at the Site(s), make arrangements with the Supplier for sub-metering at the Site(s); and
- (d) generally representing the Customer in dealings with the Supplier relating to the energy-efficiency of the Site(s).

5.2 Provided that Inteb acts with reasonable care and skill within the scope of its authority as set out in clause 5.1, the Customer shall indemnify Inteb against any liabilities Inteb may incur while doing so.

## **6. Customer's obligations**

6.1 The Customer shall:

- (a) ensure that the terms of the Order are complete and accurate;
- (b) co-operate with Inteb in all matters relating to the Contract and the Goods and/or Services to be supplied under it;
- (c) provide Inteb, its employees, agents, consultants and Subcontractors, with access to the Site(s) and other facilities as reasonably required by Inteb to provide the Goods and/or Services;



- (d) provide Inteb with such information and materials as Inteb may reasonably require in order to supply the Goods and/or Services, and ensure that such information is complete and accurate in all material respects;
- (e) prepare the Site(s) for the supply of the Goods and/or Services;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required before the date for delivery of Goods and/or commencement of Services;
- (g) comply with all applicable laws, including health and safety laws;
- (h) keep all materials, equipment, documents and other property of Inteb (Inteb Materials) at the Customer's premises in safe custody at its own risk, maintain the Inteb Materials in good condition until returned to Inteb, and not dispose of or use the Inteb Materials other than in accordance with Inteb's written instructions or authorisation; and
- (i) obtain and maintain on an ongoing basis all necessary licences, permissions and consents necessary to enable Inteb to electronically transfer data from the Site(s) to Inteb's premises and to analyse, adapt, alter and copy that data in the course of providing the Services.

6.2 If Inteb's 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) without limiting or affecting any other right or remedy available to it, Inteb shall have the right to suspend delivery and installation of Goods and/or 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 in each case to the extent the Customer Default prevents or delays Inteb's performance of any of its obligations;
- (b) Inteb shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Inteb's failure or delay to perform any of its obligations as set out in this clause 6.2; and
- (c) the Customer shall reimburse Inteb on written demand for any costs or losses sustained or incurred by Inteb arising directly or indirectly from the Customer Default.

## **7. Charges and payment**

7.1 The price for Goods and/or Services:

- (a) shall be the price set out in the Quotation or, if no price is set out in the Quotation, the last price quoted by Inteb to the Customer prior to placing of the Order (whether quoted orally or in writing via any durable medium); and

(b) shall be exclusive of all costs and charges of packaging, insurance and transport of the Goods.

7.2 Inteb shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Inteb engages in connection with provision of the Goods and/or Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Inteb for the provision of the Goods and/or Services, and for the cost of any materials used by Inteb or its Subcontractors in the course of provision of the Goods and/or Services.

7.3 Inteb reserves the right to:

- (a) increase the charges for the Services on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index in the preceding 12-month period;
- (b) increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to Inteb that is due to:
  - (i) any factor beyond the control of Inteb (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
  - (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered; or
  - (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give Inteb adequate or accurate information or instructions in respect of the Goods.

7.4 Inteb shall invoice the Customer as follows:

- (a) in the case of an Installation Contract, on or at any time after completion of delivery of the Goods;
- (b) in the case of a Services Contract, at any time after the Commencement Date; and
- (c) in the case of a Mixed Contract, monthly or annually in advance (at Inteb's discretion), commencing at any time after the Commencement Date;

provided always that the provisions of this clause 7.4 shall be varied by any arrangements for invoicing/payment dates set out in the Quotation.

7.5 The Customer shall pay each invoice submitted by Inteb:

- (a) within 30 days of the date of the invoice; and
- (b) in full and in cleared funds to a bank account nominated in writing by Inteb, and



time for payment shall be of the essence of the Contract.

- 7.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by Inteb to the Customer, the Customer shall, on receipt of a valid VAT invoice from Inteb, pay to Inteb such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 7.7 If the Customer fails to make a payment due to Inteb under the Contract by the due date, then, without limiting Inteb's remedies under clause 14 (Termination):
- (a) the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 7.7 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and/or
  - (b) Inteb shall be entitled to suspend the delivery and installation of all Goods and the performance of all Services under the Contract until such time as the overdue sum (and any interest due on that overdue sum) has been paid in full.
- 7.8 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 7.9 A notice from Inteb to the Customer demanding payment by the Customer of any sums due to Inteb may be sent by fax or email to any fax number or email address commonly used by the Customer in its previous communications with Inteb.

## **8. Subcontractors**

- 8.1 Subject to the provisions of this clause 8, Inteb shall be entitled to enter into Subcontracts and source the provision of all or part of the Goods and/or Services from Subcontractors.
- 8.2 Inteb shall enter into each Subcontract as principal rather than as agent of the Customer and the Customer shall not be liable to any of the Subcontractors for Inteb's breach of any of the Subcontracts.
- 8.3 Inteb shall be responsible for ensuring:
- (a) that when visiting the Site(s), Subcontractors comply with all applicable health and safety laws, policies and procedures; and
  - (b) that the Subcontractors maintain adequate insurance having regard to their obligations under the applicable Subcontract.



- 8.4 Inteb shall ensure that Subcontractors comply with any policies which the Customer may notify to Inteb as requiring the compliance of Subcontractors.
- 8.5 The Customer may:
- (a) by notice in writing to Inteb, reject any subcontractor proposed by Inteb to provide all or part of the Goods and/or Services, in which case Inteb shall not enter into a Subcontract with such subcontractor for the provision of Goods and/or Services; and
  - (b) require Inteb to terminate a Subcontract where the acts or omissions of the relevant Subcontractor have given rise to the Customer's right of termination of this agreement, resulted in the breach of health and safety laws, policies and procedures in force at any Site(s) or if the Subcontractor becomes insolvent.
- 8.6 Inteb shall remain responsible for all acts and omissions of its Subcontractors and the acts and omissions of those employed or engaged by the Subcontractors as if they were its own. An obligation on Inteb to do, or to refrain from doing, any act or thing shall include an obligation on Inteb to procure that the Subcontractors shall also do, or refrain from doing, such act or thing.
- 9. Change control**
- 9.1 The Customer may submit a request for a Change to Inteb in writing (Change Request) at any time after the Commencement Date.
- 9.2 A Change Request shall contain as much information as is necessary for Inteb to assess how the requested Change would affect provision of the Goods and/or Services, including but not limited to:
- (a) a description of the proposed Change;
  - (b) details of the effect of the proposed Change on the delivery and installation of Goods;
  - (c) details of the effect of the proposed Change on the performance of Services; and
  - (d) details of the effect of the proposed Change (including a draft of any varied or supplemental terms) on the terms of the Contract.
- 9.3 Within 20 Business Days of receipt of a Change Request, Inteb shall respond in writing (Change Response) to the Customer, stating either that:
- (a) it is not willing to make the Change described in the Change Request, in which case that Change shall not come into effect and shall not vary the Contract; or
  - (b) providing such information as is necessary for the Customer to assess how the Change will affect the Contract (Positive Change Response) including but not limited to changes to the Contract price, changes to the delivery and installation of Goods and the performance of Services, and any variation of the terms of the Contract;



and if Inteb is not willing to make part only of the Change described in the Change Request, it shall inform the Customer of that refusal and provide a Positive Change Response in respect of the remainder of the requested Change.

- 9.4 Within 20 Business Days of receipt of a Positive Change Response, the Customer shall notify Inteb in writing of whether the Customer agrees to the terms of the Positive Change Response. If:
- (a) the Customer notifies Inteb that it agrees to the Positive Change Response, the Contract shall be varied by the terms of the Positive Change Response from the time of the Customer giving that notification; or
  - (b) the Customer notifies Inteb that it does not agree to the Positive Change Response, the Change shall not come into effect, the Change Request and Positive Change Response shall be of no effect and the Contract shall not be varied and shall continue as if the Change Request had not been made.

## **10. Data**

### 10.1 The Customer:

- (a) agrees to Inteb retrieving, validating and processing the Data from the Meters remotely via the internet, in person at the Site or via a Subcontractor (Data Collection);
- (b) shall co-operate with Inteb in all matters relating to Data Collection;
- (c) shall provide Inteb, its employees, agents, consultants and Subcontractors, with access to the Site(s) and other facilities as reasonably required by Inteb to undertake Data Collection;
- (d) shall not take any action in relation to the Data or Meters which impedes, prevents or suspends Data Collection;
- (e) shall prepare and maintain the Site(s) in a good condition sufficient to enable continuous Data Collection; and
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for Data Collection;

In each case, throughout the term of the Contract.

10.2 All Intellectual Property Rights in or arising out of or in connection with the Data Products (other than Intellectual Property Rights in the Data itself) shall be owned by Inteb.

10.3 Inteb shall be entitled to transmit the Data and the Data Products to Subcontractors for the purpose of providing the Services to the Customer.

10.4 The Customer grants to Inteb a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy, create a database from, modify, alter, generate new works and create derivative works from the Data throughout the term of the Contract.

## **11. Transfer Event**

11.1 If a Transfer Event occurs in relation to any Site, the Customer:

- (a) shall use all reasonable endeavours before the occurrence of the Transfer Event to notify the Transferee of the existence and terms of the Contract; and
- (b) if it has not done so before the Transfer Event, shall notify the Transferee of the existence and terms of the Contract immediately following the Transfer Event.

11.2 If a Transfer Event occurs in relation to any Site, the Customer shall procure that, within 2 Business Days of the Transfer Event, the Contract shall be novated so that the Transferee immediately replaces the Customer as a party to the Contract.

11.3 If a Transfer Event occurs in relation to any Site, the Customer shall:

- (a) immediately pay to Inteb any sums due to Inteb at the time of the Transfer Event in respect of that Site;
- (b) pay to Inteb any sums invoiced by Inteb before the Transfer Event but not due until after the Transfer Event on the date specified on the invoice; and
- (c) pay to Inteb on production of an invoice by Inteb the amount due to Inteb under the terms of the Contract for work undertaken by Inteb prior to the Transfer Event, but not invoiced until after the Transfer Event.

## **12. Confidentiality**

12.1 Subject to clause 11.1(a), each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.

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

- (a) to its employees, officers, representatives, Subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, Subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 Subject to clause 10, neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

**13. Limitation of liability: *THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.***

13.1 The limits and exclusions in this clause reflect the insurance cover Inteb has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

13.2 The restrictions on liability in this clause 13 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

13.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

13.4 Subject to clause 13.3, the Inteb's total liability to the Customer in respect of all breaches of duty occurring within any contract year shall not exceed the cap (as defined below).

13.5 In clause 13.4:

- (a) cap. The cap is the amount of the total charges in the contract year in which the breaches occurred;
- (b) contract year. A contract year means a 12-month period commencing with the Commencement Date or any anniversary of it; and
- (c) total charges. The total charges means all sums paid by the Customer.

13.6 Subject to clause 13.3, the following types of loss are wholly excluded by the parties:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;

(f) loss of or damage to goodwill; and

(g) indirect or consequential loss.

13.7 Inteb has given commitments as to compliance of the Goods and Services with relevant specifications in clause 3 and clause 4. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

13.8 This clause 13 shall survive termination of the Contract.

#### **14. Termination**

14.1 Without affecting any other right or remedy available to it, 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 its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing to do so;

(b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

(c) the other party suspends or ceases to carry on all or a substantial part of its business.

14.2 Without affecting any other right or remedy available to it, Inteb may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

14.3 Without affecting any other right or remedy available to it, Inteb may suspend the supply of Services or all further deliveries and installations of Goods under the Contract, or any other contract between the Customer and Inteb, if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(c), or Inteb reasonably believes that the Customer is about to become subject to any of them.

#### **15. Consequences of termination**

15.1 On termination of the Contract:

(a) the Customer shall immediately pay to Inteb all of Inteb's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice



has been submitted, Inteb shall submit an invoice, which shall be payable by the Customer immediately on receipt;

- (b) the Customer shall return all Goods which have not been fully paid for. If the Customer fails to do so, then Inteb 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.

15.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, 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.

15.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

## **16. Force majeure**

Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (a Force Majeure Event).

## **17. General**

### **17.1 Assignment and other dealings**

- (a) Inteb may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

- (b) Save as provided in clause 11.2, the Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Inteb.

### **17.2 Notices.**

- (a) Save as provided elsewhere in these Conditions, any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

- (b) Any notice shall be deemed to have been received:

- (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and

- (ii) 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 or at the time recorded by the delivery service.
- (c) This clause 17.2 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

17.3 Severance. 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 17.3 shall not affect the validity and enforceability of the rest of the Contract.

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

17.5 No partnership or agency. Save as provided in clause 5, nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

17.6 Entire agreement.

- (a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Contract.

17.7 Third party rights.

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.



- 17.8 Variation. Except as set out in clause 9, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 17.9 Governing law. The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 17.10 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.