

CBNG TERMS AND CONDITIONS OF SUPPLY

These terms and conditions ("Contract") constitute the complete and exclusive contract between CBNG and the Customer for the supply by CBNG of Goods and/or Services to the Customer.

1. DEFINITIONS

Affiliate means, in relation to a Party, any person which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that Party from time to time;

Applicable Laws means all national, state, local, municipal legislation, regulations, statutes, by-laws, consents and/or other laws of any relevant governmental authority and any other instrument having the force of law as may be issued and in force from time to time relating to or connected with the activities contemplated under this Contract;

CBNG means Cambridge Broadband Networks Group Ltd. Company number 10427528, with its registered address at 1st Floor, Sovereign House, Vision Park, Cambridge, England, CB24 9BZ, UK.

CIP means Carriage and Insurance Paid (at nominated location) as defined by ICC INCOTERMS 2020 rules;

Claim means demands, actions, causes of action, proceedings, lawsuits, assessments, losses, damages, liabilities, settlements, judgments, fines, penalties, interest, costs and expenses (including fees and disbursements of counsel) of every kind brought by any person, corporation, governmental entity or other entity that are not a party to this Contract;

Confirmation of Order means the acknowledgement of a Purchase Order issued by CBNG to the Customer;

Control means:

- (a) the ownership or control (whether directly or indirectly) of more than twenty five per cent (25%) of the voting share capital of the relevant undertaking; or
- (b) the ability to direct the casting of more than twenty-five per cent (25%) of the votes exercisable at general meetings of the relevant undertaking on all, or substantially all, matters; or

- (c) the right to appoint or remove directors of the relevant undertaking holding a majority of the voting rights at meetings of the board on all, or substantially all, matters; and **Controls** or **Controlled** shall be construed accordingly;

Customer means the person, firm or company who purchases the Goods and/or Services from CBNG;

DDP means Delivered Duty Paid (at nominated location) as defined by ICC INCOTERMS 2020 rules;

Deliverables means any documents, samples or other physical materials, written advice, repaired product units or other deliverables provided by CBNG to the Customer as part of Goods and/or Services;

Delivery means in respect of Goods, (unless otherwise agreed by the Parties), when the Goods are ready for delivery EXW at CBNG's nominated location;

Effective Date means that as defined in Clause 2.6;

EXW means Ex-Works (at nominated location) pursuant to ICC INCOTERMS 2020;

Goods means any Hardware and/or Software, including ancillary components; to be supplied to the Customer by CBNG (including any part or parts of them);

Hardware means the machines and other physical components (other than Software) and may include the medium that the Software resides on;

Insolvency Event means each of:

- a) the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a creditor, or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or
- b) the Customer or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or
- c) anything analogous to any of the events referred to in Clauses (A) and (B) occurs under the law of any other jurisdiction in relation to the Customer;

Intellectual Property Infringement means actual or alleged infringement or misappropriation of any Intellectual Property Rights;

Intellectual Property Rights means all patents, inventions (whether patentable or not), copyrights, moral rights, design rights, trademarks, trade names, business names, service marks, logos, service names, trade secrets, know-how, domain names, database rights and any other intellectual property or proprietary rights (whether registered or unregistered) including rights in computer software, and all registrations and applications to register any of the aforesaid items, rights in the nature of the aforesaid items in any country or jurisdiction, any rights in the nature of unfair competition rights and rights to sue for passing off;

Lien means any lien, charge, security interest, attachment or encumbrance of whatever nature including material personnel, labourers, mechanics, sub-contractors, and sub-contractors' and vendors' liens;

Open-Source Software means software which includes software licensed or distributed under any of the licenses or distribution models listed on the Open-Source Initiative (OSI) website at <http://www.opensource.org/licenses/alphabetical>, including but not limited to the following: (a) any version of GNU'S General Public License (GPL) or Library GPL (LGPL); and (b) the Artistic License (e.g., PERL);

Party means CBNG or the Customer. **Parties** mean collectively CBNG and the Customer.

Purchase Order means the order issued by the Customer to CBNG;

RMA means Return of Merchandise Authorization as defined in Clause 10.5;

RMA Procedures means the process for RMA as notified by CBNG to Customer from time to time;

Services means any services agreed in this Contract to be supplied to the Customer by CBNG (including any part of parts of them);

Software means computer programs in object code together with any technical information and all documentation necessary for the use of such programs and shall include the CBNG Software and Third Party Software;

Term means the period from the Effective Date until the final payment is made by the Customer unless otherwise terminated pursuant to Clause 17;

Territory means the country or territory that is stated on the Purchase Order and, if not stated, shall be the United Kingdom;

Third Party Software means the Software which is proprietary to a third party and may include Open-Source Software;

WEEE Regulations means the Waste Electrical and Electronic Equipment Regulations 2013 and any EU legislation restricting the use of hazardous substances in electrical and electronic equipment including the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012.

Working Day shall be construed as a reference to a workday (excluding weekends) that is not a public holiday in England;

2. APPLICATION OF THESE TERMS

- 2.1 Subject to Clause 2.3 below, this agreement between the Parties shall be solely based on this Contract to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any Purchase Order, Confirmation of Order, specification or other document). No terms or conditions endorsed on, delivered with or contained in the Purchase Order, Confirmation of Order, specification or other document shall form part of the Contract simply as a result of such document being referred to in this Contract.

- 2.2 This Contract applies to all CBNG's sales of Goods and supplies of Services and any purported variation to these conditions and any representations about the Goods and/or Services shall have no effect unless expressly agreed and signed by an authorised representative of CBNG.

- 2.3 The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of CBNG which is not set out in this Contract.

- 2.4 Any quotation or proposal is given by CBNG on the basis that this Contract only becomes effective when CBNG despatches the Confirmation of Order to the Customer. Any quotation or proposal is valid for a period of 30 days only from its date, provided that CBNG has not previously withdrawn it.

- 2.5 Each Purchase Order for, or acceptance of a quotation and/or proposal for, Goods and/or Services by the Customer from CBNG shall be deemed to be an offer by the Customer to buy Goods and/or Services subject to this Contract.

- 2.6 A Purchase Order shall only be deemed to be accepted by CBNG upon the issue of a Confirmation of Order or (if earlier) CBNG delivers Goods to the Customer or begins to perform Services for the Customer; the date of which in regard to the Goods or Service being when this Contract comes into effect ("Effective Date").

- 2.7 The Customer shall be responsible for ensuring that the terms of its Purchase Order and any applicable specification are complete and accurate.

2.8 Interpretation

In this Contract:

- 2.8.1 words importing the singular shall include the plural and vice-versa;
- 2.8.2 words importing any one gender shall not exclude other genders;
- 2.8.3 references to a "person" include any natural person, firm, company, corporation, legal entity, government, state or agency of a state or any association, trust or partnership (whether or not having a separate legal personality) or two (2) or more of the foregoing;
- 2.8.4 references to Clauses, Paragraphs, Annexures or Schedules are, unless otherwise stated, references to Clauses, Paragraphs, Annexures or Schedules (as the case may be) of or to this Contract;
- 2.8.5 the headings and index in this Contract are for convenience only and do not affect the construction or interpretation of this Contract;
- 2.8.6 the word "including" shall not limit the general effect of the words which precede and shall be construed without any limitation;

- 2.8.7 a reference to any agreement, contract or document shall be construed as a reference to it as varied, supplemented or novated;
- 2.8.8 any notice, waiver, acceptance or any communication between the Parties required to be given under this Contract shall be deemed to be a notice that is to be given in writing by the respective;
- 2.8.9 any reference to any legislative provision shall be deemed to include any statutory instrument, by-law, regulation, rule, subordinate or delegated legislation or order and rules and regulations which are made under it, in each case, as modified, consolidated or re-enacted;
- 2.8.10 any reference to "month", "monthly", "year" and "yearly" and any other references in time shall be construed by reference to the Gregorian calendar;
- 2.8.11 any reference to "day" or "daily" shall be construed as a reference to a calendar day;
- 2.8.12 any reference to "business hours" means the hours of 09:00 hrs to 17:00 hrs. on a Working Day in England; and
- 2.8.13 the rule of construction that, in the event of ambiguity, this Contract shall be interpreted against the Party responsible for the drafting or preparation of this Contract, shall not apply;

2.9 Order of precedence

If there is any inconsistency between any of the terms and conditions forming part of this Contract, the order of priority is:

- (A) these general terms and conditions, save as explicitly provided for that may be amended pursuant to (B) and (C) below;
- (B) the Confirmation of Order;
- (C) the Purchase Order;
- (D) any specifications; and then
- (E) any other document forming part of this Contract.

3. DESCRIPTION

- 3.1 The quantity and description of the Goods and/or Services shall be as set out in CBNG's quotation or proposal or Confirmation of Order.
- 3.2 Except for the technical specification referenced in the Confirmation of Order, all samples, drawings, descriptive matter, specifications and advertising issued by CBNG and any descriptions or illustrations contained in CBNG's catalogues or brochures are issued or published for the sole purpose of giving a projected idea of the Goods and/or Services described in them. They shall not form part of the Contract and this is not a sale by sample.

4. DELIVERY

- 4.1 CBNG shall keep the Customer informed on any expected date(s) for Delivery of the Goods within a reasonable time of becoming aware of the dates;
- 4.2 CBNG shall perform the Services in the manner and (if applicable) at the locations described in the Contract.
- 4.3 Any dates specified by CBNG for Delivery and/or performance of the Services are intended to be an estimate. CBNG shall use its reasonable endeavours to deliver the Goods and/or perform the Services by the dates specified, however, CBNG shall not be liable for any late delivery or performance. Time for delivery and/or performance shall not be of the essence and shall not be made of the essence by notice. If no dates are specified, delivery and/or performance shall be within a reasonable time.
- 4.4 The Customer shall provide to CBNG any and all assistance that CBNG may reasonably require to enable it to provide the Services, including information, documents, assistance from the Customer's personnel with appropriate knowledge and skills, and access to premises. CBNG shall not be liable for any late performance of the Services or any failure by it to perform the Services where such lateness or failure results from the Customer's breach of this condition.
- 4.5 If it is necessary for the performance of the Services that CBNG or CBNG's personnel attend at premises owned or occupied by the Customer, CBNG and/or CBNG's personnel shall comply with the reasonable security, confidentiality and health and safety procedures of the Customer which are notified to them.
- 4.6 If for any reason the Customer fails to accept delivery of any of the Goods when they are ready for delivery, or CBNG is unable to deliver the Goods on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:
 - 4.6.1 risk in the Goods shall pass to the Customer (including for loss or damage caused by CBNG's negligence);
 - 4.6.2 the Goods shall be deemed to have been delivered; and
 - 4.6.3 CBNG may store the Goods until actual Delivery, whereupon the Customer shall be liable for all related costs and expenses (including storage and insurance).
- 4.7 CBNG may deliver the Goods and perform the Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of this Contract. Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.
- 4.8 The Customer shall be deemed to have accepted the Goods upon Delivery, save where the Goods are evidently damaged at the time of Delivery and where the Customer notifies CBNG of such fact promptly and, in any event, no later than three (3) days of the scheduled date of Delivery. In such case, CBNG shall (as the Customer's sole remedy) repair or replace the damaged Goods, subject always to CBNG being reasonably satisfied that the damage did not occur after the Delivery date.

5. NON-DELIVERY OF GOODS

- 5.1 The quantity of any consignment of Goods as recorded by CBNG upon despatch from CBNG shall be definitive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.
- 5.2 CBNG shall not be liable for any non-delivery of Goods unless the Customer gives written notice to CBNG of the non-delivery within two (2) Working Days of the date when the Goods would in the ordinary course of events have been received.
- 5.3 Any liability of CBNG for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

6. RISK AND TITLE

- 6.1 The Goods are at the risk of the Customer in accordance with the provisions of EXW (at nominated location) unless otherwise specified herein.
- 6.2 Notwithstanding any other delivery terms requiring the import items into the Territory, the Customer shall provide all reasonable assistance required by CBNG in respect of clearances, import duty and permits. CBNG shall not be responsible for any delays in import clearance however caused.
- 6.3 Ownership of the Goods (except Software) shall not pass to the Customer until CBNG has received in full (in cleared funds) all sums due to it in respect of the Goods.
- 6.4 Until ownership of the Goods has passed to the Customer, the Customer shall:
 - 6.4.1 hold the Goods on a fiduciary basis as CBNG's bailee or trustee;
 - 6.4.2 warrants that the Customer or any other party shall not place a Lien on such Goods;
 - 6.4.3 store the Goods (at no cost to CBNG) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as CBNG's property; and
 - 6.4.4 not destroy, deface, or obscure any identifying mark or packaging on or relating to the Goods.
- 6.5 The Customer may not resell the Goods before ownership has passed to it.
- 6.6 The Customer's right to possession of the Goods shall terminate immediately if:
 - 6.6.1 An Insolvency Event occurs; or
 - 6.6.2 the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between CBNG and the Customer.
- 6.7 CBNG shall remain entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has passed from CBNG.
- 6.8 The Customer grants CBNG, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.
- 6.9 On termination of the Contract, howsoever caused, CBNG's (but not the Customer's) rights contained in this Clause 6 shall remain in effect.
- 6.10 Title to Software shall at no time pass to the Customer.

7. PRICE

- 7.1 Unless otherwise agreed by CBNG, the price for the Goods and/or Services shall be the price set out in CBNG's quotation or proposal, or if no price is so set out, as set out in CBNG's price list current at the date of Delivery or deemed Delivery.
- 7.2 The price for the Goods and/or Services shall be exclusive of any value added tax.
- 7.3 CBNG shall be reimbursed for all reasonable travelling, subsistence and other expenses which are incurred by it during the supply of the Services, provided that CBNG provides to the Customer relevant documentation (including receipts) in support of any claim for reimbursement.

8. PAYMENT

- 8.1 Unless otherwise specified in the Confirmation of Order, CBNG will invoice the Customer for one hundred percent (100%) of the price of Goods on receipt of a Confirmation of Order. Unless otherwise specified in the Contract, CBNG may invoice the Customer for the price of the Services at any time during or after the performance of the Services. Payment is due 30 days after the Goods or Services have been delivered or deemed delivered under Clause 4. Time for any payment to be made by the Customer to CBNG shall be of the essence.
- 8.2 No payment shall be deemed to have been received until CBNG has received cleared funds into its bank account.
- 8.3 All payments payable to CBNG under the Contract shall become due immediately on its termination despite any other provision and any deposit paid pursuant to the Contract shall be non-refundable.
- 8.4 If the Customer fails to pay CBNG any sum due pursuant to the Contract or any Purchase Order, CBNG reserves the right to claim interest at the rate of 1% per month on overdue amounts. CBNG also reserves the right to suspend any further deliveries of the Goods or performance of the Services until all outstanding sums and interest are paid in full by the Customer.
- 8.5 CBNG reserves the right to request that the Customer implement an alternative method of payment (including a letter of credit), or a form of security for the Customer's payment obligations (including payment before delivery).
- 8.6 In the case where the Customer has a right to terminate as explicitly detailed in Confirmation of Order, should the Customer cancel a Purchase Order or any part thereof within a period which is less than ninety (90) days prior to the date specified for the Delivery of the Goods and/or performance of Services, CBNG shall be entitled to recover from the Customer costs and expenses incurred by CBNG in relation to the cancelled Purchase Order (or part thereof) and, in this respect, the Customer shall be liable for any outstanding amounts related to the Purchase Order (or affected part of the order). Where a request for compensation is made pursuant to this Clause, the Customer shall make payment within twenty (20) days from the date of the request.

9. INTELLECTUAL PROPERTY

- 9.1 All Intellectual Property Rights which are created by CBNG during the provision of the Services (including in the Deliverables), shall belong to CBNG or its licensors.
- 9.2 All Intellectual Property Rights incorporated or utilised in the Goods and any Software shall belong to CBNG or its licensors.
- 9.3 Software licence agreement
- 9.3.1 To the extent that any from Third Party Software, the corresponding licence terms and conditions shall apply in respect of such Third Party Software along with the requirements set forth in Clause 9.3.2 below.
- 9.3.2 The Customer is granted a limited licence to use the Software on the following terms:
- (A) The Software and any user manuals are copyright works and a non-exclusive, non-transferable licence is granted to install, use and maintain the Software only in conjunction with the Goods;
 - (B) The Software is only licensed in the Territory;
 - (C) Neither the Software nor the user manuals may be copied in whole or in part, except for backup purposes;
 - (D) The copyright notices and trademarks contained in the Software and in the user manuals must appear on all copies made by the Customer;
 - (E) Unless otherwise agreed by CBNG, the Customer may not transfer, part with, download, or in other way make available to others the Software and the user manuals delivered to it;
 - (F) Save to the extent permitted by law or where expressly stated, the Customer shall not have the right to modify the Software or to create derivative works based on the Software; and
 - (G) The Customer shall not, directly or indirectly, modify, reverse engineer, reverse compile, de-compile, or disassemble the including the Software.

10. QUALITY

- 10.1 NOTHING IN THESE CONDITIONS SHALL AFFECT YOUR STATUTORY RIGHTS IF YOU ARE A CONSUMER.
- 10.2 Save as provided for in Clause 10.1 above, CBNG warrants that the Goods and any Deliverables shall materially comply with their formal written specification for a period of eleven (11) months from the scheduled date of Delivery. If CBNG is shown to have breached this warranty, it shall, at its sole discretion, either repair or replace the defective Goods and/or Deliverables with Goods or Deliverables of similar or superior functionality.
- 10.3 CBNG warrants that it shall perform the Services with reasonable care and skill. If CBNG is shown to have breached this warranty, it shall, at its sole discretion, either re-perform the defective Services, or shall refund to the Customer the price paid by the Customer for such defective Services.
- 10.4 If the Customer wishes to make a claim under any of the warranties set out in Clauses 10.2 or 10.3, the Customer's sole remedy shall be pursuant to Clause 10.5.
- 10.5 Return of Merchandise Authorization
- 10.5.1 Faults covered by the Hardware warranty shall be processed through the RMA Procedures.
- 10.5.2 The Customer shall pay for transportation costs from the country of use DDP to the CBNG nominated repair facility.
- 10.5.3 CBNG shall pay for transportation costs for repaired or replacement Goods (that is valid nonconforming Goods returns) to the Purchaser or the Customer's singular nominated in-country centralized warehouse CIP provided that the Customer shall pay these costs plus a reasonable handling charge for invalid or "no defect found" returns:
- 10.5.4 The Parties shall agree in advance that Goods to be returned for repair or replacement although such agreement shall not mean that such return cannot be found to be invalid or "no defect found".
- 10.5.5 An RMA number must be obtained by the Customer from CBNG prior to return shipment and displayed on the shipping container as well as on the packing slip or attached to the returned Goods. All returns shall state the specific reason for such return and will be processed in accordance with RMA Procedure.
- 10.5.6 All items returned under RMA shall be provided with a sixty (60) days hardware warranty to cover any subsequent component or design failures, which shall commence when it is delivered in-country or the balance of what was left of the warranty period of the part, whichever is the longer.
- 10.6 CBNG shall not be liable for a breach of any of the warranties set out in Clauses 10.2 or 10.3 above if:
- 10.6.1 the fault arises from accident, unusual physical, electrical or electromagnetic stress, neglect, misuse, failure of electric power, environmental controls, transportation, installer mis-practice, water ingress (other than design fault), lightning strike, accidental or wilful damage, failure to be maintained properly or otherwise in accordance with the specifications, or abuses other than ordinary use;
- 10.6.2 if the Goods have been modified by the Customer or have been repaired or altered other than within CBNG's repair facility, unless CBNG specifically authorizes such repairs or alterations in each instance; or
- 10.6.3 where the Customer is late in making any payment due under the Contract.
- 10.7 TO THE FULLEST EXTENT PERMITTED BY LAW, ALL OTHER CONDITIONS AND WARRANTIES (WHETHER EXPRESS OR IMPLIED, INCLUDING ANY CONDITIONS OR WARRANTIES AS TO QUALITY, MERCHANTABILITY, FITNESS FOR PURPOSE, FUNCTIONALITY OR OTHERWISE) ARE EXCLUDED.

11. LIMITATION OF LIABILITY

- 11.1 Save where otherwise provided for in this Contract, the following provisions set out the entire financial liability of CBNG (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 11.1.1 any breach of these conditions;
- 11.1.2 any use made or resale by the Customer of any of the Goods and/or Deliverables and other results of the Services; and
- 11.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 11.2 Nothing in these conditions excludes or limits the liability of CBNG:
- 11.2.1 for death or personal injury caused by CBNG's negligence; or
- 11.2.2 under section 2(3) of the Consumer Protection Act 1987, if applicable; or
- 11.2.3 for any other matter for which it would be illegal for CBNG to exclude or attempt to exclude its liability.
- 11.3 Subject to Clause 11.2:
- 11.3.1 CBNG's total liability to the Customer and/ or any third party from any Claim, warranty or indemnity shall not exceed the aggregate amount actually paid by the Customer to CBNG for the specific products delivered within the prior year that gave rise to the lawsuit, claim, warranty or indemnity. Should there be multiple claims related to the same product shall not increase or extend this limit; and
- 11.3.2 CBNG shall not be liable to the Customer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

12. ASSIGNMENT

- 12.1 CBNG may assign the Contract or any part of it to any, Affiliate, person, firm or company. CBNG may also sub-contract its obligations to any Affiliate, person, firm or company, subject to CBNG remaining responsible for such party's performance of the Contract.
- 12.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of CBNG.

13. WEEE

- 13.1 The Customer shall adhere to compliance to WEEE Regulations and shall be responsible to exclusively finance the collection and delivery of any waste electrical and electronic equipment to CBNG's approved authorised treatment facility, as required by the WEEE Regulations.
- 13.2 The Customer agrees to indemnify and keep indemnified and hold harmless CBNG and of its subcontractors from and against all costs and expenses incurred or suffered as a result of a direct or indirect breach or negligent performance or failure in performance by the Customer of its obligations in this Clause.

14. IMPORT AND EXPORT AND ANTI CORRUPTION

- 14.1 In relation to any Goods, the Customer shall, as soon as possible after the Effective Date, make any and all applications required:
- 14.1.1 under the Applicable Laws of the country of origin as may be required for the export thereof from such country; and
- 14.1.2 under the Applicable Laws in the Territory and any other relevant country or jurisdiction for and on behalf of CBNG to request such clearances and permits as may be required for the import of the same into the Territory.
- 14.2 For the purpose of this Clause 14, CBNG will assist Customer to the extent reasonably required to obtain the relevant clearances and permits.
- 14.3 CBNG is entitled to rely on the Customer's written confirmation to CBNG that the Customer has obtained such clearances and permits referred to in this Clause 14.
- 14.4 CBNG shall provide such information as may reasonably be required by Customer to make such applications as are contemplated by this Clause 14.
- 14.5 The performance by the Customer of its obligations under this Clause 14, including any application fees, shall be at its own cost and expense.
- 14.6 Obligations to follow United States and United Kingdom laws in regard to Goods
- 14.6.1 Restriction for third parties and import/export
- (A) **Import/Export restrictions:** The Customer shall comply with all Applicable Laws relating to exports, restrictions and regulations of any exporting country or foreign agencies or authorities and shall not export, or transfer for the purpose of re-export any product to any prohibited or embargoed country or to any denied, blocked, or designated person or entity as mentioned in any United Kingdom or foreign law or regulation. The Customer:
- (1) shall not re-export goods that are received against an export licence without first obtaining any necessary approval from the appropriate governmental authority authorizing such re-export;
- (2) with respect to its obligations under and performance of this Contract, shall at all times comply with all export/import laws (including re-export), sanctions, regulations, orders, and authorizations (including the Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), complying with the United Kingdom's Export Control Joint Unit and the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC)) that are applicable to the export or import of goods, software, technology, or technical data or services (collectively, "Export/Import Laws");
- (3) that conducts the export or import shall obtain all export or import authorizations which are required under the Export/Import Laws to execute its obligations under this Contract. Each Party shall reasonably cooperate and exercise reasonable efforts at its' own expense to support the other Party in obtaining any necessary licenses or authorizations required to perform its obligations under this Contract. Reasonable cooperation shall include providing reasonably necessary documentation, including import, end user and re-transfer certificates.
- (4) may be notified by CBNG of the export classification (including, where applicable, the United Kingdom Strategic Export Control Lists, the U.S. Export Control Classification Numbers, or U.S. Munitions List (USML) category and subcategory) of such items or services as well as the export classification of any Hardware or parts thereof if the classification is different from the export classification of the item or service at issue. Each Party agrees to reasonably cooperate with the other in providing, upon request by the other Party, documentation or other information that supports or confirms this representation.
- (B) **Restricted parties.** The Customer represents and warrants that it is not prohibited by law from purchasing Goods from CBNG. The Customer hereby represents that neither it nor any Affiliate is included on any of the restricted party lists maintained by the
- (1) United Kingdom Foreign and Commonwealth Office prohibited list; and
- (2) U.S. Government, including the Specially Designated Nationals List administered by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC), Denied Parties List, Unverified List or Entity List maintained by the U.S. Commerce Department's Bureau of Industry and Security (BIS), or the List of Statutorily Debarred Parties maintained by the U.S. State Department's Directorate of Defence Trade Controls, or the consolidated list of asset freeze targets designated by the United Nations, European Union and United Kingdom
- (collectively, "Restricted Party Lists").
- The Customer shall immediately notify the CBNG if the Customer or any parent, subsidiary or Affiliate becomes listed on any Restricted Party List or if a Party's export privileges are otherwise denied, suspended or revoked in whole or in part by any government entity or agency.
- 14.6.2 **Anti-Corruption / Anti-Bribery.** In addition, the Customer shall comply with all applicable country laws relating to anticorruption or anti-bribery, including the (United Kingdom) Anti Bribery Act 2010 and legislation implementing the Organization for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, or other anti-corruption/anti-bribery convention, the Foreign Corrupt Practices Act as amended (FCPA) (15 U.S.C. §§78dd-1, et. seq.), whether the Customer is within the jurisdiction of the United States or the United Kingdom.

15. COMMUNICATIONS

- 15.1 All information from the CBNG to the Customer and from the Customer (or it's nominee) to the CBNG shall be in writing as email (provided that an acknowledgement is received and not a read receipt) and/or courier and shall be properly referenced.
- 15.2 Any notice or other communication hereunder shall be affected in the English language. Each document, instrument, certificate or statement delivered or furnished hereunder shall be in the English language or shall be accompanied by a certified translation thereof.
- 15.3 Address for notices are:
- 15.3.1 in case of communications to CBNG, to its principal place of business as stated in these Conditions or such changed address as shall be notified to the Customer by CBNG; or
- 15.3.2 in the case of the communications to the Customer, to the registered office of the Customer or to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to CBNG by the Customer.
- 15.4 Communications addressed to CBNG shall be marked for the attention of the Chief Executive Officer, with a copy to the Company Secretary.

16. FORCE MAJEURE

- 16.1 Where CBNG fails to perform one or more of its contractual duties, the consequences set out in Clauses 16.4 to 16.7 of this Clause 16 will follow if and to the extent that Party proves:
- 16.1.1 that its failure to perform was caused by an impediment beyond its reasonable control; and
- 16.1.2 that it could not reasonably have been expected to have taken the occurrence of the impediment into account at the time of the conclusion of the Contract; and
- 16.1.3 that it could not reasonably have avoided or overcome the effects of the impediment.
- 16.2 Where CBNG fails to perform one or more of its contractual duties because of default by a third party whom it has engaged to perform the whole or part of the contract, the consequences set out in Clauses 16.4 to 16.7 of this Clause will only apply to the contracting party if and to the extent that the contracting party:
- 16.2.1 establishes the requirements set out in Clause 16.1; and
- 16.2.2 proves that the same requirements apply to the third party.
- 16.3 If CBNG invoke this Clause 16, it shall be presumed to have established the Clauses described in Clauses 16.1.1 and 16.1.2 in case of the occurrence of one or more of the following impediments:
- 16.3.1 war (whether declared or not), armed conflict or the serious threat of same (including hostile attack, blockade, military embargo), hostilities, invasion, act of a foreign enemy, extensive military mobilisation;
- 16.3.2 civil war, riot rebellion and revolution, military or usurped power, insurrection, civil commotion or disorder, mob violence, act of civil disobedience;
- 16.3.3 act of terrorism, sabotage or piracy;
- 16.3.4 act of authority whether lawful or unlawful, compliance with any law or governmental order, rule, regulation or direction, curfew restriction, expropriation, compulsory acquisition, seizure of works, requisition, nationalisation;
- 16.3.5 act of God, plague, epidemic, natural disaster such as violent storm, cyclone, typhoon, hurricane, tornado, blizzard, earthquake, volcanic activity, landslide, tidal wave, tsunami, flood, damage or destruction by lightning, drought; explosion, fire, destruction of machines, equipment, factories and of any kind of installation, prolonged breakdown of transport, telecommunication or electric current;
- 16.3.6 general labour disturbance such as boycott, strike and lock-out, go-slow, occupation of factories and premises.

- 16.4 If this Clause is invoked by CBNG, subject to Clause 16.6 below, then it is after a 30 day period from invocation, relieved from its duty to perform its obligations under this Contract from the time at which the impediment causes the failure to perform if notice thereof is given without delay or, if notice thereof is not given without delay, from the time at which notice thereof reaches the Customer.
- 16.5 If this Clause is invoked by CBNG, subject to Clause 16.6 below, then CBNG is relieved from any liability in damages or any other contractual remedy for breach of this Contract from the time indicated in Clause 16.4 above.
- 16.6 Where the effect of the impediment or event invoked is temporary, the consequences set out under Clauses 16.4 and 16.5 shall apply only insofar, to the extent that and as long as the impediment or the listed event invoked impedes performance of CBNG's contractual duties. Where this Clause 16.6 applies, CBNG is under an obligation to notify the other party as soon as the impediment or listed event ceases to impede performance of its contractual duties.
- 16.7 Where the duration of the impediment invoked under Clause 16.1 and or of the listed event invoked under Clause 16.3 has the effect of substantially depriving CBNG of what they were reasonably entitled to expect under this Contract, then CBNG has the right to terminate the Contract by notification within a reasonable period to the Customer.

17. EFFECTIVE DATE, TERM AND TERMINATION

- 17.1 This Contract shall commence on the Effective Date and shall continue in full force and effect for the Term unless terminated by CBNG pursuant to this Clause 17
- 17.2 CBNG may terminate any Contract without liability to the Customer if:
- 17.2.1 the Customer commits a material breach of the Contract and (in the case of a breach capable of remedy) fails to remedy the breach within seven (7) days of being asked to do so by written notice from CBNG (such notice to specify the breach and to state CBNG's intention to terminate if the breach is not remedied); and/or
- 17.2.2 any of the events described in Clause Insolvency Event or CBNG reasonably believes that they are likely to occur; and/or
- 17.2.3 in the event on of the Customer is involved in any litigation that exposes CBNG to material liabilities.
- 17.3 In the event of termination of any Contract by CBNG under Clause 17.2 above, the Customer's rights and licences under that Contract shall cease.

18. GOVERNING LAW, DISPUTES AND ARBITRATION

- 18.1 **Governing Law:** The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the Parties submit to the non-exclusive jurisdiction of the English courts for the resolution of any dispute arising out of or connected with the Contract and which cannot be resolved by negotiation between the Parties

18.2 Dispute Resolution and Arbitration

18.2.1 Negotiations

CBNG and the Customer agree to settle amicably all disagreements and differences of opinion on any matters that may arise in relation to this Contract ("Dispute") by discussions and negotiations, and that prior to resorting to expert determination or arbitration to resolve such Dispute, the Parties shall refer the dispute in writing for settlement to CBNG's Chief Executive Officer and the Customer's 'Account Director'. The Parties shall ensure that their respective representatives shall, for a period of seven (7) Business Days from the date of the written reference, use reasonable endeavours to reach a resolution of the Dispute.

18.2.2 Arbitration

- (A) If the Parties are not able to settle the Dispute, pursuant to Clause 18.2.1, any Dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination may, at CBNG's sole discretion, be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this Clause.
- (B) The number of arbitrators shall be three.
- (C) The seat, or legal place, of arbitration shall be in London, England.
- (D) The language to be used in the arbitral proceedings shall be English.
- (E) The award rendered by the Arbitration shall be final and binding upon both Parties and to that end, this Clause 18.2 shall constitute an arbitration agreement between the Parties.
- (F) The arbitrators shall be bound by the governing law and shall have to substantiate their decision and award accordingly.

19. FURTHER PROVISIONS

- 19.1 **Deduction.** All payments made by the Customer under this Contract are due without any deductions including any set-off, counterclaim, discount, abatement, withholding tax, duties and any bank fees.
- 19.2 **Data protection.** The Parties acknowledge and agree to comply with any Applicable Laws and the United Kingdom Data Protection Act (2018) in regard to data protection related to any information exchanged between the Parties. To the extent permissible under law, the Customer explicitly and unambiguously consents to the collection, use and transfer, in electronic or other form, of its personal data for the purpose of implementing, administering and managing this Contract. The Customer understands that CBNG and its subsidiaries and subcontractors hold certain personal information about the Customer including address and contact details.
- 19.3 **Independent contractor and no agency.** None of the provisions of this Contract shall be interpreted or construed as creating or establishing a relationship of employment, agency, commission, joint venture, or franchisee between Customer and CBNG or between CBNG and any employee, subcontractor, or agent of Customer. The Parties are independent contractors and will have no power or authority to assume or create any obligation or responsibility on behalf of each other.
- 19.4 **Counterparts.** This Contract may be executed in multiple counterparts, each of which so executed shall be considered an original and all of which taken together constitute only one agreement. Once signed, any accurate reproduction of this Contract made by reliable means (for example, electronic image, photocopy, or facsimile) shall be considered an original.
- 19.5 **Electronic signatures.** If the Parties conclude this Contract by electronic signature, then each Party agrees that the electronic signatures, whether digital or encrypted, of the Parties included in this Contract are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a Party with the intent to sign such record.
- 19.6 **Third Party Rights.** The Parties agree that that a person who is not a party has no right to enforce any term of this letter under the Contracts (Rights of Third Parties) Act 1999;
- 19.7 **Severability.** If any term or provision of this Contract shall in whole or in part be held to be illegal or unenforceable under any enactment or rule of law or provision or part thereof shall:
- 19.7.1 to the extent be deemed not to form part of this Contract, the invalid and/or unenforceable provisions hereof and are declared to be severable;
- 19.7.2 such invalidity shall not affect the validity of all other terms in this Contract which can be given effect without the invalid provision or application; and
- 19.7.3 this Contract shall be construed and both Parties shall amend this Contract, so as to give effect as nearly as possible to the intent of the invalid Clause or application;
- 19.8 **Waiver.** CBNG shall not be deemed to have waived any rights arising under this Contract unless such waiver is recorded. Non-enforcement by CBNG of any of the provisions of this Contract shall not operate as or constitute a waiver of the provisions itself of any breach thereof. Any waiver of any breach of any provision shall not be taken or held to be a waiver of any subsequent breach of any provision or be a waiver of the provision itself.