



**C.E.C**  
**SYSTEMS**

Electrical  
Mechanical  
Engineers

**Concept Electrical Control Systems Limited:  
Terms & Conditions**

**Date: 05/03/2016**

# Terms & Conditions

The Customer's attention is particularly drawn to the provisions of Clause 12.

## 1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

<b>"Business Day"</b>	Means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
<b>"C.E.C.Systems."</b>	Means Concept Electrical Control Systems Limited, a limited company incorporated and registered in England and Wales with company number 903085, whose registered office is situated at Unit 8, 31 Manners View Dodnor Industrial Estate, Newport, Isle Of Wight, PO30 5FA;
<b>"Commencement Date"</b>	Has the meaning set out in Clause 2.2;
<b>"Contract"</b>	Means the contract between C.E.C. Systems and the Customer for the supply of Goods and/or Services in accordance with these Terms & Conditions;
<b>"Customer"</b>	Means the person or firm who purchases the Goods and/or Services from C.E.C. Systems;
<b>"Deliverables"</b>	Means the deliverables set out in the Order;
<b>"Delivery Location"</b>	Has the meaning set out in Clause 4.2;
<b>"Force Majeure Event"</b>	Has the meaning given to it in Clause 14.1;
<b>"Goods"</b>	Means the goods (or any part of them) set out in the Order;
<b>"Goods &amp; Design Specification"</b>	Means any specification for the Goods, as typically provided to the Customer by C.E.C. Systems (unless provided to the Customer by a third party contracted by the Customer), including any relevant plans, drawings or designs pertaining to the required Mechanical Electrical service and/or installation and/or solution, that is agreed in writing by the Customer and C.E.C. Systems;

<b>Intellectual Property Rights</b>	Means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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;
<b>“Order”</b>	Means the Customer's order for the supply of Goods and/or Services, as set out in the Customer's written acceptance of C.E.C. Systems's quotation;
<b>“Services”</b>	Means the services, including the Deliverables, supplied by installation to the Customer as set out in the Service Specification below;
<b>“Service Specification”</b>	Means the description or specification for the Services provided in writing by C.E.C. Systems to the Customer detailing the installation and/or maintenance of the Goods at the Delivery Location. For the avoidance of doubt, C.E.C. Systems may provide maintenance Services for Goods that C.E.C. Systems has supplied to the Customer or for Goods that the Customer has purchased from a third party;
<b>“Supplier Materials”</b>	Has the meaning set out in Clause 8.1(g);
<b>“Terms &amp; Conditions”</b>	Means these terms and conditions as amended from time to time in accordance with Clause 15.7;
<b>“Warranty Period”</b>	Means the manufacturer's warranty period in respect of the Goods as set out in the Goods & Design Specification; and
<b>“Workmanship Warranty Period”</b>	Means a period of 12 months from the date on which the supply of the Services is completed.

1.2 **Construction.** In these Terms & Conditions, the following rules apply:

- (a) A **"person"** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) A reference to a **"Party"** means a party to these Terms & Conditions and includes its personal representatives, successors or permitted assigns;
- (c) A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) Any phrase introduced by the terms **"including"**, **"include"**, **"in particular"** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) A reference to **"writing"** or **"written"** includes faxes and e-mails.

## 2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Terms & Conditions.

2.2 The Order shall only be deemed to be accepted when C.E.C. Systems issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**"Commencement Date"**).

2.3 The Contract constitutes the entire agreement between the Parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of C.E.C. Systems which is not set out in the Contract.

2.4 Any samples, drawings, descriptive matter or advertising issued by C.E.C. Systems and any descriptions of the Goods or illustrations or descriptions of the Services contained in C.E.C. Systems's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.

2.5 These Terms & Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.6 Any quotation given by C.E.C. Systems shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

2.7 All of these Terms & Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

## 3. GOODS

3.1 The Goods are described in the Goods & Design Specification.

3.2 To the extent that the Goods are to be manufactured in accordance with a Goods & Design Specification supplied by the Customer, or where the Customer has contracted a third party to provide the Customer with the Goods & Design Specification, the Customer shall indemnify C.E.C. Systems against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other [reasonable] professional costs and expenses) suffered or incurred by C.E.C. Systems in connection with any claim made against C.E.C. Systems for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with C.E.C. Systems's use of the Goods & Design Specification. This Clause 3.2 shall survive termination of the Contract.

3.3 C.E.C. Systems reserves the right to amend the Goods & Design Specification if required by any applicable statutory or regulatory requirements or in the event that the Goods & Design Specification has been provided to the Customer by a third party contractor and such Goods & Design Specification is deemed by C.E.C. Systems as not fit for purpose.

#### 4. DELIVERY OF GOODS

4.1 C.E.C. Systems shall ensure that:

- a) Each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and C.E.C. Systems reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- (b) If C.E.C. Systems requires the Customer to return any packaging material to C.E.C. Systems that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as C.E.C. Systems shall reasonably request. Returns of packaging materials shall be at C.E.C. Systems's expense.

4.2 C.E.C. Systems shall arrange for the delivery of the Goods to the location set out in the Order or such other location as the parties may agree ("**Delivery Location**") at any time after C.E.C. Systems notifies the Customer that the Goods are ready.

4.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.

4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. C.E.C. Systems 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 C.E.C. Systems with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.5 If C.E.C. Systems fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. C.E.C. Systems shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event, the Customer's failure to provide C.E.C. Systems with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

4.6 If the Customer fails to accept the Goods subsequent to opening and/or damaging the packaging of the Goods or fails to take delivery of the Goods, the Goods shall be returned to the manufacturer. In the event that C.E.C. Systems incurs any shipping and/or handling charge or any charge payable to the manufacturer as a result of the Goods being returned, the Customer shall be notified of such charges and agrees to reimburse C.E.C. Systems in respect of such Charges.

4.7 C.E.C. Systems may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

4.8 In the event that Goods are being delivered to the Customer in instalments, the Customer shall not be entitled to reject remaining instalments of the Goods if C.E.C. Systems delivers the first instalment and such instalment is accepted by the Customer.

#### 5. QUALITY OF GOODS

5.1 Subject to Clause 12.3, C.E.C. Systems warrants that on delivery and for the Warranty Period the Goods shall:

- (a) Conform in all material respects with their description and any applicable Goods & Design Specification;
- (b) Be free from material defects in design, material and manufacturer's workmanship;
- (c) Be fit for any purpose held out by C.E.C. Systems

5.2 Subject to Clause 5.3, if:

- (a) The Customer gives notice in writing during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in Clause 5.1; and
- (b) C.E.C. Systems is given a reasonable opportunity of examining such Goods; and
- (c) The Customer (if asked to do so by C.E.C. Systems) returns such Goods to C.E.C. Systems's place of business at C.E.C. Systems's cost; C.E.C. Systems shall, at its option, repair or replace the defective Goods.

5.3 C.E.C. Systems shall not be liable for the Goods' failure to comply with the warranty in Clause 5.1 if:

- (a) The Customer makes any further use of such Goods after giving a notice in accordance with Clause 5.2;
- (b) The defect arises because the Customer failed to follow C.E.C. Systems's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
- (c) The defect arises as a result of C.E.C. Systems following any drawing, design or Goods & Design Specification supplied by the Customer;
- (d) The Customer alters or repairs such Goods without the written consent of C.E.C. Systems;
- (e) The defect arises as a result of fair wear and tear, willful damage, negligence, or abnormal working conditions;
- (f) The Goods differ from the Goods & Design Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

5.4 Except as provided in this Clause 5, C.E.C. Systems shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in Clause 5.1.

5.5 The terms of these Terms & Conditions shall apply to any repaired or replacement Goods supplied by C.E.C. Systems under Clause 5.2.

## **6. TITLE AND RISK**

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

6.2 Title to the Goods shall not pass to the Customer until C.E.C. Systems receives payment in full (in cash or cleared funds) for the Goods and any other goods that C.E.C. Systems 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.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) Store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as C.E.C. Systems's property;
- (b) Not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) Maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on C.E.C. Systems's behalf from the date of delivery;
- (d) Notify C.E.C. Systems immediately if it becomes subject to any of the events listed in Clause 13.2(b) to Clause 13.2(m); and
- (e) Give C.E.C. Systems such information relating to the Goods as C.E.C. Systems may require from time to time.

6.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in Clause 13.2(b) to Clause 13.2(m), then, without limiting any other right or remedy C.E.C. Systems may have, the Customer agrees that in the event that the Customer is unable to settle the invoice(s) for the Goods C.E.C. Systems may at any time enter any premises of the Customer (or of any third party contracted by the Customer) where the Goods are stored in order to recover them.

## 7. SUPPLY OF SERVICES

7.1 C.E.C. Systems shall provide the Services to the Customer in accordance with the Service Specification in all material respects.

7.2 C.E.C. Systems shall use all reasonable endeavors to meet any performance dates for the Services as specified in writing from time to time, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

7.3 C.E.C. Systems shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and C.E.C. Systems shall notify the Customer in any such event.

7.4 C.E.C. Systems warrants to the Customer that the Services will be provided using reasonable care and skill.

7.5 Subject to Clause 12.4, C.E.C. Systems warrants that upon completion of the supply of the Services and for the Workmanship Warranty Period the installation of the Goods shall:

- (a) Conform in all material respects with their description and any applicable Goods & Design Specification and any applicable Services Specification;
- (b) Be free from material defects in design, material and C.E.C. Systems's workmanship;
- (c) Be fit for any purpose held out by C.E.C. Systems

7.6 Subject to Clause 7.7, if:

- (a) The Customer gives notice in writing during the Workmanship Warranty Period within a reasonable time of discovery that some or all of the installation of the Goods does not comply with the warranty set out in Clause 7.5; and
- (b) C.E.C. Systems is given a reasonable opportunity of examining such installation of the Goods; C.E.C. Systems shall, at its option, repair or replace the defective portion of the installation of the Goods.

7.7 C.E.C. Systems shall not be liable for the installation of the Goods' failure to comply with the warranty in Clause 7.5 if:

- (a) The Customer makes any further use of such installation of the Goods after giving a notice in accordance with Clause 7.6;
- (b) The defect arises because the Customer failed to follow C.E.C. Systems's oral or written instructions as to the use or maintenance of the installation of the Goods or (if there are none) good trade practice;
- (c) The defect arises as a result of C.E.C. Systems following any drawing, design or Goods & Design Specification supplied by the Customer;
- (d) The Customer alters or repairs such installation of the Goods without the written consent of C.E.C. Systems;
- (e) The defect arises as a result of fair wear and tear, willful damage, negligence, or abnormal working conditions;
- (f) The installation of the Goods differ from the Goods & Design Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

7.8 Except as provided in this Clause 7, C.E.C. Systems shall have no liability to the Customer in respect of the installation of the Goods' failure to comply with the warranty set out in Clause 7.5.

7.9 The terms of these Terms & Conditions shall apply to any repaired or replacement installation of the Goods supplied by C.E.C. Systems under Clause 7.6.

7.10 For the avoidance of doubt and subject to Clause 7.6, C.E.C. Systems shall in no circumstances refund the full price of the Services in respect of the installation of the Goods.

## 8. CUSTOMER'S OBLIGATIONS

8.1 The Customer shall:

- (a) Ensure that the terms of the Order and (if submitted by the Customer) the Goods & Design Specification are complete and accurate;
- (b) Co-operate with C.E.C. Systems in all matters relating to the Services;
- (c) Provide C.E.C. Systems, its employees, agents, consultants and sub-contractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by C.E.C. Systems to provide the Services;
- (d) Provide C.E.C. Systems with such information and materials as C.E.C. Systems may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
- (e) Prepare the Customer's premises for the supply of the Services;
- (f) Obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and
- (g) Keep and maintain all materials, equipment, documents and other property of C.E.C. Systems ("**Supplier Materials**") at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to C.E.C. Systems, and not dispose of or use the Supplier Materials other than in accordance with C.E.C. Systems's written instructions or authorisation.

8.2 If C.E.C. Systems's performance of any of its obligations in respect of the Services 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) C.E.C. Systems shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays C.E.C. Systems's performance of any of its obligations;
- (b) C.E.C. Systems shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from C.E.C. Systems's failure or delay to perform any of its obligations as set out in this Clause 8.2; and
- (c) The Customer shall reimburse C.E.C. Systems on written demand for any costs or losses sustained or incurred by C.E.C. Systems arising directly or indirectly from the Customer Default.

## 9. CHARGES AND PAYMENT

9.1 The price for Goods shall be the price set out in the Order. The price of the Goods is exclusive of all costs and charges of packaging, insurance or transport of the Goods, which, in the event that only Goods are purchased from C.E.C. Systems, shall be paid by the Customer when it pays for the Goods. The Customer will not be liable to pay costs and charges of packaging, insurance or transport of the Goods in the event that the Customer engaged C.E.C. Systems for the installation of the Goods as part of the Services.

9.2 The charges for Services shall be on a fixed fee basis. The charges for Maintenance Services shall be on a time and materials basis:

- (a) The charges may be calculated in accordance with C.E.C. Systems's standard daily fee rates, mileage rates and/or travel time rates as notified to the Customer from time to time;
- (b) C.E.C. Systems's standard daily fee rates for each individual person are calculated on the basis of an eight-hour day from 8.00 am to 5.00 pm worked on Business Days;
- (c) C.E.C. Systems shall be entitled to charge an overtime rate as notified to the Customer from time to time for each part day or for any time worked by



individuals whom it engages on the Services outside the hours referred to in Clause 9.2(b); and

(d) C.E.C. Systems shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom C.E.C. Systems engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by C.E.C. Systems for the performance of the Services, and for the cost of any materials.

9.3 C.E.C. Systems reserves the right to:

(a) 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 C.E.C. Systems that is due to:

(i) Any factor beyond the control of C.E.C. Systems (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 the Goods & Design Specification; or

(iii) Any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give C.E.C. Systems adequate or accurate information or instructions in respect of the Goods.

9.4 In respect of invoices, the Customer shall be invoiced as follows:

(a) In respect of Goods, C.E.C. Systems shall invoice the Customer on or at any time after completion of delivery;

(b) In respect of Services, where the supply of the Services is to take less than 1 month, C.E.C. Systems shall invoice the Customer upon completion of the supply of the Services;

(c) In respect of Services, where the supply of the Services is to take more than 1 month, C.E.C. Systems shall agree with the Customer monthly valuation dates on which the value of the Services supplied up until that date is assessed and invoiced. For the avoidance of doubt, where a percentage retention fee is agreed between the parties (based on the value of the Contract), half of such retention fee shall be invoiced upon completion of the supply of the Services with the remaining half of such retention fee being invoiced 12 months subsequent to the completion of the supply of the Services.

9.5 The Customer shall pay each invoice submitted by C.E.C. Systems:

(a) Within 20 Business Days of the date of the invoice; and

(b) In full and in cleared funds to a bank account nominated in writing by C.E.C. Systems, and Time for payment shall be of the essence of the Contract.

9.6 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 C.E.C. Systems to the Customer, the Customer shall, on receipt of a valid VAT invoice from C.E.C. Systems, pay to C.E.C. Systems 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.

9.7 If the Customer fails to make any payment due to C.E.C. Systems under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 5% per annum above HSBC Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

9.8 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. C.E.C. Systems may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by C.E.C. Systems to the

Customer.

## **10. INTELLECTUAL PROPERTY RIGHTS**

10.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by C.E.C. Systems

10.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on C.E.C. Systems obtaining a written licence from the relevant licensor on such terms as will entitle C.E.C. Systems to license such rights to the Customer.

10.3 All Supplier Materials are the exclusive property of C.E.C. Systems

## **11. CONFIDENTIALITY**

A Party ("**receiving party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other Party ("**disclosing party**"), its employees, agents or sub-contractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and sub-contractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and sub-contractors comply with the obligations set out in this Clause 11 as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This Clause 11 shall survive termination of the Contract.

## **12. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

12.1 Nothing in these Terms & Conditions shall limit or exclude C.E.C. Systems's liability for:

- (a) Death or personal injury caused by its negligence, or the negligence of its employees, agents or sub-contractors;
- (b) Fraud or fraudulent misrepresentation;
- (c) Breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- (d) Breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- (e) Defective products under the Consumer Protection Act 1987.

12.2 Subject to Clause 12.1:

- (a) C.E.C. Systems shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) C.E.C. Systems's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the Contract.

12.3 In respect of the Goods & Design Specification, where such Goods & Design Specification is provided to the Customer by a third party contracted by the Customer, C.E.C. Systems shall in no circumstances whatsoever be held liable for any losses incurred by the Customer as a result of such Goods & Design Specification being relied on by the Parties.

12.4 In respect of the Service Specification, C.E.C. Systems shall design the Service

Specification, including the design and planning for the installation of the Goods, in accordance with information provided by the Customer relating to the apportionment of space/layout of the Delivery Location. C.E.C. Systems shall in no circumstances whatsoever be held liable for any defective or inefficient Goods and/or any defective or inefficient installation of the Goods in the event that the Customer amends or alters the apportionment of space/layout of the Delivery Location subsequent to the Service Specification being agreed between the Parties.

12.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

12.6 This Clause 12 shall survive termination of the Contract.

### **13. TERMINATION**

13.1 Without limiting its other rights or remedies either Party may terminate the Contract by giving the other Party not less than 1 months' written notice, except in respect of Contracts for maintenance Services which shall be subject to a minimum period notified to the Customer in writing in accordance with the Order. For the avoidance of doubt, in the event that the Customer wishes to terminate such Contract within the minimum period, the Customer agrees that it shall become liable for the full value of such Contract for maintenance Services, which shall be invoiced to the Client upon C.E.C. Systems's receipt of the Customer's notification of termination.

13.2 Without limiting its other rights or remedies, each 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 this Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing to do so;
- (b) The other Party, or if different, the owner of the Delivery Location, suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) The other Party, or if different, the owner of the Delivery Location, commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
- (d) A petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other Party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other Party with one or more other companies or the solvent reconstruction of that other Party, or the same in respect of the owner of the Delivery Location;
- (e) The other Party (being an individual) is the subject of a bankruptcy petition or order, or the same in respect of the owner of the Delivery Location;
- (f) A creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days, or the same in respect of the owner of the Delivery Location;
- (g) An application is made to court, or an order is made, for the appointment

of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other Party (being a company), or the same in respect of the owner of the Delivery Location;

(h) The holder of a qualifying charge over the assets of the other Party (being a company) has become entitled to appoint or has appointed an administrative receiver, or the same in respect of the owner of the Delivery Location;

(i) A person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party, or the same in respect of the owner of the Delivery Location;

(j) Any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 13.2(b) to Clause 13.2(i) (inclusive), or the same in respect of the owner of the Delivery Location;

(k) The other Party, or if different, the owner of the Delivery Location, suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;

(l) The other Party's financial position deteriorates to such an extent that in C.E.C. Systems's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

(m) The other Party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

13.3 Without limiting its other rights or remedies, C.E.C. Systems may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

13.4 Without limiting its other rights or remedies, C.E.C. Systems may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and C.E.C. Systems if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in Clause 13.2(b) to Clause 13.2(m), the owner of the Delivery Location becomes subject to any of the events listed in Clause 13.2 (b) to Clause 13.2 (k), or C.E.C. Systems reasonably believes that the Customer or the owner of the Delivery Location is about to become subject to any of them.

13.5 On termination of the Contract for any reason:

(a) The Customer shall immediately pay to C.E.C. Systems all of C.E.C. Systems's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, C.E.C. Systems shall submit an invoice, which shall be payable by the Customer immediately on receipt;

(b) The Customer shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then C.E.C. Systems may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;

(c) The accrued rights and remedies of the Parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

(d) Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

## **14. FORCE MAJEURE**

14.1 For the purposes of this Contract, **"Force Majeure Event"** means an event beyond the reasonable control of C.E.C. Systems including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of C.E.C. Systems or any other third party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

14.2 C.E.C. Systems shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

14.3 If the Force Majeure Event prevents C.E.C. Systems from providing any of the Services and/or Goods for more than 60 Business Days, C.E.C. Systems shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

## **15. GENERAL**

### **15.1 Assignment and other dealings.**

(a) C.E.C. Systems may at any time assign, transfer, mortgage, charge, sub-contract or deal in any other manner with all or any of its rights under the Contract and may sub-contract or delegate in any manner any or all of its obligations under the Contract to any third party.

(b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

### **15.2 Notices.**

(a) Any notice or other communication given to a Party under or in connection with this Contract shall be in writing, addressed to that Party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that Party may have specified to the other Party in writing in accordance with this Clause 15.2, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, fax or e-mail.

(b) A notice or other communication shall be deemed to have been received: If delivered personally, when left at the address referred to in Clause 15.2(a); If sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; If delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, If sent by fax or e-mail, one Business Day after transmission.

(c) The provisions of this Clause 15.2 shall not apply to the service of any proceedings or other documents in any legal action

### **15.3 Severance.**

(a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

(b) If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

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

15.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, nor constitute either Party the agent of another Party for any purpose. Neither Party shall have authority to act as agent for, or to bind, the other Party in any way.

15.6 **Third parties.** A person who is not a Party to the Contract shall not have any rights to enforce its terms.

15.7 **Variation.** Except as set out in these Terms & Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by C.E.C. Systems.

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

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