

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:

"Business Day"	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
"Commencement Date"	has the meaning set out in clause 2.2;
"Conditions"	these terms and conditions as amended from time to time in accordance with clause 15.7;
"Contract"	the contract between Penhale Quantock and the Customer for the supply of Goods and/or Services in accordance with these Conditions;
"Customer"	the person or firm who purchases the Goods and/or Services from Penhale Quantock;
"Deliverables"	the deliverables set out in the Order;
"Delivery Location"	has the meaning set out in clause 4.2;
"Force Majeure Event"	has the meaning given to it in clause 14.1;
"Goods"	the goods (or any part of them) set out in the Order which will include the Luminaire Housing and where applicable Internal Workings;
"Goods Specification"	any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Customer and Penhale Quantock;
"Intellectual Property Rights"	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;
"Internal Workings"	the internal electrical components;
"Luminaire Housing"	the unfilled unit provided by Penhale Quantock which may be supplied unfilled, or filled by Penhale Quantock with the Internal Working supplied by Penhale Quantock or the Customer in accordance with the Order.
"Order"	the Customer's written acceptance of Penhale Quantock's quotation, or overleaf, as the case may be;
"Penhale Quantock"	registered in England and Wales with company number 02964044;
"Penhale Quantock Materials"	has the meaning set out in clause 8.1.7
"Services"	the services, including the Deliverables, supplied by Penhale Quantock to the Customer as set out in the Service Specification below;
"Service Specification"	the description or specification for the Services provided in writing by Penhale Quantock to the Customer;

"Warranty Period" for each of the Goods as set out in the Order as set out in clause 5;

1.2 In these Conditions, the following rules apply:

- 1.2.1 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.2.2 a reference to a party includes its personal representatives, successors or permitted assigns;
- 1.2.3 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;
- 1.2.4 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
- 1.2.5 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 Conditions.
- 2.2 The Order shall only be deemed to be accepted when Penhale Quantock 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 Penhale Quantock which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by Penhale Quantock and any descriptions of the Goods or illustrations or descriptions of the Services contained in Penhale Quantock's catalogues, website 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 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 Penhale Quantock shall not constitute an offer, and is only valid for a period of 30 Business Days from its date of issue.
- 2.7 All of these 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 Penhale Quantock's catalogues, website or brochure as modified by any applicable Goods Specification.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Customer, the Customer shall indemnify Penhale Quantock 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 professional costs and expenses) suffered or incurred by Penhale Quantock in connection with any claim made against Penhale Quantock for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Penhale Quantock's use of the Goods Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 Penhale Quantock reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

4 Delivery of Goods

- 4.1 Penhale Quantock shall ensure that:
 - 4.1.1 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Penhale Quantock 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

- 4.1.2 if Penhale Quantock requires the Customer to return any packaging material to Penhale Quantock, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as Penhale Quantock shall reasonably request. Returns of packaging materials shall be at Penhale Quantock's expense.
- 4.2 Penhale Quantock or its authorised representative shall deliver 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 Penhale Quantock notifies the Customer that the Goods are ready.
- 4.3 If no Delivery Location is set out in the Order or agreed between the parties in accordance with clause 4.2 the Customer shall collect the Goods from Penhale Quantock's premises at Units 13-15 Roughmoor Enterprise Centre, Williton, Taunton TA4 4AT or such other location as may be advised by Penhale Quantock before delivery within 3 Business Days of Penhale Quantock notifying the Customer that the Goods are ready.
- 4.4 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
- 4.5 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. Penhale Quantock 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 Penhale Quantock with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.6 If the Customer fails to accept or take delivery of the Goods within 5 Business Days of Penhale Quantock notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by Penhale Quantock's failure to comply with its obligations under the Contract in respect of the Goods:
- 4.6.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the Business Day following the day on which Penhale Quantock notified the Customer that the Goods were ready; and
- 4.6.2 Penhale Quantock shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.7 If 5 Business Days after Penhale Quantock notified the Customer that the Goods were ready for delivery the Customer has not taken or accepted delivery of them, Penhale Quantock may resell or otherwise dispose of part or all of the Goods.
- 4.8 The Customer shall not be entitled to reject the Goods if Penhale Quantock delivers up to and including 5% more or less than the quantity of Goods ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.
- 4.9 Penhale Quantock 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.

5 Quality of Goods

- 5.1 Penhale Quantock warrants that on delivery and for the Warranty Period, the Goods shall:
- 5.1.1 conform in all material respects with their description and any applicable Goods Specification; and
- 5.1.2 be free from material defects in design, material and workmanship.
- 5.2 Subject to clause 5.3, if:
- 5.2.1 the Customer gives notice in writing during the Warranty Period that some or all of the Goods do not comply with the warranty set out in clause 5.1; and
- 5.2.2 Penhale Quantock is given a reasonable opportunity of examining such Goods; and
- 5.2.3 the Customer (if asked to do so by Penhale Quantock) returns such Goods to Penhale Quantock's place of business at Penhale Quantock's cost. If the Goods are deemed by Penhale Quantock to meet the warranty set out in clause 5.1, Penhale Quantock shall invoice the Customer for the costs incurred in the collection of the Goods, Penhale Quantock shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 5.3 Penhale Quantock shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:
- 5.3.1 the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;

- 5.3.2 the defect arises because the Customer failed to follow Penhale Quantock'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;
 - 5.3.3 the defect arises as a result of Penhale Quantock following any drawing, design; or Goods Specification supplied by the Customer
 - 5.3.4 the defect arises as a result of the use of any Internal Workings supplied by the Customer;
 - 5.3.5 the Customer alters or repairs such Goods without the written consent of Penhale Quantock;
 - 5.3.6 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
 - 5.3.7 the Goods differ from their description 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, Penhale Quantock 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 Conditions shall apply to any repaired or replacement Goods supplied by Penhale Quantock under clause 5.2.
- 5.6 For the purposes of this clause the Warranty Period for the Goods shall be as follows:-
- 5.6.1 Luminaire Housing 12 months from completion of the Order including those containing Internal Workings supplied by the Customer;
 - 5.6.2 Internal Workings supplied by Penhale Quantock 60 months from completion of the Order.
- 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 Penhale Quantock receives payment in full (in cash or cleared funds) for the Goods.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 6.3.1 keep and store the Goods separately from all other goods held by the Customer and in any event not incorporate the Goods in any way into any other product whatsoever so that the Goods remain separate and readily identifiable at all times as Penhale Quantock's property;
 - 6.3.2 not sell, charge or otherwise dispose of the Goods but keep the Goods in its possession;
 - 6.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 6.3.4 maintain the Goods in a satisfactory state of repair or condition and in any event in no worse state of repair or conditions as on the date of delivery to the Customer and to keep them insured against all risks for their full price on Penhale Quantock's behalf from the date of delivery;
 - 6.3.5 notify Penhale Quantock immediately if it becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.13; and
 - 6.3.6 promptly provide Penhale Quantock such information relating to the Goods as Penhale Quantock may require from time to time and permit Penhale Quantock or any person acting on its behalf access to any premises of the Customer or any third party where the Goods are kept or stored for the purposes of inspecting and examining them.
- 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, then:
- 6.4.1 Without limiting any other right or remedy Penhale Quantock may have, Penhale Quantock may immediately at any time:
 - (a) require the Customer at the Customer's own cost and expense to deliver up all the Goods in its possession; or
 - (b) without further notice enter any premises of the Customer or of any third party where the Goods are kept or stored in order to recover them.
- 6.5 The Customer shall at all times ensure that any and all parties that may seek to assert any right or claim against the Customer are made fully aware that the Goods are subject to reservation of title by Penhale Quantock and that the Goods are not the property of the Customer.

6.6 If for whatever reason, any party seeks to assert any right or claim against the Customer or the Goods, the Customer shall at its own cost and expense defend any such right or claim such as to preserve the reservation of the title of the Goods and / or at Penhale Quantock's request join any proceedings brought by Penhale Quantock in relation to the Goods.

7 Supply of Services

7.1 Penhale Quantock shall provide the Services to the Customer in accordance with the Service Specification in all material respects.

7.2 Penhale Quantock shall use all reasonable endeavours to meet any performance dates for the Services specified in the Service Specification, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

7.3 Penhale Quantock 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 Penhale Quantock shall notify the Customer in any such event.

7.4 Penhale Quantock warrants to the Customer that the Services will be provided using reasonable care and skill.

8 Customer's obligations

8.1 The Customer shall:

8.1.1 ensure that the terms of the Order and (if submitted by the Customer) the Goods Specification are complete and accurate. The Customer acknowledges that the Goods are supplied in the minimum quantities set out in Penhale Quantock's catalogue or on its website and any Order received for quantities other than the advertised amount will be adjusted accordingly;

8.1.2 co-operate with Penhale Quantock in all matters relating to the Services;

8.1.3 provide Penhale Quantock, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Penhale Quantock to provide the Services;

8.1.4 provide Penhale Quantock with such information and materials as Penhale Quantock may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;

8.1.5 be responsible where required as part of the Order for the provision of the Internal Workings;

8.1.6 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;

8.1.7 keep and maintain all materials, equipment, documents and other property of Penhale Quantock ("**Penhale Quantock Materials**") at the Customer's premises in safe custody at its own risk, maintain Penhale Quantock Materials in good condition until returned to Penhale Quantock, and not dispose of or use Penhale Quantock Materials other than in accordance with Penhale Quantock's written instructions or authorisation; and

8.1.8 ensure that any use or resale of the Goods by the Customer is in compliance with all applicable statutory requirements and that the handling and sale of the Goods is carried out in accordance with the instructions of Penhale Quantock or any governmental or regulatory authority.

8.2 If Penhale Quantock'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**"):

8.2.1 Penhale Quantock 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 Penhale Quantock's performance of any of its obligations;

8.2.2 Penhale Quantock shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Penhale Quantock's failure or delay to perform any of its obligations as set out in this clause 8.2; and

8.2.3 the Customer shall reimburse Penhale Quantock on written demand for any costs or losses sustained or incurred by Penhale Quantock 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 or, if no price is quoted, the price set out in Penhale Quantock's published price list as at the date of delivery. The price of the Goods is exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be paid by the Customer when it pays for the Goods.
- 9.2 The charges for Services shall either be for a fixed price set out in the Service Specification or on a time and materials basis. If the charges for the Services are on a time and materials basis:
- 9.2.1 the charges shall be calculated in accordance with Penhale Quantock's standard daily fee rates, as set out in the Service Specification;
- 9.2.2 Penhale Quantock'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; and
- 9.2.3 Penhale Quantock shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Penhale Quantock 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 Penhale Quantock for the performance of the Services, and for the cost of any materials.
- 9.3 Penhale Quantock reserves the right to:
- 9.3.1 increase its standard daily fee rates for the charges for the Services, provided that such charges cannot be increased more than once in any 12 month period. Penhale Quantock will give the Customer written notice of any such increase 1 month before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify Penhale Quantock in writing within 2 weeks of the date of Penhale Quantock's notice and Penhale Quantock shall have the right without limiting its other rights or remedies to terminate the Contract by giving 2 weeks' written notice to the Customer; and
- 9.3.2 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 Penhale Quantock that is due to:
- (a) any factor beyond the control of Penhale Quantock (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
- (c) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give Penhale Quantock adequate or accurate information or instructions in respect of the Goods.
- 9.4 In respect of Goods, Penhale Quantock shall invoice the Customer on or at any time after completion of delivery.
- 9.5 The Customer shall pay each invoice submitted by Penhale Quantock:
- 9.5.1 within 30 days of the end of the month in which the invoice is raised; and
- 9.5.2 in full and in cleared funds to a bank account nominated in writing by Penhale Quantock, 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 Penhale Quantock to the Customer, the Customer shall, on receipt of a valid VAT invoice from Penhale Quantock, pay to Penhale Quantock 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 Penhale Quantock 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 Barclays 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.

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 Penhale Quantock.

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 Penhale Quantock obtaining a written licence from the relevant licensor on such terms as will entitle Penhale Quantock to license such rights to the Customer.

10.3 All Penhale Quantock Materials are the exclusive property of Penhale Quantock.

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 subcontractors, 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 subcontractors 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 subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 11 shall survive termination of the Contract.

12 Limitation of liability

12.1 Nothing in these Conditions shall limit or exclude Penhale Quantock's liability for:

12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

12.1.2 fraud or fraudulent misrepresentation;

12.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);

12.1.4 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession);
or

12.1.5 defective products under the Consumer Protection Act 1987.

12.2 Subject to clause 12.1:

12.2.1 Penhale Quantock shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract ; and

12.2.2 Penhale Quantock'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 100% of the charges paid by the Customer for the Goods and/or Services under the Contract.

12.3 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.

12.4 This clause 12 shall survive termination of the Contract.

13 Termination

13.1 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:

13.1.1 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;

- 13.1.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - 13.1.3 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - 13.1.4 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;
 - 13.1.5 the other party (being an individual) is the subject of a bankruptcy petition or order;
 - 13.1.6 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;
 - 13.1.7 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);
 - 13.1.8 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;
 - 13.1.9 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;
 - 13.1.10 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 13.1.2 to clause 13.1.9 (inclusive);
 - 13.1.11 the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;
 - 13.1.12 the other party's financial position deteriorates to such an extent that in Penhale Quantock's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
 - 13.1.13 the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 13.2 Without limiting its other rights or remedies, Penhale Quantock 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.
- 13.3 Without limiting its other rights or remedies, Penhale Quantock may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and Penhale Quantock 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 13.1.2 to clause 13.1.13, or Penhale Quantock reasonably believes that the Customer is about to become subject to any of them.
- 13.4 On termination of the Contract for any reason:
- 13.4.1 the Customer shall immediately pay to Penhale Quantock all of Penhale Quantock's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, Penhale Quantock shall submit an invoice, which shall be payable by the Customer immediately on receipt;

- 13.4.2 the Customer shall return all of Penhale Quantock Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then Penhale Quantock 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;
- 13.4.3 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
- 13.4.4 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 Penhale Quantock including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Penhale Quantock or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 14.2 Penhale Quantock 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 Penhale Quantock from providing any of the Services and/or Goods for more than 4 weeks, Penhale Quantock 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

- 15.1.1 Penhale Quantock may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
- 15.1.2 The Customer shall not, without the prior written consent of Penhale Quantock, assign, transfer, charge, subcontract, 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

- 15.2.1 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, 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.
- 15.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2(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.
- 15.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

15.3 Severance

- 15.3.1 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.

15.3.2 If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15.4 Waiver

A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy 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 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 Penhale Quantock.

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).