

## 1. INTERPRETATION

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

**“Business Day”** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;

**“Conditions”** the terms and conditions set out in this document as amended from time to time in accordance with clause 14.7;

**“Contract”** the contract between boxxe and the Customer for the sale and purchase of the Products and/or Services in accordance with these Conditions;

**“Customer”** the person or firm who purchases the Products and/or Services from boxxe;

**“Deliverables”** the deliverables set out in the Order;

**“Force Majeure”** means an event or sequence of events beyond any party’s reasonable control preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster; war, riot or civil unrest; interruption or failure of supplies of power, fuel, water or telecommunications service, strike, lockout or boycott or other industrial action;

**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;

**“Order”** the Customer’s order for the Products and/or Services, as set out in the Customer’s purchase order form, the Customer’s written acceptance of boxxe’s quotation, or overleaf, as the case may be;

**“Products”** the products (including any Software) (or any part of them) set out in the Order;

**“boxxe”** means boxxe Limited (company number 02109168) whose registered office is at East Moor House Green Park Business Centre, Goose Lane, Sutton-on-the-Forest, York, YO61 1ET and any subsidiary or associated company;

**“boxxe Materials”** has the meaning set out in clause 6.1.8.

**“boxxe Software”** means software provided by or on behalf of boxxe for use in both object code and source code form and any updates, upgrades, versions or releases of the same existing now or in the future and all related specifications, documentation and other materials supplied with the software;

**“Services”** the services, including the Deliverables, supplied by boxxe to the Customer as set out in the Specification;

**“Software”** means boxxe Software and/or Third Party Software (as the case may be);

**“Specification”** any specification for the Products and/or Services, including any related plans and drawings, that is agreed in writing by the Customer and boxxe; and

**“Third Party Software”** means all software owned by or licensed to the Customer from a third party (whether or not supplied by boxxe and which comprises part of the Products).

### 1.2 In these unless the context otherwise requires:

1.2.1 any clause headings in these Conditions are included for convenience only and shall have no effect on the interpretation of these Conditions;

1.2.2 a reference to a ‘person’ includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person’s personal representatives, successors and permitted assigns

1.2.3 words in the singular include the plural and vice versa;

1.2.4 a reference to ‘writing’ or ‘written’ includes any method of reproducing words in a legible and non-transitory form (including email); and

1.2.5 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time.

## **2. BASIS OF CONTRACT**

- 2.1 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.
- 2.2 The Order constitutes an offer by the Customer to purchase the Products and/or Services in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when boxxe issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 2.4 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 boxxe which is not set out in the Contract.
- 2.5 Any samples, drawings, descriptive matter, or advertising produced by boxxe and any descriptions contained in boxxe's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Products and/or Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.6 A quotation given by boxxe shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days, or as otherwise expressly stated in the quotation, from its date of issue.

## **3. SUPPLY OF SERVICES**

- 3.1 boxxe shall supply the Services:
  - 3.1.1 in accordance with the Specification in all material respects;
  - 3.1.2 using reasonable care and skill; and
  - 3.1.3 in accordance with all applicable law.
- 3.2 boxxe shall use all reasonable endeavours to meet any agreed performance dates, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.3 boxxe 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 boxxe shall notify the Customer in any such event.
- 3.4 The Customer acknowledges and accepts that the performance of certain Services may carry a risk to the Customer of loss of data. The Customer warrants that it will insure against loss that may be suffered as a result of the performance of the Services and undertakes all appropriate data and application backup procedures prior to any Services being carried out.
- 3.5 The Customer acknowledges that any report produced by boxxe as a result of the Services relates only to the Customer's computer network and configuration at the time the Services was performed. boxxe cannot guarantee that the report provides details of all risks and threats to the Customer's computer network.
- 3.6 If the Customer gives notice in writing to boxxe within a reasonable time of discovery that some or all of the Services do not comply with the warranty set out in clause 3.1, boxxe shall, at its option, either re-perform the relevant Services or issue a refund in respect of the relevant Services.

## **4. PRODUCTS**

- 4.1 The Products are described in the Specification. boxxe reserves the right to amend the specification of the Products if required by any applicable statutory or regulatory requirements.
- 4.2 Having regard to the prevailing statutory or other UK Government regulations in force from time to time and in the case of Products originating in the USA to the regulations of the US Department of Commerce, the Customer will not re-export directly or indirectly any Products without having first obtained any necessary consents or authorisations as may be required by any applicable Government regulations.
- 4.3 If the Products ordered become unavailable for any reason boxxe may substitute an alternate or equivalent item and the Customer shall not unreasonably withhold acceptance of delivery.
- 4.4 The Customer does not have the right of cancellation once boxxe issues written acceptance of an Order, unless expressly stated in writing in the Order. In such situations the following applies:

- 4.4.1 any request by the Customer for cancellation of any Order or part Order, or for the rescheduling of deliveries will only be considered by boxxe if made at least 48 hours before despatch of the Products. Cancellation shall be subject to acceptance by boxxe at its sole discretion and may be subject to a reasonable administrative charge. The Customer hereby agrees to indemnify boxxe against all loss, costs (including the cost of labour and materials used and overheads incurred) damages, charges and expenses arising out of the cancellation and/or or rescheduling of the Order.
- In the case of a training course, cancellation will be subject to the following termination charges;
- 4.4.2 within 15 Business Days of the start of the course: a charge of £25;
- 4.4.3 within 10 Business Days of the start of the course: a charge of 50% of the course fees; and
- 4.4.4 within 5 Business Days of the start of the course: a charge of 75% of the course fees.
- 4.5 boxxe shall ensure that:
- 4.5.1 each delivery of the Products is accompanied by a delivery note which shows the date of the Order, all relevant Customer and boxxe reference numbers, the type and quantity of the Products, special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Products remaining to be delivered; and
- 4.5.2 if boxxe requires the Customer to return any packaging materials to boxxe, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as boxxe shall reasonably request. Returns of packaging materials shall be at boxxe's expense.
- 4.6 boxxe shall deliver the Products to the location set out in the Order or such other location as the parties may agree ("**Delivery Location**") at any time after boxxe notifies the Customer that the Products are ready for delivery.
- 4.7 Delivery of the Products shall be completed on the Products' arrival at the Delivery Location.
- 4.8 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. boxxe shall not be liable for any delay in delivery of the Products that is caused by a Force Majeure or the Customer's failure to provide boxxe with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 4.9 The Customer shall inspect the Products upon delivery and shall, within 7 days, notify boxxe in writing of any shortfall or non-compliance.
- 4.10 If boxxe fails to deliver the Products, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement Products of similar description and quality in the cheapest market available, less the price of the Products. boxxe shall have no liability for any failure to deliver the Products to the extent that such failure is caused by a Force Majeure or the Customer's failure to provide boxxe with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 4.11 If the Customer fails to accept delivery of the Products within three Business Days of boxxe notifying the Customer that the Products are ready for delivery, then, except where such failure or delay is caused by a Force Majeure or boxxe's failure to comply with its obligations under the Contract:
- 4.11.1 delivery of the Products shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which boxxe notified the Customer that the Products were ready; and
- 4.11.2 boxxe shall store the Products until delivery takes place, and may charge the Customer for all related costs and expenses (including insurance).
- 4.12 If 10 Business Days after the day on which boxxe notified the Customer that the Products were ready for delivery the Customer has not accepted delivery of them, boxxe may resell or otherwise dispose of part or all of the Products and charge the Customer for any shortfall below the price of the Products.
- 4.13 boxxe may deliver the Products 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**

- 5.1 All Third Party Software is supplied on an 'as is' basis. If any such Third Party Software should fail to conform to its current product description, the sole obligation of boxxe in this respect is to use all reasonable endeavours to obtain and supply a correction or a corrected version from the relevant manufacturer, provided that the Customer notifies boxxe of any such non-conformity within 14 days of the date of delivery of the Product.
- 5.2 Subject to clause 5.1, boxxe warrants that on delivery, and for a period of 3 months from the date of delivery, the Products shall:
- 5.2.1 conform in all material respects with their description and any applicable Specification;
  - 5.2.2 be free from material defects in design, material and workmanship; and
  - 5.2.3 be of satisfactory quality (within the meaning of the Sale of Products Act 1979).
- 5.3 Subject to clause 5.4, if:
- 5.3.1 the Customer gives notice in writing to boxxe within a reasonable time of discovery that some or all of the Products do not comply with the warranty set out in clause 5.1;
  - 5.3.2 boxxe is given a reasonable opportunity of examining such Products; and
  - 5.3.3 the Customer (if asked to do so by boxxe) returns such Products to boxxe's place of business at the Customer's cost,
- boxxe shall, at its option, repair or replace the defective Products, or refund the price of the defective Products in full.
- 5.4 boxxe shall not be liable for Products' failure to comply with the warranty set out in clause 5.1 in any of the following events:
- 5.4.1 the Customer makes any further use of such Products after giving notice in accordance with clause 5.3;
  - 5.4.2 the defect arises because the Customer failed to follow boxxe's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Products or (if there are none) good trade practice regarding the same;
  - 5.4.3 the defect arises as a result of boxxe following any design or Specification supplied by the Customer;
  - 5.4.4 the Customer alters or repairs such Products without the written consent of boxxe;
  - 5.4.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
  - 5.4.6 the Products differ from their description and/or Specification as a result of changes to the manufacturer's specification or technical data; or
  - 5.4.7 the Products differ from their description the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 5.5 Except as provided in this clause 5, boxxe shall have no liability to the Customer in respect of the Products' failure to comply with the warranty set out in clause 5.1.
- 5.6 The terms implied by sections 13 to 15 of the Sale of Products Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 5.7 These Conditions shall apply to any repaired or replacement Products supplied by boxxe.

## **6. CUSTOMER'S OBLIGATIONS**

- 6.1 The Customer shall:
- 6.1.1 ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
  - 6.1.2 co-operate with boxxe in all matters relating to the Services;
  - 6.1.3 provide boxxe, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by boxxe;

- 6.1.4 provide boxxe with such information and materials as boxxe may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
  - 6.1.5 prepare the Customer's premises for the supply of the Services (where applicable);
  - 6.1.6 provide a safe working environment as defined by health and safety legislation;
  - 6.1.7 obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start; and
  - 6.1.8 keep and maintain all materials, equipment, documents and other property of boxxe ("**boxxe Materials**") at the Customer's premises in safe custody at its own risk, maintain the boxxe Materials in good condition until returned to boxxe, and not dispose of or use the boxxe Materials other than in accordance with boxxe's written instructions or authorisation.
- 6.2 If boxxe's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("**Customer Default**"):
- 6.2.1 boxxe 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 boxxe's performance of any of its obligations;
  - 6.2.2 boxxe shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from boxxe's failure or delay to perform any of its obligations as set out in this clause 6.2; and
  - 6.2.3 the Customer shall reimburse boxxe on written demand for any costs or losses sustained or incurred by boxxe arising directly or indirectly from the Customer Default.
- 6.3 The Customer warrants and undertakes that it has obtained from all persons including third parties all necessary approvals and authorities required to allow boxxe access to all information technology networks and systems used by the Customer and any third party in any relevant jurisdiction in which the Customer operates and in which the Services are performed (including but not limited to the Computer Misuse Act 1990) and any contract governing the use of such networks and systems.
- 6.4 The Customer shall not, without the prior written consent of boxxe, at any time during the supply or Products and/or Services under these Conditions and for three months after, solicit or entice away from boxxe or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of boxxe and with whom the Customer has had dealings with a result of the supply of the Products and/or Services.
- 6.5 Any consent given by boxxe in accordance with clause 6.4 shall be subject to the Customer paying to boxxe a sum equivalent to 20% of the then current annual remuneration of boxxe's employee, consultant or subcontractor or, if higher, 20% of the annual remuneration to be paid by the Customer to that employee, consultant or subcontractor.

## 7. TITLE AND RISK

- 7.1 The risk in the Products shall pass to the Customer on completion of delivery.
- 7.2 Title to the Products shall not pass to the Customer until boxxe receives payment in full (in cash or cleared funds) for the Products and any other Products that boxxe has supplied to the Customer in respect of which payment has become due, in which case title to the Products shall pass at the time of payment of all such sums.
- 7.3 Until title to the Products has passed to the Customer, the Customer shall:
  - 7.3.1 store the Products separately from all other Products held by the Customer so that they remain readily identifiable as boxxe's property;
  - 7.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Products;
  - 7.3.3 maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - 7.3.4 notify boxxe immediately if it becomes subject to any of the events listed in clause 11.2; and
  - 7.3.5 give boxxe such information relating to the Products as boxxe may require from time to time.

- 7.4 If before title to the Products passes to the Customer the Customer becomes subject to any of the events listed in clause 11.2, then, without limiting any other right or remedy boxxe may have boxxe may at any time:
- 7.4.1 require the Customer to deliver up all Products in its possession which have not been irrevocably incorporated into another product; and
  - 7.4.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them.

## **8. PRICE AND PAYMENT**

- 8.1 The price of the Products shall be the price set out in the Order, or, if no price is quoted, the price set out in boxxe's published price list in force as at the date of delivery.
- 8.2 The price for the Services shall be as set out in the Order, or, if no price is quoted, the price shall be calculated on a time and materials basis as follows:
- 8.2.1 the price shall be calculated in accordance with boxxe's standard daily fee rates in force from time to time
  - 8.2.2 boxxe's standard daily fee rates for each individual are calculated on the basis of an eight-hour day from 9.00 am to 5.30 pm worked on Business Days;
  - 8.2.3 boxxe shall be entitled to charge an overtime rate of 50% per cent of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 8.2.2; and
  - 8.2.4 boxxe shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom boxxe 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 boxxe for the performance of the Services, and for the cost of any materials.
- 8.3 boxxe may, by giving notice to the Customer at any time up to 5 Business Days before delivery, increase the price of the Products and/or Services to reflect any increase that is due to:
- 8.3.1 any factor beyond boxxe's control (including foreign exchange fluctuations, increases in taxes and duties);
  - 8.3.2 any request by the Customer to change the delivery date(s), quantities or types of Products and/or Services ordered, or the Specification; or
  - 8.3.3 any delay caused by any instructions of the Customer or failure of the Customer to give boxxe adequate or accurate information or instructions.
- 8.4 The price of the Products is inclusive of the costs and charges of packaging, insurance and transport of the Products.
- 8.5 The price of the Products and/or Services is exclusive of VAT, which the Customer shall pay in addition on receipt of a valid VAT invoice.
- 8.6 Unless agreed otherwise by boxxe, boxxe may invoice the Customer on or at any time after the completion of delivery in respect of the Products and/or on completion of the Services.
- 8.7 The Customer shall pay the invoice in full and in cleared funds within 30 days of the date of the invoice. Payment shall be made to the bank account nominated in writing by boxxe. Time of payment is of the essence.
- 8.8 If the Customer fails to make any payment due to boxxe under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England'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.
- 8.9 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). boxxe may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by boxxe to the Customer.

**9. INTELLECTUAL PROPERTY RIGHTS**

- 9.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by boxxe.
- 9.2 The Customer hereby acknowledges that any Intellectual Property Rights in any Third Party Software shall at all times vest and remain vested in the relevant Third Party Software owner.
- 9.3 The Customer acknowledges that, in respect of any third party Intellectual Property Rights (including in any Third Party Software), the Customer's use of any such Intellectual Property Rights is conditional on boxxe obtaining a written licence from the relevant licensor on such terms as will entitle boxxe to license such rights to the Customer.
- 9.4 The Customer acknowledges and agrees:
  - 9.4.1 that it is its sole responsibility to comply with any terms and conditions of licence attaching to any third party products supplied and delivered by boxxe including any Third Party Software;
  - 9.4.2 that failure to comply with any such terms and conditions could result in the Customer being refused a software licence or having the same revoked by the proprietary owner; and
  - 9.4.3 to indemnify boxxe in respect of any damages, costs, charges or expenses incurred by boxxe following any action by a Third Party Software owner as a result of a breach by the Customer of such conditions.
- 9.5 All boxxe Materials are the exclusive property of boxxe.

**10. 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 10 shall survive termination of the Contract.

**11. TERMINATION AND SUSPENSION**

- 11.1 If the Customer becomes subject to any of the events listed in clause 11.2, boxxe may terminate the Contract with immediate effect by giving written notice to the Customer.
- 11.2 For the purposes of clause 11.1, the relevant events are:
  - 11.2.1 the Customer 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;
  - 11.2.2 the Customer 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;
  - 11.2.3 (being a company) 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 Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
  - 11.2.4 (being a company) 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 Customer;

- 11.2.5 (being a company) the holder of a qualifying floating charge over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
  - 11.2.6 a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
  - 11.2.7 (being an individual) the Customer is the subject of a bankruptcy petition or order;
  - 11.2.8 a creditor or encumbrancer of the Customer 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;
  - 11.2.9 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.2.1 to clause 11.2.6 (inclusive);
  - 11.2.10 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
  - 11.2.11 the Customer's financial position deteriorates to such an extent that in boxxe's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and
  - 11.2.12 (being an individual) the Customer 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.
- 11.3 Without limiting its other rights or remedies, boxxe may suspend provision of the Products and/or Services under the Contract or any other contract between the Customer and boxxe if the Customer becomes subject to any of the events listed in clause 11.2.1 to clause 11.2.12, or boxxe reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 11.4 On termination of the Contract for any reason the Customer shall immediately pay to boxxe all of boxxe's outstanding unpaid invoices and interest and in respect of Products and/or Services supplied but for which no invoice has been submitted, boxxe shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 11.5 On termination of the Contract for any reason, the Customer shall return all of the boxxe Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then boxxe 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
- 11.6 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.
- 11.7 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

**12. LIMITATION OF LIABILITY**

- 12.1 Nothing in these Conditions shall limit or exclude boxxe's liability for:
- 12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - 12.1.2 fraud or fraudulent misrepresentation;
  - 12.1.3 any matter in respect of which it would be unlawful for boxxe to exclude or restrict liability.
- 12.2 Subject to clause 12.1:
- 12.2.1 boxxe 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, loss of data, damage to reputation or goodwill, loss of contract or any indirect or consequential loss arising under or in connection with the Contract; and
  - 12.2.2 boxxe'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 price of the Products and/or Services to which the claim relates.

**13. NOTICES**

- 13.1 Any notice given by a party under these Conditions shall be in writing, be signed by, or on behalf of, the party giving it and be sent to the relevant party at the address set out in the Contract. Notices may be given, and are deemed received:
- 13.1.1 by hand: on receipt of a signature at the time of delivery;
  - 13.1.2 by Royal Mail Recorded Signed for post: at 10.00 am on the Business Day after posting;
  - 13.1.3 by commercial courier: on the date and time that the courier's delivery receipt is signed; and
  - 13.1.4 by email: one Business Day after transmission.

**14. GENERAL**

- 14.1 A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:
- 14.1.1 promptly notifies the other of the Force Majeure event and its expected duration; and
  - 14.1.2 uses reasonable endeavours to minimise the effects of that event.
- 14.2 If, due to Force Majeure, a party:
- 14.2.1 is or shall be unable to perform a material obligation; or
  - 14.2.2 is delayed in or prevented from performing its obligations for a continuous period exceeding 30 days or more,
- the other party may, terminate the Contract on immediate written notice.
- 14.3 boxxe's rights under these Conditions are cumulative and in addition to and not exclusive of any rights which boxxe has otherwise in law, whether under statute, at common law or otherwise, and nothing in these Conditions is intended to or will be construed as excluding any such rights which boxxe has otherwise in law.
- 14.4 boxxe may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 14.5 The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of boxxe.
- 14.6 The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 14.7 No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, boxxe.
- 14.8 A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the 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.
- 14.9 A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 14.10 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.
- 14.11 Nothing in the Contract shall be deemed to create a partnership or joint venture or contract of employment of any kind between the parties nor shall it be deemed to grant any authority not expressly set out in the Contract or create any agency between the parties.

- 14.12 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formations (including non-contractual disputes or claims) will be governed by and construed in accordance with Laws of England.
- 14.13 The parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).