



Central Power Services Ltd
Garstang Road
Claughton-on-Brock
Lancashire
PR3 0PH



0845 437 9750



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CENTRAL POWER SERVICES LIMITED TERMS AND CONDITIONS OF SUPPLY

Interpretation

In these Terms, the following definitions apply:

Applicable Laws: all applicable laws, statutes and regulations and codes from time to time in force.

Business Day: means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Certificate of Test: means the certificate to be issued by CPS to the Customer on the successful completion of Testing in accordance with clause 3.4.

Charges: the charges payable by the Customer to CPS in consideration of CPS's provision of the Supply.

Contract: the contract between CPS and the Customer for the provision of the Supply in accordance with these Terms.

CPS: Central Power Services Limited, a company registered in England and Wales with company number 01980449 and whose registered office is at CPS's Premises.

CPS's Equipment and Materials: equipment, including tools, systems, cabling, facilities, documents, information, items and materials in any form which are used or provided by CPS or any third party instructed on its behalf in connection with the Supply.

CPS's Premises: Garstang Road Brock Preston, Lancashire, PR3 0PH.

Customer: the person or firm who purchases the Supply from CPS, as initially identified in the Quotation.

Deliverables: the Certificate of Test, any Specification prepared by CPS and all other records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software, and all other materials in whatever form, including but not limited to hard copy and electronic form, as made available by CPS to the Customer in connection with the Supply.

Delivery Location: means the location specified in the Quotation or otherwise as may be agreed in writing between the parties.

Deemed Acceptance: has the meaning given to it in clause 6.2.

Force Majeure Event: means events, circumstances or causes beyond a party's reasonable control including but not limited to, Acts of God, flood, drought, earthquake or other natural disaster, terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo or breaking off of diplomatic relations, nuclear, chemical, biological contamination or sonic boom, epidemic or pandemic, any law or any action taken by the Government or a public authority including without limitation imposing an export or import restriction, quota or prohibition, and the collapse of buildings, fire, explosion or accident and in the case of CPS, a failure of its suppliers or contractors.

Goods: the goods (or any part of them) set out in the Order, having been referred to initially within the Quotation and detailed within the Specification.

Intellectual Property Rights: 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



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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.

Loss: actions, awards, charges, claims, compensation, costs, damages, demands, expenses, fees, fines, interest, liabilities, losses, penalties, proceedings and settlements, and **Losses** shall be construed accordingly.

Order: the Customer's order for the Supply, as set out in the Customer's written acceptance of the Quotation.

Order Confirmation: means CPS's written acceptance of the Order, raised in accordance with clause 2.4.2.

Order Period: has the meaning given to it in clause 2.2.

Promotional Materials: means CPS's catalogues, brochures, websites or such other applicable sales, descriptions, colours, particulars of weights and dimensions or promotional literature, materials or publications.

Quotation: means CPS's quotation or proposal (whether in writing or given orally) to provide the Supply to the Customer, which is based on the Specification and which incorporates these Terms.

Relevant Event: has the meaning given to it in clause 6.1.

Specification: any specification for the Supply, including any related plans and drawings, that is agreed in writing by the Customer and CPS.

Supply: the Goods and Works (if any) to be provided by CPS to the Customer under the Contract.

Terms: the terms and conditions set out in this document as amended from time to time in accordance with clause 17.3.

Testing: means standard testing and inspection of the Goods by CPS to ensure their conformity with the Specification.

Warranty Breach: has the meaning given to it in clause 6.3.

Works: the assembly, installation, commissioning and associated services supplied by CPS to the Customer in connection with providing the Supply, as set out in the Order, having been referred to initially within the Quotation and detailed within the Specification.

In these Terms, the following rules of interpretation apply:

a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

a reference to a party includes its personal representatives, successors and permitted assigns.

a reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

any words following the terms **including**, **include** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

a reference to **writing** or **written** excludes fax but not email.



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Basis of contract

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

Any Quotation that is issued by CPS shall not constitute an offer. A Quotation shall only be valid for a period of 20 Business Days from its date specified on it (**Order Period**). If the Customer accepts the position set out in the Quotation, it shall be required to raise an Order within the Order Period.

The Order constitutes an offer by the Customer to purchase the Supply in accordance with these Terms. The Customer is responsible for ensuring and warrants that the terms of the Quotation, the Order and any applicable Specification are complete and accurate.

CPS may reject the Order at its absolute discretion and for any reason whatsoever and the Order shall only be deemed to be accepted at the earlier of when CPS:

commences its obligations in respect of the Supply; or

issues an Order Confirmation,

at which point the Contract shall come into existence.

Once accepted, the Order may not be cancelled by the Customer except with the prior agreement of CPS in writing. Without prejudice to any further terms that may be agreed between the parties, any such agreement is on the basis that the Customer shall indemnify CPS, keep CPS indemnified and hold CPS harmless in full against all Losses (which for the purpose of this clause shall include, without limitation, the cost of labour and materials, damages, charges, expenses, loss of profit, loss of business, loss of goodwill, loss of business opportunity, loss of anticipated saving and any other indirect, special or consequential loss) incurred by CPS as a result of the cancellation.

Any samples, drawings, descriptive matter or advertising produced by CPS and any descriptions or illustrations contained in any Promotional Materials are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.

CPS' employees or agents are not authorised to make any representations concerning the Supply unless confirmed by CPS in writing. In entering into the Contract, the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

These Terms shall apply to the supply of both Goods and Works, except where application to one or the other is specified.

Specification

Each component part of the Supply is described in the Quotation as modified by any applicable Specification.

CPS reserves the right to amend the Specification if required by any Applicable Law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Supply, and CPS shall notify the Customer in any such event.

All Goods supplied by CPS shall be subject to Testing prior to them being made available for delivery or collection pursuant to clause 4. If additional Testing or Testing in the presence of the Customer is required, such is subject to additional Charges unless otherwise agreed in writing by CPS. Where CPS agrees to carry out Testing in the presence of the Customer it shall provide the Customer with 5 Business Days' advance notice of the Goods being ready for Testing. Where the Customer fails to attend CPS's Premises on the date notified to it in order to observe the Testing, it shall be carried out in the absence of the Customer and CPS shall have no obligation to repeat the Testing once completed.



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Where requested by the Customer in writing, once Testing of the Goods has been completed, CPS shall provide a Certificate of Test to the Customer, which shall, in the absence of manifest error or omission, be deemed to be accepted by the Customer as confirmation that the Goods comply with the Specification.

Delivery

Unless otherwise agreed, delivery of the Goods (or each constituent part, as the case may be) shall be completed on their successful unloading at the Delivery Location, provided always that where CPS agrees in writing that the Customer may unload the Goods, delivery shall be completed when the Goods are ready to be unloaded at the Delivery Location by the Customer.

In making delivery of the Goods, the Customer shall provide CPS, or any courier or agent instructed on its behalf, with safe and unrestricted access to, movement around and egress from the Delivery Location.

CPS shall ensure that each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, all relevant Customer and CPS 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 Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

Where the Customer wishes to collect the Goods from CPS's Premises, the Customer shall collect the Goods from CPS's Premises within Business Hours and warrants that it shall comply with all reasonable instructions provided by CPS in relation to the collection of the Goods. CPS shall not, unless otherwise agreed in writing, have any responsibility for loading the Goods onto the Customer's mode of transport, and any supply under this clause 4.4 shall be on an Ex Works (EXW) Incoterms 2020 basis, with the named location being the warehouse floor at CPS's Premises.

Any dates quoted for delivery or collection (as the case may be) are approximate only, and the time of delivery is not of the essence.

If CPS 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. CPS shall be entitled to rely on all information provided by the Customer regarding the site conditions and the suitability of the Delivery Location for delivery and installation of the Goods. CPS shall have no liability for any failure to deliver the Goods and any resulting costs, delays or Losses to the extent that such failure arises from:

a Force Majeure Event;

the Customer's failure to provide CPS with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods; and

unforeseen or undisclosed site conditions including, but not limited to, inadequate foundations, insufficient electrical capacity, restricted access, structural issues, or other matters outside CPS' reasonable control.

If the Customer fails to accept delivery of, or otherwise collect (in the circumstances described in clause 4.4), the Goods within three Business Days of CPS notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or CPS's failure to comply with its obligations under the Contract in respect of the Goods:

delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which CPS notified the Customer that the Goods were ready; and

CPS shall store the Goods until actual delivery or collection takes place and charge the Customer for all related costs and expenses (including, at the election of CPS, insurance).



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If ten Business Days after the day on which CPS notified the Customer that the Goods were ready for delivery or collection the Customer has not accepted actual delivery or otherwise collected them, CPS may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, together with the costs referred to in clause 4.7.2, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

CPS may deliver the Goods by instalments. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel that or any other instalment.

Works

Where the Supply is specified in the Quotation as including Works, CPS shall, subject to the Customer promptly complying with its obligations under the Contract, provide the Works in accordance with the Specification and any programme contained therein in all material respects. Unless otherwise agreed in writing, all Works shall take place during Business Hours.

CPS shall use all reasonable endeavours to meet any performance dates for the supply the Works specified in the Quotation or Specification (as the case may be), but any such dates shall be estimates only and time shall not be of the essence for the supply of the Works. CPS may in its absolute discretion appoint third-party subcontractors in the performance of the Works under the Contract. Where any estimated performance dates are contingent on the supply of any third-party goods and/or services, CPS shall have no liability whatsoever for any Losses caused as a result of any failure or delay by that third party to provide such goods and/or services.

The Works shall be deemed completed on the earlier of:

successful commissioning of the Goods; or

the Customer first placing the Goods into operational or commercial use,

in each case whether or not such commissioning or use has been formally accepted by the Customer. Any minor defects or outstanding items that do not prevent the safe and effective use of the Goods shall not prevent the Works from being deemed completed.

CPS warrants to the Customer that the Works will be provided using reasonable care and skill.

Quality

CPS warrants that as the case may be, on the completion of:

collection, where the Customer is collecting the Goods in accordance with clause 4.4; or

delivery, where CPS is not performing Works in connection with the Goods; or

the Works, where CPS is performing Works in connection with the Goods,

(each, a **Relevant Event**) the Goods shall:

subject to the Customer's warranty at clause 2.3, conform in all material respects with their description and the Specification;

be free from material defects in design, material and workmanship;

be of satisfactory quality (within the meaning of the Sale of Goods Act 1979 or the Supply of Goods and Services Act 1982, as the case may be); and

be fit for any purpose held out by CPS.

The Customer shall be required to inspect the Goods on the Relevant Event taking place. In the event that:

an incorrect quantity of the Goods;



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anything other than the Goods are received and/or installed; or

there is any other instance which the Customer reasonably considers gives rise to a failure to comply with the warranties set out in clauses 5.4 or 6.1 by CPS,

the Customer shall be required to notify CPS within 5 Business Days of the Relevant Event taking place. Where no such notification is made by the Customer to CPS in accordance with this clause, the Goods shall be deemed to be accepted in all material respects as conforming with the Contract by the Customer (**Deemed Acceptance**).

If the Customer gives notice in writing to CPS at any time prior to Deemed Acceptance that it alleges a breach of either of the warranties set out in clauses 5.4 or 6.1 (**Warranty Breach**), then the Customer agrees to:

provide CPS and any third party instructed on CPS's behalf with a reasonable opportunity of examining the Goods in question, together with access to the Delivery Location (or other Customer premises), data, documentation, information, telecommunications and IT systems and such other materials as may reasonably be requested by CPS; and

if requested to do so by CPS, allow CPS or any third party instructed on CPS's behalf to collect the Goods from the Delivery Location (or other Customer premises) for further inspection,

in order for CPS to investigate the Warranty Breach.

Where CPS agrees that there has been a Warranty Breach, CPS shall, at its option:

repair or replace the defective Goods; and/or

reperform any defective Works; and/or

otherwise refund a proportionate amount of the Charges.

Where CPS does not agree that there has been a Warranty Breach, CPS shall:

provide the Customer with written reasons for determining such;

in respect of Goods that CPS has collected for further inspection under clause 6.3.2, return such Goods to the location from which they were collected on a date to be agreed (not later than 5 Business Days thereafter) between the parties (and clause 4 shall apply to such return); and

be entitled to levy an additional charge on the Customer for any inspection, collection, return and other support provided under this clause 6.

CPS shall not be liable for the Goods' failure to comply with the warranty set out in clause 6.1 or for any breach of the warranty set out in clause 5.4 in any of the following events:

the Customer makes any further use of such Goods after giving notice in accordance with clause 6.2;

the defect arises because the Customer failed to follow CPS' oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;

the defect arises as a result of CPS following any drawing, design or Specification supplied by the Customer;

the Customer alters or repairs such Goods without the written consent of CPS;

the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or

the Goods differ from the Specification as a result of changes made to ensure it complies with applicable statutory or regulatory requirements under clause 3.2.



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Except as provided in this clause 6, CPS shall have no liability to the Customer in respect of a Warranty Breach. These Terms shall apply to any repaired or replacement Goods supplied, and any replacement Works that performed, by CPS.

Manufacturer Warranties

Notwithstanding the provisions contained in clause 6 the Goods may, in some circumstances, benefit from a manufacturer warranty. In such circumstances, CPS shall use reasonable endeavours to ensure that the Customer receives the benefit of that warranty in place of CPS. Alternatively, the Customer may be required to register the Goods with the manufacturer in order to obtain the benefit of any manufacturer warranty. Whilst CPS shall provide reasonable assistance with the registration of any manufacturer warranty, it shall be the Customer's sole responsibility to investigate whether such warranty exists.

Title and risk

Save to the extent that CPS causes any damage to the Goods (or any constituent part) in performing the Works, the risk in the Goods shall pass to the Customer in accordance with clause 4.1 (where Goods are being delivered) or clause 4.4 (where Goods are being collected).

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

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

store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as CPS's property;

not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;

notify CPS immediately if it becomes subject to any of the events listed in clause 12.1.4 to clause 12.1.6; and

give CPS such information as CPS may reasonably require from time to time relating to:

the Goods; and

the ongoing financial position of the Customer.

Subject to clause 8.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before CPS receives payment for the Goods. However, if the Customer resells the Goods before that time:

it does so as principal and not as CPS's agent; and

title to the Goods shall pass from CPS to the Customer immediately before the time at which resale by the Customer occurs.

At any time before title to the Goods passes to the Customer, then without limiting any other right or remedy, CPS may:

by notice in writing, terminate the Customer's right under clause 8.4 to resell the Goods or use them in the ordinary course of its business; and

require the Customer to deliver up all Goods in its possession that have not been resold or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any



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premises of the Customer or of any third party where the Goods are stored in order to recover them.

CUSTOMER'S OBLIGATIONS

In addition to its other obligations under the Contract, the Customer shall:

- co-operate with CPS in all matters relating to the performance of its obligations under this Contract;
- provide CPS, its employees, agents, consultants and subcontractors, with access to the Delivery Location and the Customer's other premises, office accommodation and other facilities as reasonably required by CPS to provide the Supply;
- as soon as reasonably practicable, provide CPS with such information and materials as CPS may reasonably require in order to provide the Supply, (including but not limited to any risk assessment method statements and any other relevant health and safety information/materials) and ensure that such information is complete and accurate in all material respects;
- prepare the Customer's premises for the provision of the Supply;
- obtain and maintain all necessary licences, permissions and consents which may be required for the Supply before the date on which the same are required;
- comply with all Applicable Laws;
- keep all CPS's Materials and Equipment, documents and other property of CPS at the Customer's premises in safe custody at its own risk, maintain them in good condition until returned to CPS, and not dispose of or use them other than in accordance with CPS' written instructions or authorisation;
- ensure that there are adequate and suitable:
 - ground conditions; and*
 - electrical power and associated services, utilities and telecommunications as required under the Quotation and Specification;*
 - at the Customer's premises or the Delivery Location (as the case may be) in order for the Supply to be provided; and*
- comply with any additional obligations as set out in the Quotation and the Specification.

If CPS' 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**):

without limiting or affecting any other right or remedy available to it, CPS shall have the right to suspend performance of the Works or the supply of the Goods until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the CPS' performance of any of its obligations;

CPS shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the CPS' failure or delay to perform any of its obligations as set out in this clause 9.2; and

the Customer shall reimburse CPS on written demand for any costs or losses sustained or incurred by CPS arising directly or indirectly from the Customer Default.



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Charges and payment

The Charges shall be as set out in the Quotation or otherwise as may be agreed in writing between the parties.

CPS shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom CPS engages in connection with the Works, including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by CPS for the performance of the Works, and for the cost of any materials in connection with the Works.

CPS may, by giving notice to the Customer at any time before delivery, increase the Charges to reflect any increase in the cost of the Goods that is due to any:

factor beyond CPS's control (including foreign exchange fluctuations, increases in taxes and duties (which shall include import and export duties), and increases in labour, materials and other manufacturing costs);

request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or

delay caused by any instructions of the Customer or failure of the Customer to give CPS adequate or accurate information or instructions.

The Charges exclude amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to CPS at the prevailing rate, subject to the receipt of a valid VAT invoice.

Unless otherwise agreed between the parties in writing, CPS may invoice the Customer:

for the Goods on or at any time after the Goods are made available for collection or delivery; or

in the case of Works, at the earlier of:

their being completed in accordance with clause 5.3; or

3 months following the subject of the Works (where applicable) having been supplied to the Customer; or

in accordance with any payment schedule specified in a Quotation or Order Confirmation.

Unless otherwise set out in the Quotation or agreed in writing, the Customer shall be required to pay for the Supply within 7 days from the date of the invoice. Payment shall be made to the bank account nominated by CPS in writing. Time for payment shall be of the essence.

If the Customer fails to make a payment due to CPS under the Contract by the due date, then, without limiting CPS's remedies under clause 12:

the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 10.7 shall accrue on a daily basis at a rate of 8% a year above the Bank of England's base rate from time to time; and

CPS shall be entitled to suspend performance of the Supply until such time as the overdue sum (together with interest) has been paid in full by the Customer, and CPS shall only be required to recommence the performance of the Supply once the Customer provides satisfactory security to CPS in respect of the Customer's future payment obligations.

The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding required by law). CPS may at any time, without limiting any other rights or remedies it may have, set-off, counterclaim, deduct or withhold any amount payable by CPS to the Customer.



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Limitation of liability

Nothing in these Terms or the Contract shall limit or exclude CPS's liability for:

death or personal injury caused by negligence;

fraud or fraudulent misrepresentation;

breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or

any matter in respect of which it would be unlawful for CPS to exclude or restrict liability.

In light of the assurances provided by CPS under these Terms as to the quality of the Supply, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4, 5 and 13 of the Supply of Goods and Services Act 1982 (as the case may be) are, to the fullest extent permitted by law, excluded from the Contract.

Subject to clause 11.1:

CPS shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any:

(a) *loss of profits;*

(b) *loss of sales or business;*

(c) *loss of agreements or contracts;*

(d) *loss of anticipated savings;*

(e) *loss of use or corruption of software, data or information;*

(f) *loss of or damage to goodwill; and*

(g) *indirect or consequential Loss,*

that arises under or in connection with the Contract; and

CPS'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 total Charges paid or payable by the Customer to CPS under the Contract.

This clause 11 shall survive termination of the Contract.

Termination

Without limiting its other rights or remedies, CPS may terminate this Contract with immediate effect by giving written notice to the Customer if:

the Customer fails to pay any amount due under the Contract on the due date for payment.

the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 Business Days of that party being notified in writing to do so;

the Customer repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to perform the Contract;



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

the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or

the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

Without limiting its other rights or remedies, CPS may suspend provision of the Goods under the Contract or any other contract between the Customer and CPS if the Customer becomes subject to any of the events listed in clause 12.1.4 to clause 12.1.6, or CPS 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.

On termination of the Contract for any reason the Customer shall immediately pay to CPS all of CPS's outstanding unpaid invoices and interest and, in respect of elements of the Supply that have been provided but in respect of which no invoice has been submitted, CPS shall submit an invoice, which shall be payable by the Customer immediately on receipt.

Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

Intellectual Property Rights

All Intellectual Property Rights in or arising out of or in connection with the Supply, including any Deliverables (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by CPS.

CPS makes no warranty and provides no assurance to the Customer that the Deliverables shall not breach the rights (including Intellectual Property Rights) of any third parties.

CPS grants to the Customer or shall procure the direct grant to the Customer of, a fully paid-up, revocable, non-exclusive, royalty-free licence to copy the Deliverables (excluding materials provided by the Customer) for the purpose of receiving the Supply and receiving the benefit of the Supply in connection with its business.

The Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 13.3 without the written consent of CPS (such consent to not be unreasonably withheld or delayed).

Where applicable, the Customer grants CPS a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to CPS for the term of the Contract for the purpose of providing the Services and/or the Goods to the Customer. The Customer warrants that such materials do not breach the Intellectual Property Rights of any third party.

The Services and any element of the Deliverables are not intended to constitute advice in any specific situation and may not constitute a complete, comprehensive and definitive outline of the subject matter and as such should not be relied on as such by the Customer.



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Confidentiality

Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party except as permitted by clause 14.2.

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

to its employees, officers, representatives or advisors who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisors to whom it discloses the other party's confidential information comply with this clause 14; and

as may be required by law, a court of competent jurisdiction or any government or regulatory authority.

No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

Force majeure

CPS shall not be in breach of the Contract nor liable for delay in performing, or failing to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event.

CPS shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.

If a Force Majeure Event prevents, hinders or delays CPS's performance of its obligations for a continuous period or more twenty Business Days, the Customer may terminate the Contract immediately by giving written notice to CPS and source the Goods from a third-party supplier.

Notices

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

Any notice shall be deemed to have been received, if:

delivered by hand, at the time the notice is left at the proper address;

sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

General

Assignment and other dealings

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

The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

Entire agreement



Central Power Services Ltd
Garstang Road
Claughton-on-Brock
Lancashire
PR3 0PH



0845 437 9750



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The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.

Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract.

Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

Nothing in the Contract shall limit or exclude any liability for fraud or fraudulent misrepresentation.

Variation

Except as set out in the Contract, no variation of this Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the parties (or their authorised representatives and permitted assigns).

Waiver

A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

A failure or delay by a Party to exercise, or the single or partial exercise of, any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

Severance

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the 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; and

if agreement under clause 17.5.1 cannot be reached, delete the relevant provision or part-provision.

Rights and Remedies

Except as expressly provided in these Terms and the Contract, the rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law and each shall be cumulative of every other right or remedy now or in the future existing and may be enforced concurrently from time to time.

Third party rights

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

The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

Multi-tiered dispute resolution procedure



Central Power Services Ltd
Garstang Road
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If a dispute arises out of or in connection with this Contract or the performance, validity or enforceability of it, expressly excluding failures by the Customer to pay undisputed Charges (**Dispute**) then, except as expressly provided in this Contract, the parties may at their discretion follow the procedure set out in this clause:

either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, employees at management level (or the nearest equivalent) of the parties shall attempt in good faith to resolve the Dispute;

if the management level employees are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to the directors of the parties who shall attempt in good faith to resolve it;

If the directors of the parties are for any reason unable to resolve the Dispute within 30 days of it being referred to them and the Customer is not registered in the United Kingdom, the parties will attempt to settle it by mediation;

Unless otherwise agreed between the parties within 30 days of service of the Dispute Notice, either party may request a recommendation for the nomination of a mediator from the Centre for Effective Dispute Resolution (**CEDR**);

The parties shall have recourse to mediation in accordance with the International Chamber of Commerce's Mediation Rules, which are deemed to be incorporated by reference into this clause;

To initiate the mediation, a party must give notice in writing (**ADR Notice**) to the other party to the Dispute, referring the Dispute to mediation. A copy of the ADR Notice should be sent to CEDR; and

If the directors of the parties are for any reason unable to resolve the Dispute within 30 days of it being referred to them and the Customer is registered in the United Kingdom, the parties may commence court proceedings under clause 17.10 in relation to the whole or part of the Dispute.

Governing law

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

Jurisdiction

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