

Website Subscriber Terms and Conditions

The website www.wasteaction.com and www.warp-it.co.uk (**Site**) is owned and operated by WasteAction Resource Efficiency Limited (**Company**), whose registered office is at 12 Mabel Street, Blaydon-on-Tyne, Tyne and Wear, NE21 4QJ registered in England with company number 07553631 and VAT number 110 9849 17, email address daniel@wasteaction.com and telephone number 07807 070 339.

Please read these Terms and Conditions (paying particular attention to the indemnity contained in clause 10). They set out the terms under which your organisation (**Institution**) may use and access the Site and, in particular, any mini-site incorporated within the Site solely for the Institution's use whose address is suffixed with warp-it.co.uk (**Portal**).

1. Interpretation

1.1 The definitions and rules of interpretation in this clause apply to these Terms and Conditions.

Agreement the agreement between the Company and the Institution for the use of the Portal by the Institution, and its Authorised Representatives and Employees, in accordance with these Terms and Conditions;

Acceptance Confirmation the written confirmation issued by the Company to the Institution setting out the specific details of the Agreement;

Authorised Representatives those employees of the Institution as set out in the Acceptance Confirmation who are authorised by the Institution to act as the authorised representative for the Institution in respect of the Portal and its use;

Business Day any day which is not a Saturday, Sunday or public holiday in the UK;

Contribution any and all information, postings, data, content and/or contribution in connection with the Items, uploaded or added to the Portal by an Authorised Representative, Employee or the Institution during the Subscription

	Term;
Donor	any person (including but not limited to the Institution) who donates any Item using the Portal;
Effective Date	the commencement date for the Institution's use and access of the Portal as set out in the Acceptance Confirmation (which for the avoidance of doubt, may not necessarily be the same date as the date of the Acceptance Confirmation as determined by clause 2.3);
Employees	all employees of the Institution who, from time to time, are permitted by the Institution to use the Site and/or Portal;
Initial Subscription Term	the initial term of the Agreement as set out in the Acceptance Confirmation;
Institution Data	the data inputted by the Institution, Authorised Representative (or the Company on the Institution's behalf) for the purpose of subscribing to the Site and/or Portal or facilitating the Institution's subscription to, or use of, the Portal;
Intellectual Property Rights	patents, trademarks, service marks, design rights, copyright, know-how, rights in databases, domain names and all other intellectual property rights (whether registered or not) and all applications to register any of the same and all other similar rights or obligations whether registerable or not in any country;
Item	any good, product, equipment and other item advertised and made available for donation using the Portal;
Normal Business Hours	9.00 am to 5.00 pm local UK time, each Business Day;
Order	means the Institution's order for a Package submitted to the Company by the Institution either through the Site

	or as may otherwise be submitted to the Company in writing (whether electronically or otherwise);
Package	the specific access package supplied by the Company to the Institution as set out in the Acceptance Confirmation, which permits the Institution, its Authorised Representatives and/or Employees to use and access the Portal in connection with the Items and receive the other rights and benefits set out in the Acceptance Confirmation, in accordance with these Terms and Conditions; provided always that the Package may be varied by written agreement between the parties, from time to time, in accordance with clause 3.7;
Portal Support	the support to be provided by the Company to the Institution in relation to the Portal as detailed in the Acceptance Confirmation;
Recipient	any person who receives any Item using the Portal;
Renewal Period	the renewal period as set out in the Acceptance Confirmation;
Subscription Fee	the subscription fee (as set out in the Acceptance Confirmation) payable by the Institution to the Company in accordance with these Terms and Conditions;
Subscription Term	the Initial Subscription Term together with any subsequent Renewal Periods;
Terms and Conditions	these terms and conditions, as amended from time to time in accordance with clause 21; and
Virus	any thing or device (including any software, code, file or programme) which may: <ul style="list-style-type: none"> (i) prevent, impair or otherwise adversely affect the operation of any computer software, hardware or

network, any telecommunications service, equipment or network or any other service or device; or

- (ii) prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or
- (iii) adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these Terms and Conditions.

1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).

1.4 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.5 Words in the singular shall include the plural and vice versa.

2. **Basis of Contract**

2.1 These Terms and Conditions apply to the Agreement to the exclusion of any other terms that the Institution may seek 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 Institution for use of and access to the Site and Portal, in respect of any Items, in accordance with these Terms and Conditions and the Institution shall ensure that the terms of the Order are complete and accurate.

2.3 The Order shall only be deemed to be accepted when the Company issues an Acceptance Confirmation in respect of such Order, at which point and on which date the Agreement shall come into existence.

- 2.4 The Institution acknowledges and agrees that:
- 2.4.1 any quotation or Package price given by the Company (on the Site or otherwise) shall not constitute an offer, unless the Company expressly agrees otherwise (such agreement shall be given at the Company's sole discretion); and
- 2.4.2 any subscription fees given on the Site are liable to change at any time by the Company; provided always that any changes will not affect an Order in respect of which the Company has already sent the Institution an Acceptance Confirmation.
- 2.5 The Company accepts no responsibility or liability for the supply, sale and/or donation of any Items using the Portal, and under no circumstances shall the Company be deemed to have agreed to have entered into any contract, agreement and/or arrangement in respect of the Items (and for the avoidance of doubt, any contracts or other arrangements in respect of the supply, transfer, receipt, sale or donation of the Items shall be between the Donor and the Recipient).

3. **The Site and Portal**

- 3.1 Subject to the Institution paying the Subscription Fees in full, and in accordance with clause 8.1, and the restrictions set out in these Terms and Conditions, the Company:
- 3.1.1 as soon as reasonably practical following the Effective Date, shall facilitate the compilation of the Portal based on the information provided by the Institution (if any) and integrate it within the Site; and
- 3.1.2 during the Subscription Term, hereby grants to the Institution a non-exclusive, non-transferable right to:
- 3.1.2.1 permit the Authorised Representatives and Employees to use and access the Site and Portal;
- 3.1.2.2 administer, manage and regulate the Portal in accordance with the functions contained within the Portal and the Package; and
- 3.1.2.3 edit, monitor and moderate any Contributions;
- and for the avoidance of doubt, all other acts are prohibited without the prior written permission of the Company.

- 3.2 The Company reserves the right to subcontract the integration work for the Portal to a third party, and the internet service and/or hosting provision for the Portal to any third party supplier or provider.
- 3.3 The Institution shall be solely responsible for the operation of any registration system for the Authorised Representatives and Employees of the Portal in accordance with these Terms and Conditions.
- 3.4 In relation to the Authorised Representatives and Employees, the Institution agrees and undertakes to ensure that:
- 3.4.1 the maximum number of Authorised Representatives and Employees that the Company authorises to access and use the Site shall not exceed the number of Authorised Representatives and Employees, set out in the Acceptance Confirmation; and
- 3.4.2 unless otherwise agreed in writing by the Company pursuant to the Package, each Authorised Representative or Employee shall keep any password provided secure for their sole use of the Portal.
- 3.5 The Company shall use commercially reasonable endeavours to make the Portal available 24 hours a day, seven days a week, except for:
- 3.5.1 planned maintenance carried out during Normal Business Hours; and
- 3.5.2 unscheduled maintenance.
- 3.6 These Terms and Conditions shall not prevent the Company from entering into similar agreements with any third party.
- 3.7 The parties may agree, prior to any Renewal Period, to vary the terms of the Package (such agreement not being unreasonably withheld or delayed by either party); provided always that if the parties can not agree to any such variation, then the Package shall remain as it was on the Effective Date (or any subsequent variation agreed to by the parties pursuant to this clause 3.7) and either party may terminate the Agreement in accordance with clause 12 of these Terms and Conditions.
4. **Institution's Obligations**
- 4.1 The Institution shall be solely responsible for ensuring that any Contribution is complete and accurate in all respects and, where appropriate, Authorised Representatives and Employees

comply with these Terms and Conditions (including but not limited to, clause 4.4) and agree the Company shall not be liable in respect of any typographical error or other inaccuracy of any Contribution or any breach of these Terms and Conditions by any Authorised Representative or Employee.

4.2 Upon request the Institution shall provide to the Company, from time to time, as soon as reasonably practical all necessary co-operation and/or information in relation to the Agreement and/or the Portal.

4.3 The Institution shall (whether acting as a Donor, Recipient or otherwise as applicable):

4.3.1 be solely responsible for the use and access of the Portal by any Authorised Representative or Employees and, subject to clause 4.4, the editing, monitoring and moderating of any Contribution;

4.3.2 comply with all applicable laws and regulations with respect to the use of the Portal and/or the donation of Items using the Portal, and ensure that any Donor and Recipient comply with all applicable laws and regulations in respect of the supply of the Items using the Portal (including but not limited to, the Data Protection Act 1998, the Waste Electrical and Equipment Regulations 2006, the Collection and Disposal of Waste Regulations 1998 and the Hazardous Waste (England and Wales) Regulations 2005);

4.3.3 carry out all other Institution responsibilities set out in these Terms and Conditions in a timely and efficient manner;

4.3.4 be solely responsible for the supply of the Items between the Donor and Recipient (including but not limited to, in connection with arranging the delivery of the Items or the transfer of any consideration with the Recipient) and procure (where appropriate) that a formal contract is entered into between any Donor or Recipient to transfer the Items;

4.3.5 ensure that the Authorised Representatives, Employees, Donors and Recipients use and access the Portal in accordance with these Terms and Conditions and shall be solely responsible for their breach of these Terms and Conditions;

4.3.6 be solely responsible for procuring and maintaining the Institution's network connections to the Portal, and all problems, conditions, delays, delivery failures and

- all other loss or damage arising from or relating to the Institution's network connections or telecommunications links to the Portal;
- 4.3.7 not, and shall at all times procure that all its Authorised Representatives and Employees shall not, upload, store, distribute or transmit any Viruses to the Site and/or Portal;
- 4.3.8 ensure that any personal data (as defined by the Data Protection Act 1998) or confidential data has been removed from any Items prior to being delivered to, or collected by, the Recipient; and
- 4.3.9 ensure that the donation of any Items are legitimate and use reasonable endeavours to ensure that any agreed supply of the Item is undertaken between the Recipient and Donor.
- 4.4 During the Subscription Term, the Institution warrants that any Contribution will not:
- 4.4.1 be defamatory of any person;
- 4.4.2 be obscene, offensive, hateful or inflammatory;
- 4.4.3 promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
- 4.4.4 disclose the name, address, telephone, mobile or fax number, email address or any other personal data (as defined in the Data Protection Act 1998) in respect of any individual;
- 4.4.5 infringe any Intellectual Property Rights of any other person;
- 4.4.6 breach any legal duty owed to a third party, such as a contractual duty or a duty of confidence;
- 4.4.7 be in contempt of court;
- 4.4.8 be likely to harass, upset, embarrass, alarm or annoy any other person (including but not limited to, any Authorised Representative or Employee);
- 4.4.9 impersonate any person, or misrepresent the identity of, or an affiliation with, any person;
- 4.4.10 advocate, promote or incite any third party to commit, or assist in, any unlawful or criminal act;

4.4.11 contain a statement which, directly or indirectly, encourages or otherwise induces the commission, preparation or instigation of an act of terrorism;

4.4.12 contain any advertising or promote the sale of any Item or any services;

4.4.13 misrepresent, in any way, the Items;

and if any Contribution breaches any provision contained in this clause 4.4 then the Institution shall remove it immediately; provided always that the Company reserves the right during the Subscription Term (without prejudice to the Company's rights or remedies in respect of such breach of contract by the Institution or the provisions of clause 4.4) to:

4.4.14 remove (or temporarily suspend) any Contribution if the Institution does not remove the Contribution after being given reasonable notice by the Company to do so; or

4.4.15 disable the Institution's, and/or any of its Authorised Representative's or Employee's, access to the Portal;

if in the opinion of the Company (acting reasonably) the Contribution is unsuitable for public display and/or there is a breach by either the Institution, and/or any Authorised Representative and/or Employee of any provisions of this clause 4.4. For the avoidance of doubt, there shall be no obligation on the Company to regulate, monitor, moderate or edit any Contribution and this shall be the sole responsibility of the Institution.

4.5 Unless otherwise agreed in writing, the Institution shall not (and shall procure that the Authorised Representatives or Employees shall not):

4.5.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties or to the extent expressly permitted under these Terms and Conditions:

4.5.1.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit or distribute all or any portion of the Site or the Portal in any form or media, or by any means; or

4.5.1.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Site or the Portal;
or

4.5.2 access all or any part of the Site and/or Portal in order to build a product or service which competes with the Site; or

- 4.5.3 use the Site and/or Portal to provide similar services and/or functions to third parties;
or
- 4.5.4 commercially exploit the Site and/or Portal or otherwise make the Site and/or Portal available to any third party; or
- 4.5.5 attempt to obtain, or assist third parties in obtaining, access to the Site and/or Portal, other than as provided under these Terms and Conditions;

provided always that nothing in these Terms and Conditions shall prevent or restrict use of, or access to, the Portal by the Authorised Representatives and Employees. The obligations set out in this clause 4.5 shall survive termination for whatever reason of this Agreement.

- 4.6 The Institution shall use its best endeavours to prevent any unauthorised use of, or access to, the Site and, in the event of any such unauthorised access or use of which it becomes aware, promptly notify the Company of the same.

5. **Company's Rights and Obligations**

- 5.1 Subject to clause 3.5, the Company shall, during the Subscription Term, provide and make available the Portal to the Institution on and subject to these Terms and Conditions.

- 5.2 The obligation of the Company under clause 5.1 shall not apply to any non-availability which is caused by use of the Site and/or Portal contrary to the Company's instructions, or modification or alteration of the Portal by any party other than the Company or its duly authorised contractors or agents (other than by the submission of Contributions). If the Site and/or Portal is not available, the Company shall use reasonable commercial endeavours to correct or procure the correction of such non-availability and this shall be the Institution's sole and exclusive remedy for any non-availability of the Portal. Notwithstanding the foregoing the Company:

- 5.2.1 does not warrant that the Institution's access to or use of the Site and/or Portal will be uninterrupted or error-free; and

- 5.2.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities (including but not limited to, the internet) and the Institution acknowledges that the Portal may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

5.3 The Company warrants that, so far as it is aware, it has and will maintain all necessary licences, consents and permissions necessary for the performance of its obligations under these Terms and Conditions.

5.4 The Company shall provide the Portal Support (if any), during Normal Business Hours as part of the Package (at no additional cost or expense to the Institution).

6. **Data**

6.1 The Institution shall own all rights, title and interest in and to, all of the Institution Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Institution Data.

6.2 The Company shall follow its archiving procedures for Institution Data as set out in its archiving policy available at **[insert web address or such other website address as may be notified to the customer from time to time]** (**Policy**), as such Policy may be amended by the Company in its sole discretion from time to time. In the event of any loss or damage to Institution Data, the Institution sole and exclusive remedy shall be for the Company to use reasonable commercial endeavours to restore the lost or damaged Institution Data from the latest back-up of such Institution Data maintained by the Company in accordance with the archiving procedure described in its Policy. The Company shall not be responsible for any loss, destruction, alteration or disclosure of Institution Data caused by any third party (except those third parties sub-contracted by the Company to perform services related to Institution Data maintenance and back-up).

6.3 If the Company processes any personal data on the Institution's behalf when performing its obligations under this Agreement, the parties record their intention that the Institution shall be the data controller and the Company shall be a data processor (both as defined in the Data Protection Act 1998) and in any such case:

6.3.1 the Institution acknowledges and agrees that the personal data may be transferred or stored outside the EEA or the country where the Institution and the Authorised Representatives and Employees are located in order to carry out the Company's obligations under these Terms and Conditions;

6.3.2 the Institution shall ensure that the Institution is entitled to transfer the relevant personal data to the Company so that the Company may lawfully use, process and

transfer the personal data in accordance with these Terms and Conditions on the Institution's behalf;

6.3.3 the Institution shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;

6.3.4 the Company shall process the personal data only in accordance with these Terms and Conditions and any lawful instructions reasonably given by the Institution from time to time; and

6.3.5 each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

7. Third Party Providers

The Institution acknowledges that the Site and/or Portal may enable or assist it and/or the Authorised Representative or Employees to access the website content of, correspond with, or purchase products and services from, third parties via third-party websites and that the Institution, and any Authorised Representative or Employee do so solely at their own risk. The Company makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Institution, Authorised Representative and/or Employee, with any such third party. Any contract entered into and any transaction completed through any third-party website is between the Institution and/or the Authorised Representative and/or Employee (as the case may be) and the relevant third party, and not the Company. The Company recommends that the Institution (and the Institution shall procure that any Authorised Representative or Employee) refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. The Company does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Site and/or Portal.

8. Charges and Payment

8.1 The Institution shall pay the Subscription Fee to the Company for the Package in accordance with this clause 8.

- 8.2 The Institution shall provide to the Company valid, up-to-date and complete credit card details and any other relevant valid, up-to-date and complete contact and billing details required by the Company to enable it to collect from the Institution:
- 8.2.1 the Subscription Fee payable in respect of the Initial Subscription Term; and
 - 8.2.2 subject to clause 12.1, prior to each Renewal Period, the Subscription Fee payable, from time to time, in respect of each Renewal Period;
- provided always that the Company may agree in writing at the Company's sole discretion (whether pursuant to the Acceptance Confirmation or otherwise), that the Institution may provide to the Company approved purchase order information in such form as is acceptable to the Company and the Company shall invoice the Institution:
- 8.2.3 the Subscription Fee payable in respect of the Initial Subscription Term; and
 - 8.2.4 subject to clause 12.1, for the Subscription Fee payable in respect of each of the Renewal Periods, at least 30 days prior to any such Renewal Period;
- and the Institution shall pay each invoice within 30 days after the date of such invoice.
- 8.3 If the Company has not received any payment on the due date of any invoice, and without prejudice to any other rights and remedies of the Company:
- 8.3.1 the Company shall be under no obligation to provide the Institution with any access to the Site and/or Portal;
 - 8.3.2 the Company may, without liability to the Institution, disable the Institution's access to all or part of the Portal and the Company shall be under no obligation to provide any or all of the Portal while the invoices concerned remain unpaid; and
 - 8.3.3 interest shall accrue on such due amounts at an annual rate equal to 8% over the then current base lending rate of the Bank of England at the date the relevant invoice was issued, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 8.4 All amounts and fees stated or referred to in these Terms and Conditions:
- 8.4.1 shall be payable in pounds sterling;
 - 8.4.2 are non-cancellable and non-refundable unless otherwise agreed in writing by the Company; and

8.4.3 are exclusive of value added tax, which shall be added to the Company's invoice(s) at the appropriate rate.

8.5 The Company reserves the right to increase the Subscription on notice to the Institution (provided always that such notice may be given electronically):

8.5.1 from time to time to reflect any reasonable increase in the cost of taxes and third party supplies; and

8.5.2 no more than once in each 12 month period to reflect any increase in all other costs by reference to an increase in the Consumer Price Index;

provided that any change in the Subscription Fee pursuant to this clause 8.5 shall apply from the date set out in the notice given by the Company or if no date is stated in such notice the date of the notice.

9. **Proprietary Rights**

9.1 The Institution acknowledges and agrees that the Company and/or its licensors own all Intellectual Property Rights in the Site and Portal. Except as expressly stated in these Terms and Conditions, these Terms and Conditions do not grant the Institution ownership of any such Intellectual Property Rights, or any other rights or licences in respect of the Site or Portal, or the Intellectual Property Rights in either of them.

9.2 Notwithstanding clause 9.1, the Institution, Authorised Representatives and/or Employees (as the case may be) shall retain any Intellectual Property Rights in any Contribution provided by them and the Institution shall grant, or procure that each and any Authorised Representative or Employee shall grant, to the Company a royalty free, transferable, licence in perpetuity to use the Contribution to enable it to carry out its obligations under the Agreement.

10. **Indemnity**

The Institution shall defend, indemnify, keep indemnified and hold harmless the Company against any and all claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and legal fees) arising out of or in connection with:

10.1 the Institution's, or any Authorised Representative's or Employee's use of the Site and/or Portal, including but not limited to, in respect of the supply of any Items;

10.2 any breach of these Terms and Conditions by the Institution or any Authorised Representative (including but not limited to any breach of clause 4.4); and

10.3 any breach by the Institution or any Authorised Representative or Employee of any applicable law or regulation (including but not limited to such legislation as detailed in clause 4.3.2) in respect to their use of, and access to, the Portal (including but not limited to, in relation to the supply of any Item).

11. **Limitation of Liability**

11.1 Subject to the provisions of clause 11.3, this clause 11 sets out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Institution in respect of:

11.1.1 any breach of the Agreement;

11.1.2 any use by the Institution, Authorised Representatives and/or Employees of the Site and/or Portal (or any part of them); and

11.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.

11.2 All warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Terms and Conditions and any Agreement.

11.3 Nothing in these Terms and Conditions shall limit or exclude the liability of the Company:

11.3.1 for death or personal injury caused by the Company's negligence; or

11.3.2 for fraud or fraudulent misrepresentation;

11.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;

or for any other matter for which it would be unlawful or illegal for the Company to limit or exclude liability for.

11.4 Subject to clause 11.2 and clause 11.3:

11.4.1 the Company shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any:

11.4.1.1 loss of profit;

11.4.1.2 loss of goodwill;

11.4.1.3 loss of business;

11.4.1.4 loss of business opportunity;

11.4.1.5 loss of anticipated saving;

- 11.4.1.6 loss or corruption of data or information;
- 11.4.1.7 special, indirect or consequential damage; or
- 11.4.1.8 loss to any Item or in respect of any consideration transferred for any Item;

suffered by the Institution, Authorised Representatives and/or Employees that arises under or in connection with the Agreement; and

- 11.4.2 the Company's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to the total Subscription Fees paid during the 12 months immediately preceding the date on which the claim arose.

12. **Term and Termination**

- 12.1 The Agreement shall, unless otherwise terminated as provided in this clause 12, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this Agreement shall be automatically renewed for each subsequent Renewal Period, unless:

- 12.1.1 either party notifies the other party of termination, in writing, at least 30 days before the end of the Initial Subscription Term or any Renewal Period, in which case the Agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period (as the case may be); or

- 12.1.2 otherwise terminated in accordance with the provisions of these Terms and Conditions.

- 12.2 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Agreement without liability to the other if the other party commits a material breach of any of these Terms and Conditions and (if such a breach is remediable) fails to remedy that breach within fourteen (14) days of that party being notified in writing of the breach.

- 12.3 On termination of the Agreement for any reason:

- 12.3.1 all rights granted under these Terms and Conditions shall immediately terminate; and

12.3.2 the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

13. Force Majeure

The Company shall have no liability to the Institution under these Terms and Conditions if it is prevented from or delayed in performing its obligations under these Terms and Conditions, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, but not limited to, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport or telecommunications network, Virus, 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 third party providers or suppliers.

14. Waiver

14.1 A waiver of any right under these Terms and Conditions is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.

14.2 Unless specifically provided otherwise, rights arising under these Terms and Conditions are cumulative and do not exclude rights provided by law.

15. Severance

15.1 If any provision (or part of a provision) of these Terms and Conditions is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

15.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted or amended, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

16. Entire Agreement

16.1 The Agreement and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

16.2 Each of the parties acknowledges and agrees that in entering into the Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Agreement or not) relating to the use and/or access to the Site and/or the Portal, other than as expressly set out in these Terms and Conditions.

16.3 Nothing in this Agreement shall limit or exclude either party's liability for fraud or fraudulent misrepresentation.

17. **Assignment**

17.1 The Institution shall not, without the prior written consent of the Company, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms and Conditions.

17.2 The Company may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms and Conditions.

18. **No Partnership or Agency**

Nothing in these Terms and Conditions is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

19. **Third Party Rights**

These Terms and Conditions do not confer any rights on any person or party (other than the parties to the Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

20. **Notices**

20.1 Unless otherwise set out in these Terms and Conditions, any notice required to be given under these Terms and Conditions shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at:

20.1.1 in the case of the Institution the address set out on the Acceptance Confirmation;
and

20.1.2 in the case of the Company its registered office address.

20.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

21. Variation

The Company may vary these Terms and Conditions from time to time and post the new versions on the Site, following which all use of the Site and/or Portal will be governed by that version of the terms and conditions.

22. Governing Law and Jurisdiction

22.1 The Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the law of England.

22.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).