1. DEFINITIONS AND BASIS OF CONTRACT

1.1 In these conditions the following words have the following meanings:

“the Company” means the GAP Group Limited a company incorporated in England having Company Number 00198823 and registered office address at Bondgate Place, Dunston Industrial Estate, Gateshead, Tyne And Wear NE11 9HF who will provide the Services.

“Commissioning Services” means the services of commissioning Equipment or Goods.

“Contract” means a contract for the provision of the Services or Sale of Goods, which will incorporate these Terms and Conditions and any written agreement between the parties or other document issued by the Company or, failing any such document, any other agreement between the parties.

“Company” means the company or business for whom the Company will provide the Services.

“Equipment” means the machinery and any associated items (including wiring) which are the subject of the Contract and includes (where appropriate) all replacement parts of the same kind, character and quality.

“Goods” means any goods supplied by the Company.

“Inspection” is the thorough examination of equipment in accordance with the relevant regulations.

“Liability” means liability for any and all damages, claims, proceedings, actions, awards, expenses, costs (including but not limited to all legal costs and disbursements) and any other losses and/or liabilities;

“Normal Working Hours” means 8am to 5pm Monday to Friday inclusive (local, national and Bank Holidays observed by the relevant depot of the Company excepted).

“Premises” means the location as defined in the Quotation.

“Quotation” means the quotation provided by the Company detailing the specification of work to be completed.

“Repair” means the Repair and/or Maintenance of equipment detailed in the Quotation.

“Spare Parts” means all parts, subassemblies and ancillary or related components of the Equipment supplied and installed in the Equipment by the Company as an essential part of the specification.

“Testing” means the testing Equipment including, but not limited to, function test, Safe Working Load/Working Load Limit test or proof load test.

“Testing in a Technical File” means the testing of Equipment that has been designed by a third party, does not have a covering EC Declaration of Conformity and is not CE marked.

“User Routine Maintenance” means maintenance which the operating instructions for the Equipment advise the user to carry out as a matter of routine on a regular basis and maintenance which would customarily be carried out by the user of the Equipment as part of the routine operation of the Equipment.

1.2 These conditions shall be incorporated in all agreements made with the Customer and the supplier under whom the provision of the Services takes place. All other terms, conditions and other representations are excluded from the Contracts between the Company and the Customer including any terms and conditions which the Customer may purport to apply under any Contract and these terms and conditions shall prevail.

1.3 The Company’s employees or agents are not authorised to make any representations concerning the Services unless confirmed in writing.

2. TERM

2.1 If the Contract has a fixed duration, subject to earlier termination in accordance with these terms, neither party shall be entitled to terminate the Contract before the expiry of that fixed period unless by agreement.

2.2 If the Contract does not have a fixed duration, subject to earlier termination in accordance with these terms, the Contract shall continue in force until the parties agree otherwise or until one month’s written notice of termination is given by one party to the other.

3. PROVISION OF SERVICES

3.1 The Company agrees, to provide the Services as set out in the Quotation, either on a “one off” basis or on an ongoing basis, as the parties shall agree.

3.2 For the avoidance of doubt, unless specified in the Quotation, the Services do not include:

3.2.1 User Routine Maintenance;

3.2.2 Work other than to the Equipment;

3.3 Repair of damage to, or replacement of parts of, the Equipment, caused by accident or misuse, or by the neglect, act or default of the Customer or any other user of the Equipment (including, without limitation, because of failure to undertake User Routine Maintenance or by any factor external to the Equipment (including, without limitation, defective consumable items, or the failure of, or defects in, equipment which is not part of the Equipment);

3.4 painting or refinishing the Equipment or furnishing consumable items, or the failure of, or defects in, equipment which is not part of the Equipment;

3.5 such services as it may be impractical for the Company to undertake in order to maintain the Equipment other than alterations carried out by the Company.

3.3 The Services shall be carried out subject to any exclusions or qualifications contained in the Quotation.

3.4 The Services will be provided by the Company as an element of the Charges, subject to a reasonable prior notice by the Company to the Customer.

3.5 The Company shall be under no obligation to provide any part of the Services outside Normal Working Hours but, if the Company agrees with the Customer to do this, the Customer shall pay to the Company, as an additional element of the Charges, the Company’s then current standard extra “outside hours” charges as notified by or available from the Company from time to time.

3.6 The Customer will be charged for all Spare Parts supplied and installed in the Equipment as part of the provision of the Repair Services (and where notified to the Customer in advance any labour costs), but these shall be supplied and installed by the Company. For avoidance of doubt, any part of the Equipment replaced by such Spare Parts shall be vested in the Company upon their removal from the Equipment.

3.7 If the Company, acting reasonably, requires to carry out any part of the Repair by the removal of the Equipment or any part thereof from the Premises, and the Customer refuses to permit this, then the Company will be entitled to recover any additional costs incurred thereby, and the Company shall incur no Liability for any resultant delay or failure in providing the relevant Repair and Maintenance Service.

3.8 In the event of any failure of the Services, the Company becomes aware of additional work being necessary in order to complete the Services or is unable to complete the work in the anticipated timescale due to unforeseen circumstances or the Customer’s breach of the Contract, the Company shall be entitled to raise additional Charges for the carrying out of such additional works (or to suspend work pending the Customer’s carrying out of such additional works) and will be entitled to additional time to complete the Services to take account of the unforeseen circumstances.

3.10 The Company shall only be obliged to perform the Services in relation to the Equipment detailed in the Contract.

3.11 In providing the Services, the Company shall not be required or asked by the Customer to do anything that may put it in breach of any relevant law.
8. CHARGES

8.1 The Company shall pay to the Company the charges specified in the Quotation ("the Charges") which shall be invoiced as soon as the Service has been completed, unless otherwise specified in the Quotation.

8.2 The Company reserves the right to vary the Charges by giving the Customer not less than thirty (30) days prior written notice.

8.3 The Company shall be entitled to charge waiting time where the Customer fails to provide sufficient access to the Equipment for the Company to perform the Services due to other contractors of the Customer requiring access to the site prior to the Company.

8.4 The Company shall be entitled to charge additional Charges in circumstances specified in the Quotation.

8.5 The Company shall issue to the Customer invoices in respect of sums payable by the Customer to the Company hereunder, or in advance of the date upon which the relevant sum becomes due. Each such invoice shall be paid for in GBP Sterling on the date as stated in the invoice or, if none is stated, then not later than the last working day of the month which follows the date of the invoice (and this shall be the final date for payment).

8.6 The Customer must notify the Company in writing within 5 days of the date of any invoice of any issues with the charges.

8.7 If any amount due to the Company hereunder remains unpaid after the date on which it is payable pursuant to Clause 8.5, the Company shall be entitled to charge interest on such sum at a rate of 5% per annum above the base rate of the Bank of England from that date until the date of actual payment, and to withhold any or all of the Services to be provided by the Company hereunder until such time as payment of the said sum and of the interest thereon is received by the Company (and the Company shall have no Liability to the Customer in relation to such suspension (including any Equipment passing its date on which a statutory inspection is required).

8.8 All Charges exclude Value Added Tax. The Customer shall pay to the Company (subject to the inclusion of a reasonable Value Added Tax amount) all Charges and/or any other sums payable under the Contract and/or any other contract between the Customer (or any of its Associated Companies) and the Company(or any of its Associated Companies), in full and cleared funds, all outstanding Charges and/or any other sums payable under the Contract or any other contract the Customer (or any of its Associated Companies) under this Contract or any other Contract between the Customer (or any of its Associated Companies) and the Company(or any of its Associated Companies).

9. FORCE MAJEURE

9.1 Neither party to the Contract shall be under any Liability for any failure to perform any of their respective obligations as a result of Force Majeure, other than any obligation of the Customer to make any payment hereunder. If one party to the Contract and/or any of its Associated Companies, in full and cleared funds, all outstanding Charges and/or any other sums payable under the Contract or any other contract the Customer (or any of its Associated Companies) under this Contract or any other Contract between the Customer (or any of its Associated Companies) and the Company(or any of its Associated Companies), in full and cleared funds, all outstanding Charges and/or any other sums payable under the Contract or any other contract the Customer (or any of its Associated Companies) and the Company(or any of its Associated Companies) may be given:

12.1 Any notices to be given by either party hereunder may be given:

12.1.1 by delivery to the other party's last known address; or

12.1.2 by sending the same by recorded delivery post addressed to the other party's last known address; or

12.1.3 by fax transmission to the other party's last known facsimile number.

12.2 A Notice shall be deemed to have been received (1) in the case of delivery, at the time of delivery, (2) in the case of recorded delivery post upon the expiry of 48 hours from the time the same was properly addressed, stamped and posted and (3) in the case of facsimile transmission, upon transmission.

13. MISCELLANEOUS

13.1 The headings to these Terms and Conditions shall not affect their interpretation.

13.2 Throughout these Terms and Conditions, wherever the context so requires, the use of the singular number shall be construed to include the plural and vice versa.
plural, and the use of the plural the singular, and the
use of any gender shall include all genders.

13.3 Reference in these Terms and Conditions to a
"Clause" is to a Clause of these Terms and Conditions.

13.4 If any provision of the Contract is rendered by
legislation void or declared void by court decree or
order that provision shall be severed and the remaining
provisions shall not thereby be altered and shall remain
in full force and effect.

13.5 No waiver by the Company of any breach of these
Terms and Conditions shall be considered as a waiver
of any subsequent breach of the same provision or any
other provision.

13.6 It is hereby agreed and declared that the Company
may at its absolute discretion assign any sums owed to
it by the Customer (or any of the Customer’s related
or associated persons, firms or companies or any of
their successors in title) to any of the Company’s
associated or related companies or by way of security.

13.7 If any sum of money shall be recoverable from or
payable by the Customer to the Company, the same
may be deducted from any sum then due, or which at
any time thereafter may become due from the
Customer to the Company, whether under the
Contract or otherwise.

13.8 The Customer shall not be entitled to withhold
payment of any sums after they have become due by
reason of any right or set off or counterclaim which the
Customer may have or allege to have or for any other
reason whatsoever.

13.9 The Company shall be entitled to sub-contract its
performance of its obligations under a Contract to a
third party of its choosing (provided that the Company
shall remain liable for the acts and/or omissions of its
sub-contractors as though they were its own acts
and/or omissions).

13.10 The Customer shall be liable for the acts and/or
omissions of its employees, agents, servants and/or sub-
contractors as though they were its own acts and/or
omissions under this Contract.

13.11 The Company shall not be obliged to employ any
of the Customer’s employees (or any employees of a
third party contractor appointed by the Customer) as a
result of or in connection with the Contract or the
Company providing the Services, and the Customer
agrees to indemnify the Company against any costs,
liabilities and expenses incurred by it as a result of any
claim (including for dismissal) or demand of any nature
by any such employee against the Company.

14. ENTIRE AGREEMENT AND APPLICABLE
LAW

14.1 The Contract constitutes the entire agreement
between the Company and the Customer in respect of
the Services and supersedes all other agreements,
statements, representations or warranties made by or
between the parties or either of them concerning the
same. These Terms and Conditions shall supersede any
terms and conditions appearing on or referred to in
any purchase order, acknowledgement or other
document issued by the Customer in respect of the
subject matter of these Terms and Conditions.

14.2 No variations of the Contract shall be effective
unless specifically agreed in writing by an authorised
representative of the Company.

14.3 The Contract shall in all respects be subject to,
governed by and construed in accordance with English
law and the parties hereby agree to submits to the
exclusive jurisdiction of the English courts in relation to
any matter or dispute arising out of or in connection
with the Contract (whether of a contractual or
tortious nature or otherwise).