

RBS Group Standard Conditions of Purchase (1 January 2010) (Brazil version)

1. Definitions

"Agreement" means the contract for the supply of the Deliverables by the Supplier to the Buyer, comprising the Purchase Order, the Special Terms, the Specification, the General Terms and any other documents attached to or referred to in the Purchase Order;

"Buyer" means the member of the RBS Group which issued the Purchase Order;

"Deliverables" means the goods, services, software and/or data to be supplied by the Supplier to the Buyer as set out in the Agreement;

"General Terms" means these Standard Conditions of Purchase;

"Information Security Plan" means the information security plan prepared by the Supplier which will ensure the confidentiality and security of the Buyer's confidential information and data;

"Intellectual Property Rights" means any of these rights, namely:

- (a) patents, trade marks, rights in designs, get-up, trade, business or domain names, copyrights including rights in computer software and databases (including database rights) and topography rights (in each case whether registered or not and, where these rights can be registered, any applications to register or rights to apply for registration of any of them), and where applicable any goodwill therein; and
- (b) rights in inventions, know-how, trade secrets and other confidential information; and
- (c) any other intellectual property rights which may exist at any time in any part of the world;

"Level 1 Service Provider" has the meaning given to that term in Clause 13.9.1;

"Loss" has the meaning set out in Clause 20;

"PCI DSS" means the Payment Card Industry (PCI) Data Security Standard (DSS) version 1.1, its supporting documentation and any subsequent version(s) of said standard published by the PCI Security Standards Council or its successor(s);

"Purchase Order" means the Buyer's order for the Deliverables, on the Buyer's standard order form, which incorporates or refers to these terms and conditions;

"QSA" means a qualified security assessor certified by the PCI Security Standards Council as being qualified to validate compliance with the PCI DSS;

"RBS Group" means:

The Royal Bank of Scotland plc and any company that is from time to time (i) a holding company, (ii) a subsidiary or (iii) a subsidiary of a holding company, of The Royal Bank of Scotland plc;

Notwithstanding the foregoing, the following are not members of the RBS Group (i) the UK government or any member or instrumentality thereof, including Her Majesty's Treasury and UK Financial Investments Limited (or any directors, officers, employees or entities thereof) or (ii) any persons or entities controlled by or under common control with the UK government or any member or instrumentality thereof (including Her Majesty's Treasury and UK Financial Investments Limited) and

which are not part of The Royal Bank of Scotland Group plc and each of its subsidiaries or subsidiary undertakings;

For the purposes of the definition of the RBS Group the expressions "holding company", "subsidiary" and "subsidiary undertaking" have the meanings given to them in the Companies Act 2006. In this Agreement companies within the RBS Group are called "members" of the RBS Group;

"Special Terms" means any additional terms and conditions set out or referred to in the Purchase Order relating to the supply of the Deliverables;

"Specification" means all specifications, descriptions and requirements of the Deliverables set out within or referred to in the Agreement;

"Supplier" means the person, company, firm or organisation to which the Purchase Order is addressed; and

"Territory" means Brazil and references to "Territory-specific" in these General Terms means of or relating to Brazil.

2. Contract Formation

- 2.1 The Supplier shall confirm its acceptance of the Purchase Order by notifying the Buyer in writing or by electronic mail or by supplying the Deliverables. The effective date of the Agreement will be the date of the acceptance notice, if issued by Supplier or the date of the Purchase Order if the Supplier supplies the Deliverables without giving the Buyer the acceptance notice.
- 2.2 Any terms and conditions set out in the Supplier's order acceptance or standard terms of business are expressly excluded from the Agreement.
- 2.3 The Buyer may send Purchase Orders by electronic means and the Supplier may accept Purchase Orders by electronic means. The parties expressly waive any rights to contest the validity or enforceability of the Agreement on the sole ground that it was effected by electronic means.

3. Supply of Goods

- 3.1 The Supplier shall supply the goods in accordance with the Agreement, including any instructions specified on the Purchase Order. Goods shall be packaged and carried so as to reach the delivery location undamaged and in accordance with the requirements of the Agreement. The Supplier shall advise the Buyer of any hazards to health, safety and welfare relating to the Deliverables and will include full and clear instructions regarding handling, storage and use of goods.
- 3.2 Any signature on behalf of the Buyer, given on any delivery note or other documentation presented for signature in connection with delivery of goods, is evidence only of the number of packages received. In particular, it is not evidence that the correct quantity or number of goods has been delivered or that the goods delivered are undamaged and in accordance with the requirements of the Agreement.
- 3.3 Title to the goods shall pass to the Buyer on delivery or on payment by the Buyer (whichever is earlier) but risk shall not pass to the Buyer until the goods have been delivered and accepted in accordance with the Agreement.

- 3.4 Where title in any of the goods passes to the Buyer before delivery, such goods shall be clearly identified and marked as the property of the Buyer or in such manner as the Buyer may require.

4. Supply of Services

The Supplier shall supply the services in accordance with the Agreement, including any instructions specified on the Purchase Order.

5. Supply of software

- 5.1 The Supplier will deliver the software to the Buyer in accordance with the Agreement, including any instructions specified on the Purchase Order

- 5.2 The Supplier hereby grants to the RBS Group and each of its members a perpetual, non-exclusive, world-wide licence to copy and use the software for such purposes as the members of the RBS Group may reasonably require. The foregoing licence shall extend to any amended or new versions of the software which may be subsequently provided to the RBS Group.

- 5.3 Without limiting the terms of Clause 5.2, the foregoing licence includes the right for each member of the RBS Group to use the software by running it on any central servers, networks and other computer equipment at any location and to make such copies of the software as the RBS Group needs from time to time for operational, security, back-up and disaster recovery purposes and to use them for these purposes.

- 5.4 Any member of the RBS Group may also use the software to receive, process, generate, store and transmit data for any customer. In addition, any member of the RBS Group may permit its consultants, contractors, service providers or agents to use the software on its behalf for any purpose provided that the Buyer will be responsible for ensuring that any consultant, contractor, service provider or agent who has this permission fully complies with the terms of the Agreement that relate to the software.

- 5.5 The only restrictions on use which shall apply to the software licence granted under Clauses 5.2 and 5.4 shall be any licence restrictions specified in the Special Terms.

6. Supply of data

- 6.1 The Supplier will deliver the data to the Buyer in accordance with the Agreement, including any instructions specified on the Purchase Order.

- 6.2 The Supplier hereby grants to the RBS Group and each of its members a perpetual, non-exclusive, world-wide licence to copy and use the data for such purposes as the members of the RBS Group may reasonably require. The foregoing licence shall extend to any updates to the data which may be subsequently provided to the RBS Group.

- 6.3 The only restrictions on use which shall apply to the data licence granted under Clause 6.2 shall be any licence restrictions specified in the Special Terms.

7. Delays

- 7.1 If the Supplier fails to supply the Deliverables in accordance with the Agreement, the Buyer may, without prejudice to any other rights or remedies it may have:-

- 7.1.1 specify by written notice to the Supplier such revised delivery or performance date as it shall, in its reasonable opinion, think fit; or

- 7.1.2 terminate the Agreement upon giving notice in writing to the Supplier on the grounds of the Supplier's material breach of its terms and recover from the Supplier damages for Loss sustained by the RBS Group resulting from the failure to supply the Deliverables in accordance with the Agreement.
- 7.2 In the event of termination in accordance with this Clause 7, the Supplier shall repay to the Buyer immediately any sums already paid by the Buyer under the Agreement.
- 7.3 The Supplier shall advise the Buyer immediately on becoming aware that it may be unable to supply the Deliverables in accordance with the Agreement.
- 7.4 In respect of the Supplier's obligations under the Agreement, time shall be of the essence. If no date for the supply of the Deliverables is specified in the Purchase Order, the Supplier shall propose a date to the Buyer as soon as reasonably practicable. The date agreed by the Buyer shall form part of the Agreement.
- 8. Rejection of Deliverables**
- 8.1 Any member of the RBS Group may reject any Deliverables which are not in accordance with the Agreement, and the RBS Group shall not be deemed to have accepted any Deliverables until the member of the RBS Group to which they have been delivered has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any defect in the Deliverables which is not immediately apparent, becomes apparent. The Supplier shall repay to the Buyer immediately all sums paid by the Buyer in relation to any Deliverables which are rejected
- 8.2 The Buyer shall have the right to require the Supplier, at the Supplier's own risk and expense, expeditiously to collect and replace any rejected goods, software or data and to re-perform any rejected services. Where the Supplier supplies any replacement Deliverables in accordance with this Clause, the provisions of the Agreement shall apply to such replacement Deliverables.
- 9. Price and Payment**
- 9.1 Unless the contrary is expressly stated elsewhere in the Agreement, the prices set out in the Purchase Order shall remain fixed and include any and all applicable taxes (including but not limited to Services and Value Added Taxes), and are the total prices payable by the Buyer for the Deliverables. The invoice shall clearly identify the Deliverables and quote the Purchase Order number.
- 9.2 All payments due shall be paid by the Buyer within 30 days of receipt by the Buyer of the Supplier's invoice issued in accordance with the Agreement provided the Supplier has complied with its obligations under the Agreement. The Supplier shall issue invoices at the times set out in the Purchase Order, with due regard to the applicable tax laws and regulations. If no times are set out, the invoices shall accompany delivery or be issued following the performance of the Deliverables as the case may be. The Buyer shall pay the Supplier interest on any late payment, if requested, at the rate equal to six (6) per cent per annum, calculated *pro rata die*. Interest shall be payable from the date 30 days after receipt by the Buyer of the Supplier's invoice until the date payment is credited to the Supplier's bank account by electronic transfer or the date a cheque in payment is received by the Supplier.
- 9.3 The Buyer shall not be bound to pay any invoice which is not issued in accordance with the Agreement and shall notify to the Supplier in writing the reasons for non-payment. Payment shall not operate as a waiver of any rights of the Buyer.

9.4 The Buyer may set off against any payment due to the Supplier from the Buyer any sum that is or may become due to the Buyer from the Supplier.

10. Warranties

10.1 The Supplier undertakes that:-

10.1.1 the Deliverables will conform in all respects with the Specification and shall conform with the Supplier's current product specifications, descriptions, user manuals or other product documentation and with any samples provided and shall meet the Buyer's specified or reasonable requirements;

10.1.2 the Deliverables shall be free from defects in design, workmanship or materials, shall be of satisfactory quality and fit for the Buyer's purpose;

10.1.3 any software within the Deliverables will be fit for its intended purpose and will not contain any viruses or locking or destructive mechanisms;

10.1.4 any data within the Deliverables will be accurate;

10.1.5 all services within the Deliverables will be performed with reasonable skill, care and diligence;

10.1.6 the Deliverables shall comply with all applicable Territory-specific or international laws, regulations, standards, and with any of the Buyer's quality assurance or other requirements notified to the Supplier; and

10.1.7 all goods and software within the Deliverables with a monetary related function will be capable of performing their monetary related functions in the local currency of the Territory and will function in conformity with all applicable conversion and rounding requirements established by Territory-specific laws and regulations (including but not limited those issued by the Central Bank of Brazil).

10.2 If there is any defect in the Deliverables as a result of any breach of the foregoing undertakings within the period of twelve months (or such other period as may be set out elsewhere in the Agreement) from the date of delivery or performance of the Deliverables, the Supplier shall rectify the defect by replacing or repairing defective goods, software or data or reperforming defective services as soon as possible after receipt of notice of the defect from the Buyer. Each replacement, repair or reperformance shall also be subject to the undertakings in the Agreement. If the Supplier fails to remedy any defects in the Deliverables in accordance with this Clause the Buyer shall be entitled to remedy or appoint a third party to remedy the defect and the Supplier will reimburse the Buyer with the expenses necessarily and reasonably incurred in doing so.

10.3 The rectification of defects in the Deliverables shall be without prejudice to the Buyer's other rights and remedies for breach of contract.

10.4 If requested by the Buyer at any time within the period of five years from the date of the Agreement, the Supplier will provide a maintenance and support service for the Deliverables including, where applicable, the supply of spare parts. Such service shall be provided for charges that are reasonable and otherwise on terms to be agreed between the parties.

11. Environmental Protection

11.1 The Supplier warrants that all goods within the Deliverables shall comply with all Territory-specific and international standards, guidelines, regulations and legislative requirements

concerning producer responsibility, environmental protection, disposal of waste, use of hazardous substances or similar concepts including, but not limited to, the federal, state and municipal Brazilian Environmental Legislation (the “Environmental Protection Initiatives”) and the Supplier shall provide reasonable evidence of such compliance to the Buyer on request.

- 11.2 The Supplier will, as between the Supplier and the RBS Group, assume responsibility for compliance with all Environmental Protection Initiatives relating to the Deliverables including, but not limited to:
- 11.2.1 procuring that appropriate materials are used in the Deliverables and that the Deliverables do not contain any substances restricted under the Environmental Protection Initiatives;
 - 11.2.2 ensuring the Deliverables are appropriately marked;
 - 11.2.3 ensuring that the design and production of the Deliverables takes into account the dismantling and recovery requirements (if any) of the Environmental Protection Initiatives in the production of the Deliverables and its components and materials;
 - 11.2.4 providing for the collection, treatment, recovery and environmentally sound disposal of the Deliverables, including assuming responsibility for taking back the Deliverables in the future upon the request of the Buyer or its customer and treating or otherwise managing the same in accordance with the requirements of the Environmental Protection Initiatives and applicable national implementing legislation;
 - 11.2.5 providing appropriate information to users;
 - 11.2.6 fulfilling in a timely fashion all legal requirements of the Environmental Protection Initiatives including, where necessary, registration or notification with national authorities in all relevant countries; and
 - 11.2.7 providing the RBS Group with all assistance necessary to enable the RBS Group to comply with any obligations on the RBS Group under the Environmental Protection Initiatives.
- 11.3 No additional charges will be sought by the Supplier, or additional payments due from the Buyer, for the Supplier’s agreement to undertake these responsibilities. The Supplier will fully indemnify the RBS Group and its members against any Loss which the RBS Group and its members may incur as a result of any claim that any part of the Deliverables does not comply with the Environmental Protection Initiatives

12. Staff

The Supplier will use all reasonable efforts to ensure that all persons employed or engaged by it in the supply of the Deliverables are honest, law-abiding and have no known links to any entity, group or network which participates in, encourages or supports unlawful activities. The Supplier shall conduct appropriate recruitment and security vetting procedures in relation to such persons and will not employ or engage anyone to perform its obligations under the Agreement who has not passed the Supplier’s recruitment and security vetting procedures. The Supplier will not permit any persons employed or engaged by it in the supply of the Deliverables to have access to RBS Group data, or to have unaccompanied access to RBS Group premises, unless the Supplier has obtained from the Buyer, and complied with, the RBS Group’s Pre-employment Screening requirements. The Supplier will ensure that any sub-contractor complies with the provisions of this Clause 12. Failure by the Supplier to comply with this Clause 12 shall constitute a material breach of the Agreement by the Supplier.

13. Information Security

- 13.1 Where the Buyer allows the Supplier to have access to any data or computing systems of the RBS Group, the Supplier will access them only for purposes expressly authorised by the Buyer in writing and will ensure that such access can only be used by authorised personnel of the Supplier. The Supplier will comply with the security policies and procedures of the RBS Group notified to the Supplier. The Supplier will also implement and operate up to date anti-virus software on all of its computing systems which may be linked, directly or indirectly, to the computing systems of the RBS Group.
- 13.2 The Supplier will ensure that at all times it has in place and is operating in accordance with the terms of the Information Security Plan. The Supplier will ensure that the Information Security Plan complies with ISO27001 and ISO27002 (or any replacement standard relating to information security).
- 13.3 The Supplier will develop and update the Information Security Plan on a regular basis and, in any event, not less than once in every 12 month period, in accordance with the standard of skill, care, knowledge and foresight which would reasonably and ordinarily be expected from an experienced person engaged in providing goods, services, software and/or data which are the same as, or similar to, the Deliverables.
- 13.4 Upon any potential or actual known breach of the Information Security Plan or any obligations or duties owed by the Supplier to the Buyer relating to confidentiality or personal data, the Supplier will remedy the breach and will promptly: (i) notify the Buyer of the breach (and follow-up in writing); and (ii) implement any actions or remedial measures which the Buyer considers necessary as a result of the breach.
- 13.4.1 For the purposes hereof, **personal data** shall mean any data which relate to a living individual who can be identified (a) from those data, or (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual; and **data** shall mean information which (a) is being processed by means of equipment operating automatically in response to instructions given for that purpose, (b) is recorded with the intention that it should be processed by means of such equipment, (c) is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system, or (d) does not fall within items (a), (b) or (c) but forms part of an **accessible record**, which shall mean (a) a health record being information relating to the physical or mental health or condition of an individual, and that has been made by or on behalf of a health professional in connection with the care of that individual, (b) an educational record that is (i) information which is processed by or on behalf of any governing body of, or a teacher at, any school in Brazil or abroad, (ii) relates to any person who is or has been a pupil at the school and (iii) originated from or was supplied by or on behalf of any persons (including but not limited to any employee or voluntary of the school, the pupil to whom the record relates or any of his/her parents), or (c) any accessible public record as defined by Brazilian or any other applicable laws.
- 13.5 The Supplier will permit the Buyer to have sight, and retain copies, of the Information Security Plan upon reasonable notice at any time.
- 13.6 If requested, the Supplier will explain to the Buyer how the Information Security Plan will meet the information security requirements of the Buyer as notified to the Supplier from time to time. If the Buyer considers (on reasonable grounds) that the Information Security Plan is insufficient to ensure the confidentiality and security of the Buyer's confidential information or data or fails to meet the requirements of any regulator or fails to meet industry standards relating to data or information security then the Buyer may require the Supplier to modify the

Information Security Plan to cure such insufficiency or failure and the Supplier will promptly make the modifications that the Buyer requires.

- 13.7 The Supplier will ensure that all confidential information or data of the Buyer which is no longer required is erased or destroyed and that such confidential information or data is not recoverable. The Supplier must also destroy any data processing equipment which is surplus to requirements and which has held RBS Group data. The erasure and/or destruction processes will form part of the Information Security Plan.
- 13.8 The Supplier will maintain full compliance with PCI DSS at its own cost at all times where:
- 13.8.1 the performance of the Supplier's obligations under the Agreement requires such compliance; or
- 13.8.2 the Buyer determines such compliance is required and so notifies the Supplier.
- 13.9 If PCI DSS compliance is required under Clause 13.8, the Supplier will evidence such compliance prior to supplying relevant Deliverables or performing relevant obligations by:
- 13.9.1 appointing a QSA to verify its compliance to PCI DSS, as a Level 1 Service Provider as defined by the applicable payment card scheme operator, and gain a certificate of compliance from the QSA; and
- 13.9.2 giving the Buyer a copy of the certificate.
- 13.10 The Supplier will indemnify the Buyer and keep it indemnified against all losses (including Loss), costs, claims, demands, expenses and liabilities of any nature arising out of the Supplier's failure to comply with PCI DSS (where required under Clause 13.8) and/or any incident(s) of loss or compromise of payment account data attributable to the Supplier or its employees, agents or sub-contractors. Any exclusions or limitations of liability set out in the Agreement shall not apply to any liability of the Supplier under this Clause 13.10.
- 13.11 Without prejudice to Clause 21.1, and where the Deliverables include website development, hosting, operation, web applications, network services and/ or support services, the Buyer may, at such times as shall be determined at its sole discretion, undertake certain penetration testing, vulnerability scanning and other technical risk assessments in order to actively test and evaluate the security of the supply hereunder and the Supplier's and its sub-contractors' computer systems and network infrastructure ("**Security Testing**"). The Security Testing may be undertaken by employees, agents of and/or third party testers engaged by or on behalf of the Buyer ("**Testers**"). The Testers shall act as agents of the Buyer in relation to carrying out the Security Testing. The Buyer shall ensure the Testers use reasonable skill and care when undertaking the Security Testing, but the Buyer will not be held responsible for any disruption or damage caused to the Supplier's or its sub-contractors' computer systems or network infrastructure as a result of the Security Testing. The Supplier acknowledges and agrees that the Security Testing will involve Testers attempting to gain access to the Supplier's and its sub-contractors' computer systems and network infrastructure and the Supplier consents to such access and shall obtain all necessary third party consents to enable such access to lawfully take place.
- 13.12 Following any Security Testing, the Supplier will implement, as soon as reasonably practicable, any additional measures requested in writing by the Buyer. Where the additional measures affect the Supplier's sub-contractors, suppliers and agents, the Supplier shall procure that those measures are implemented by the relevant sub-contractors, suppliers and agents.

13.13 Failure by the Supplier to comply with any of the terms of this Clause 13 will be a material breach of the Agreement by the Supplier which is not capable of remedy.

14. Data Protection

14.1 If the Buyer or any other member of the RBS Group (the "data controller") passes to the Supplier (the "data processor"), or otherwise gives the Supplier access to, personal data (as defined in Clause 13.4.1 above) under the Agreement:-

14.1.1 the Supplier will process the personal data in accordance with the instructions of the Buyer or the member of the RBS Group from which the personal data were obtained (where this was not the Buyer), and will not process personal data held by it under the Agreement except in accordance with the Agreement or otherwise on the instructions of the Buyer or the member of the RBS Group from which the personal data were obtained (where this was not the Buyer);

14.1.2 the Supplier will acquire no rights or interest in the personal data and will return such personal data to the member of the RBS Group from which they were obtained on demand by the Buyer or the member concerned (where this is not the Buyer);

14.1.3 the Supplier will implement appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of or damage to personal data as if it were the data controller in relation to those personal data in compliance with Buyer's instructions and will permit the Buyer to audit those measures on reasonable prior notice; and

14.1.4 the Supplier will not transfer any of the personal data outside the Territory except with the prior written consent of the Buyer or the member of the RBS Group from which the personal data were obtained and in accordance with any additional terms the Buyer or the member of the RBS Group concerned (as appropriate) may impose on such transfer. The foregoing provisions of this Clause 14.1.4 shall also apply to any further transfer (i.e. any transfer made subsequent to a transfer outside the Territory) of the personal data.

15. Confidentiality

15.1 The Buyer and the Supplier shall keep confidential all information of the other obtained under or in connection with the Agreement which is known to be confidential or which by its nature would generally be regarded as confidential, shall not divulge the same to any third party without the prior written consent of the other party and will only use such information for the purpose of performing the Agreement or using the Deliverables.

15.2 The following is not confidential information and is not subject to the restrictions set out above:-

15.2.1 information which is or becomes publicly available unless as a result of breach of the Agreement,

15.2.2 information received from a third party unless the receiving party knew it was confidential information of the other party,

15.2.3 information which the receiving party already knew and which is not subject to a separate obligation of confidentiality to the other party, and

15.2.4 information independently developed or acquired by the receiving party without use of information of the other party.

- 15.3 Confidential information of the RBS Group shall be treated by the Supplier as confidential information of the Buyer.
- 15.4 The terms of this Clause 15 are in addition to any other duties of confidentiality between the parties.
- 15.5 The Buyer may disclose confidential information of the Supplier to other members of the RBS Group but, if it does so, the Buyer shall be responsible for ensuring that such other members comply with obligations of confidentiality and restricted use equivalent to those set out in this Clause 15 .
- 15.6 Nothing in this Clause 15 shall prevent either party from disclosing any information where required by law or where required by any stock exchange or regulatory authority to which it is subject.

16. Business Continuity

The Supplier will ensure that at all times it has in place an appropriate business continuity and disaster recovery plan for its business which will ensure that it can supply the Deliverables in accordance with the Agreement. If requested, the Supplier will promptly provide the Buyer with a copy of such plan.

17. Limitation of Liability and Insurance

- 17.1 Neither party will be liable to the other under or in connection with the Agreement for any indirect or consequential loss or damage whether caused by breach of contract, negligence or breach of statutory or any other duty.
- 17.2 Neither party will in any event be liable to the other under or in connection with the Agreement for any loss or damages in excess of (a) the equivalent in the local currency of the Territory to £5,000,000 Sterling in respect of damage to the RBS Group's tangible property, and (b) 150% of the price payable for the Deliverables or the equivalent in the local currency of the Territory to £1,000,000 Sterling, whichever is the higher, for any other loss or damage, in each case per event or series of connected events and whether caused by breach of contract, negligence or breach of statutory or any other duty.
- 17.3 In the event of breach by the Supplier of Clause 13, 14 and 15 the following shall be considered as direct losses flowing from that breach:
 - 17.3.1 additional management costs incurred by the RBS Group as a result of that breach of the Agreement by the Supplier; and
 - 17.3.2 any fine or penalty paid or incurred by a member of the RBS Group arising from a breach of any law, regulation or rule that has been caused by or arisen out of that breach of the Agreement by the Supplier.
- 17.4 The foregoing limits and exclusions of liability shall not apply to any loss arising in respect of the death or personal injury of any person, loss caused by fraud, any other loss which by law cannot be excluded or limited or to any liability for breach of Clauses 13, 14 or 15.
- 17.5 The Supplier shall maintain insurances with a reputable insurance company covering liabilities under or in connection with the Agreement. The Supplier shall upon request from the Buyer from time to time produce certification from its insurance brokers that such insurance is in force and provide information on limits, renewal dates, coverage extensions and exclusions. The Supplier will, if requested by the Buyer, add the Buyer as "additional insured" under the Supplier's insurance policies.

18. Intellectual Property Rights

- 18.1 Where the Buyer has funded the development of the whole or part of the Deliverables, all Intellectual Property Rights in the developed work shall vest in the Buyer. The Supplier hereby assigns to the Buyer its whole right, title and interest, present and future in and to such Intellectual Property Rights and shall ensure the assignation/assignment to the Buyer of all such Intellectual Property Rights by any party employed or otherwise engaged by the Supplier who may acquire any such rights by operation of law or otherwise.
- 18.2 The Supplier shall (at the Buyer's request and expense) do and execute all necessary acts, deeds, documents and things for effectively vesting such rights in the Buyer, shall (at the Buyer's request and expense) provide the Buyer with all reasonable assistance required to vest the same in the Buyer in any part of the world and shall promptly provide the Buyer with all information relating to the Deliverables which the Buyer may reasonably request for the purpose of allowing the Buyer to fully exercise its proprietary rights.
- 18.3 Subject to Clauses 18.1 and 18.2, nothing in the Agreement shall operate to transfer any Intellectual Property Rights from one party to the other.
- 18.4 The Buyer shall retain title to any and all Intellectual Property Rights in any designs, drawings, specifications, samples or other materials provided by the Buyer to the Supplier for use in the supply of the Deliverables. The Supplier shall keep such items secure and shall return them to the Buyer on demand. Such items shall be at the Supplier's risk while in its possession and control. The Supplier may use such items only for the purpose of performing the Agreement.

19. IPR Indemnity

- 19.1 The Supplier warrants that it is entitled to supply the Deliverables in accordance with the Agreement and the Deliverables shall not infringe the Intellectual Property Rights or other rights of any third party. The Supplier will fully indemnify the Buyer and the other members of the RBS Group against any Loss which the Buyer and the members of RBS Group may incur as a result of any claim that the possession or use of any part of the Deliverables infringes the Intellectual Property Rights or other rights of any third party.
- 19.2 Without limiting the Supplier's obligations under Clause 19.1, in the event of such a claim being made the Supplier shall, if requested by the Buyer:-
- 19.2.1 obtain for the RBS Group the right to continue using the Deliverables;
 - 19.2.2 replace or modify the Deliverables with non-infringing goods, software, data or services of equivalent or improved specifications; or
 - 19.2.3 accept the return of the Deliverables and reimburse the Buyer with all charges paid less a reasonable and proportionate amount to reflect use of the Deliverables prior to their return.
- 19.3 The exclusions and limitations of liability stated elsewhere in the Agreement shall not apply to any liability of the Supplier under or for breach of this Clause 19.

20. RBS Group

- 20.1 The Supplier agrees that all other members of the RBS Group will have the same rights as the Buyer under the Agreement and that the Supplier owes the same duties and obligations to the other members of the RBS Group as it owes to the Buyer.

- 20.2 In the event of any fault (negligence, imprudence or inaptitude) or breach of the Agreement by the Supplier which results in any loss, damage, costs or expense ("Loss") being suffered by a member of the RBS Group that Loss will be treated as if it had been suffered by the Buyer.
- 20.3 The Buyer will be able to recover any Loss from the Supplier subject to any limits on the Supplier's liability contained in the Agreement. For this purpose, any Loss suffered by members of the RBS Group (other than the Buyer) will not be treated as being indirect or consequential in terms of Clause 17 simply because it has been suffered by members of the RBS Group and not by the Buyer directly.
- 20.4 The limitations of liability in the Agreement will apply to the RBS Group as a whole so that they apply to all liabilities incurred under or in connection with the Agreement
- 20.4.1 by the Supplier to the RBS Group in aggregate; and
- 20.4.2 by the RBS Group in aggregate to the Supplier.
- 20.5 If and to the extent that the Buyer is unable to recover Loss suffered by other members of the RBS Group under Clause 20.3, to the extent permitted by the law each member will be entitled to recover such Loss directly from the Supplier and to enforce the Agreement against the Supplier for this purpose under the Brazilian Civil Code (Law No. 10,406/02). However, the Buyer and the Supplier may withdraw from or vary the Agreement or terminate it in accordance with its terms without the agreement of any other member of the RBS Group.
- 20.6 The Supplier acknowledges that the provisions of this Clause 20 have been notified to the other members of the RBS Group.

21. Inspection, Testing and Information

- 21.1 Subject to giving the Supplier not less than seven days prior notice, the Buyer or its agents shall be entitled to inspect and observe the Supplier's procedures relating to the Deliverables and work being performed by the Supplier in relation to the Deliverables. Such inspection and observation shall occur during normal working hours and during other hours that are reasonable under the circumstances. The Buyer shall conduct such inspections so as to avoid any undue disruption to the Supplier's operations. Following any such visit the Supplier shall give due consideration to such recommendations as the Buyer may reasonably make.
- 21.2 The Supplier will promptly provide the Buyer with any information which the Buyer reasonably requests relating to the Deliverables including any information which the Buyer may require to enable it to comply with any legislative or regulatory requirement.
- 21.3 The Supplier shall not, directly or indirectly, reward or offer to reward any employee or agent of the Buyer or the RBS Group for the Buyer entering into the Agreement or doing or refraining from doing anything in connection with the Agreement. If requested, the Supplier will promptly provide the Buyer's representatives with access to the Supplier's records to verify that the Supplier has complied with this undertaking.

22. Change Control

The Buyer may at any time order an addition to, omission from, or other changes to the Deliverables, the date of delivery, the programme of execution of the Deliverables or the Agreement. Any associated changes in, or additions to the charges set out in the Agreement shall be valued on a fair and reasonable basis to be agreed by the Buyer and the Supplier.

23. Termination

- 23.1 The Buyer may terminate the Agreement forthwith on written notice if the Supplier is in breach of any of its terms and, in the event of a breach capable of being remedied, fails to remedy the breach within fourteen days (or such longer period as the Buyer may specify) of receipt of written request from the Buyer.
- 23.2 The Buyer may terminate the Agreement forthwith on written notice if there is a direct or indirect change of control of the Supplier or the whole or a substantial part of the business or assets of the Supplier are disposed of.
- 23.3 The Buyer may terminate the Agreement without cause on giving the Supplier seven days written notice. In this event, the Buyer will pay the Supplier any costs necessarily and reasonably incurred by the Supplier in the performance of the Agreement up until the time of termination which it can not recover by other means, such as re-using or re-selling parts of the Deliverables, provided that the Supplier can demonstrate that it has used all reasonable endeavours to minimise these costs. The Buyer shall have no further liability to the Supplier and, without limitation of the foregoing, the Buyer will not be liable to the Supplier for any loss of revenue or loss of profits as a result of such termination.
- 23.4 Either party may terminate the Agreement if the other party ceases to trade or is unable to pay its debts as they fall due, makes an arrangement with its creditors or goes into administration, receivership, judicial or extrajudicial reorganisation under Law 11,101/05, as amended, liquidation (other than as part of a solvent reorganisation), bankruptcy, is the subject of any enforcement of security, or execution, distraint, sequestration or similar action over any of its assets by any creditor or any analogous insolvency proceedings in any jurisdiction.
- 23.5 Termination shall have no effect on the rights, liabilities and remedies of the parties which have arisen prior to termination. On termination each party shall return to the other all property and data of the other party which it holds.

24. Force Majeure

Notwithstanding anything else contained in the Agreement neither party shall be liable for any delay in performing its obligations if such delay is caused by exceptional circumstances beyond its reasonable control, as provided for in article 393 of the Brazilian Civil Code (Law No. 10,406/02). In the event of either party becoming subject to such exceptional circumstances it shall promptly notify the other party and, where possible, promptly propose and, where agreed, implement a course of action to minimise the effect of such exceptional circumstances on the performance of the Agreement. However, such exceptional circumstances will only give the Supplier a right to relief in terms of this Clause where there is no failure by the Supplier to implement the business continuity and disaster recovery plan referred to in Clause 16.

25. Legal and Regulatory Requirements and Standards

- 25.1 Where a change of law takes effect in the course of the Agreement, the Supplier will be solely responsible for meeting any additional costs involved in complying with the change of law in, or in relation to, the supply of the Deliverables.
- 25.2 The Supplier acknowledges that the RBS Group is subject to regulation by the Financial Services Authority and other regulators in the countries in which the members of the RBS Group operate. The Supplier agrees that it will give the RBS Group all assistance that it reasonably requires to comply with these requirements in connection with the supply of the Deliverables.

- 25.3 The Supplier undertakes that while on RBS Group premises it will comply, and will ensure that its employees, agents and subcontractors comply, with all security and safety procedures which apply at the RBS Group premises from time to time and which have been notified to the Supplier or its employees, agents and subcontractors.
- 25.4 In the event of any breach of such security or safety procedures by the Supplier or its employees, agents or subcontractors the Buyer may:-
- 25.4.1 require the Supplier to immediately remove from the delivery or performance of the Deliverables any of its employees, agents and subcontractors who have breached such procedures (without affecting the Supplier's obligations to deliver or perform the Deliverables in accordance with the Agreement), and/or
- 25.4.2 terminate the Agreement forthwith.
- 25.5 The Supplier undertakes to the Buyer that the Deliverables will be delivered or performed in accordance with (a) all laws, regulatory requirements, regulations, bye-laws, codes of practice, Territory-specific standards and international standards from time to time applicable to the delivery or performance of the Deliverables, and (b) all policies and working procedures of the RBS Group made known by the Buyer to the Supplier (including the RBS Group Ethical Code for Suppliers set out on the RBS website at www.rbs.com/crpolicies) and any RBS Group Pre-employment Screening requirements made known by the Buyer to the Supplier.

26. General Conditions

- 26.1 The Supplier shall not assign, transfer or sub-contract the Agreement or any of its rights and obligations under it whether in whole or in part without the prior written consent of the Buyer. Where the Buyer consents to subcontracting the Supplier shall remain responsible for performance of the Agreement as if it had not sub-contracted and shall be responsible for the acts and omissions of its sub-contractors. The Buyer may assign or transfer the Agreement without consent.
- 26.2 No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of that party under or in connection with the Agreement.
- 26.3 No waiver or alteration of the Agreement will be binding or effective unless in writing and signed by the duly authorised representatives of both the Supplier and the Buyer.
- 26.4 If any provision of the Agreement is determined to be unlawful and can be deleted without altering the essence of the Agreement, the unlawful provision will be severed and the remaining provisions will remain in full force and effect.
- 26.5 The Supplier shall not, without the prior written consent of the Buyer, advertise or publicly announce that it is providing goods, software, data or services to the RBS Group.
- 26.6 The parties are independent contracting parties. Nothing in the Agreement shall be construed as creating an employment relationship, partnership, agency or joint venture between the parties. Neither party shall hold itself out as being entitled to bind the other party in any way or to make any representation on behalf of the other party.
- 26.7 Individuals under the direct or indirect responsibility of Supplier which are in charge of any activities hereunder shall never be considered, under any circumstance whatsoever, employees of any member of the RBS Group. In case any court decides that any individual under the direct or indirect responsibility of Supplier who is in charge of any activity hereunder is entitled to any amount from a member of the RBS Group as a consequence of an

employment relationship determination, Supplier shall immediately and fully reimburse such member of the RBS Group for any amounts it may be obliged to disburse as a consequence thereof.

- 26.8 Any provision of the Agreement which is, expressly or by implication, intended to survive termination or completion of the Agreement shall continue in full force and effect.
- 26.9 Any headings to the Clauses of the Agreement are for ease of reference only and shall not affect the interpretation or construction of the Agreement.
- 26.10 Unless expressly stated otherwise, the Agreement supersedes all prior agreements, arrangements and understandings between the parties regarding its subject matter and constitutes the entire agreement between the parties relating to its subject matter. The Agreement does not supersede any separate obligations of confidentiality between the parties unless the contrary is expressly stated elsewhere in the Agreement.
- 26.11 No provision of the Agreement shall prejudice any condition or warranty, express or implied, or any legal remedy in relation to the Deliverables by virtue of any statute or custom or any general law or local law or regulation.

27. Governing Law & Dispute Resolution

The Agreement and any non-contractual obligation arising out of or in connection with the Agreement shall be governed by and construed in accordance with the laws of the Territory. The parties elect the courts of the City of São Paulo, State of São Paulo, Brazil, to settle any disputes arising out of or in connection with the Agreement, waiving any other court no matter how privileged it may be. Any member of the RBS Group will be free to take action against the Supplier in such courts. If any dispute arises between the parties relating to the Agreement the parties will first attempt for a reasonable period to resolve it amicably and may by agreement refer the dispute to mediation or to an expert or arbitrator to determine.

28. Order of Precedence

In the event of any conflict or inconsistency between them, the following parts of the Agreement shall take precedence in the following order:-

- 28.1 the Purchase Order,
- 28.2 the Special Terms,
- 28.3 the Specification, then
- 28.4 the General Terms.